

**REVIEW OF THE 9/11 COMMISSION'S
INTELLIGENCE RECOMMENDATIONS**

HEARINGS
BEFORE THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS
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REVIEW OF THE 9/11 COMMISSION'S INTELLIGENCE RECOMMENDATIONS

TUESDAY, SEPTEMBER 21, 2004

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The committee met at 10:04 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Ted Stevens (chairman) presiding.

Present: Senators Stevens, Cochran, Domenici, Bond, Burns, Craig, Hutchison, Byrd, Hollings, Kohl, and Murray.

STATEMENT OF HON. HENRY A. KISSINGER, Ph.D., FORMER SECRETARY OF STATE

OPENING STATEMENT OF SENATOR TED STEVENS

Chairman STEVENS. We will proceed with the hearing now.

Dr. Kissinger, we are honored to have you appear before our committee this morning. We appreciate your making yourself available to testify on this important subject.

For the information of members, we have two panels this morning. We will start off with Dr. Kissinger, then we will hear from three former military commanders in chief, who will provide us with their perspective on the 9/11 Commission recommendations, how those recommendations might impact the warfighter and readiness within the Department of Defense.

Appearing in that panel will be: General Joe Ralston, United States Air Force, retired, and former commander of the U.S. European Command and Supreme Allied Commander of Europe and the North Atlantic Treaty Organization (NATO); Admiral Dennis Blair, United States Navy, retired, former commander, U.S. Pacific Command; and Admiral James Ellis, Jr., retired former commander of the U.S. Strategic Command.

We appreciate each of you witnesses being with us this morning and look forward to your testimony. I think it is really grand to have the effort that you make as former members of the Government, here at your own expense, and we really do appreciate that.

The purpose of the hearings is to address the recommendations of the 9/11 Commission report. For your information, I have read the commission report and I reread it, and I believe the recommendations presented following that report do not reflect the report itself. From what I have seen in both Afghanistan and Iraq—Senator Hollings was on that trip—there has been substantial change in the operations and methods of intelligence-gathering

since September 11, 2001, both within our civilian intelligence agencies and uniformed military.

We are holding these hearings to listen to those who are experienced in intelligence, either as direct participants or as consumers. We must listen to those who have been involved and seek their opinions as we seek ways to reform the intelligence community.

I think we should all keep in mind that of the total personnel in the intelligence community, 175,000 persons, 150,000 are military personnel. The budget for their needs is a majority of the total intelligence budget. That gives, I feel, this committee a substantial interest in these recommendations which we are considering.

Senator Byrd, do you have an opening statement, please, sir?

STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. I do, Mr. Chairman. It will be very brief.

I thank you for holding these hearings on the 9/11 Commission's recommendations for intelligence reform. The Appropriations Committee plays an important role in helping to define and fund the priorities of the intelligence community, and it is only fitting that we should bring the committee's unique perspective to the debate on restructuring the intelligence community and Congress' role in overseeing intelligence programs.

Although the focus of the 9/11 Commission was on the intelligence failures that led up to the disastrous attack on our Nation in 2001, Congress has a broader charter, to consider the root causes of the faulty and misleading intelligence that helped to steer this country into war with Iraq. We must be ever mindful that the intelligence failures that led up to the 9/11 attack on America do not necessarily stem from the same organizational or operational flaws that led to the false conclusions that Iraq harbored vast stockpiles of weapons of mass destruction, or that the Iraqis would welcome us with open arms as liberators. Addressing the flaws that led to 9/11 may or may not remedy the flaws that led us into war with Iraq.

Mr. Chairman, I firmly believe that we should not rush pell-mell into making sweeping intelligence changes simply for the sake of change. We have seen in the past the results that follow the rush to judgment without sufficient consideration of the possible consequences of our actions. The disastrous stampede to pass the Iraq war resolution and to create a brand new Department of Homeland Security in the run up to the 2002 elections should give us sufficient pause to think twice before we attempt to reorganize crucial intelligence activities with one eye on the clock and one eye on the polls.

That said, it appears that the momentum in Congress is moving toward enactment of some type of intelligence reform before we adjourn for the year. I think we should wait until next year, when we can take more time, and not act in such haste. The more scrutiny we can give to the various proposals that are on the table, the better off we will be.

So I appreciate your adding this series of hearings to the record of debate, and I look forward to hearing from our witnesses. I especially look forward to hearing from Dr. Kissinger, with whom I have fond memories of serving together in the past several years

ago. I look forward to your testimony, Dr. Kissinger. Thank you for coming.

Chairman STEVENS. Dr. Kissinger, we appreciate your being here and are pleased to listen to your comments.

Dr. KISSINGER. Mr. Chairman, Senator Byrd, thank you for giving me this opportunity to appear before you and for the warm comments that have been made. I submitted a statement to this committee and I will focus on reading some excerpts from it, and of course I stand behind the whole statement. But I wanted to give the maximum opportunity for questions.

Chairman STEVENS. Your statement will appear in the record as though you read it, Dr. Kissinger. So proceed as you wish.

Dr. KISSINGER. I will be very brief in my statement. What I say and what I have written should be read in conjunction with a joint statement that is being issued today by the following group of individuals: former Senator Boren, former Senator Bradley, former Secretary of Defense Carlucci, former Secretary of Defense William Cohen, former Director of the Central Intelligence Agency Robert Gates, former Under Secretary of Defense John Hamre, former Senator Gary Hart, myself, former Senator Sam Nunn, former Senator Warren Rudman, and former Secretary of State George Shultz.

It is obviously a bipartisan group, and we are concerned that the reforms of the magnitude that are being talked about and with the impact that they will have on the conduct of intelligence and on the national security machinery should not be rushed through in the last weeks of the congressional session in the middle of a Presidential election campaign. The consequences of this reform will inevitably produce months and maybe years of turmoil as the adjustments are made in the operating procedures of the national security apparatus and of the intelligence machinery. That is inherent to reform.

But we should not have to explain in retrospect why it was so necessary to come to a conclusion in the middle of a Presidential election campaign. Whatever decisions are made this week, we will have to deal with the immediate terrorist challenge by the apparatus that now exists, as it has already been reformed in the light of the experience of September 11. So urgency should not trump substance.

Now, second, I in my statement and then together in another statement with the distinguished group that I mentioned to you, we have listed a number of matters that require attention within the intelligence community. We have our own views with respect to them, but we are not urging specific recommendations. What we are urging is a time for reflection and a time for consideration, with maybe a short deadline of 6 to 8 months, but to take reflection and consideration out of the immediate pressures of a period that is bound to affect thinking.

I want to raise one particular concern about the function of the national director of intelligence, on which so much attention is focused. There are many ways his role could be conceived. It could be a coordinator. It could be combined with the central intelligence director by giving him more powers than the director of central intelligence function. But I am concerned, and many people to whom I have talked to with experience in the field, are deeply concerned

that if the director becomes the President's principal intelligence adviser, how is he going to be staffed?

Will a new bureaucracy have to be created? What existing institutions are going to be dismantled? Can he perform this function without moving the analytical branch of the CIA into his own office? And if he doesn't do that, will we have duplicate analytical branches? And if he does do that, does the CIA then become an organization for conducting clandestine activities only? And if the relationship between analysts and operators is weakened, does the operational branch then become rudderless and the academic branch academic?

As somebody who has operated the National Security Council (NSC) machinery, a director who combines domestic and foreign intelligence and is given in effect Cabinet status, will make it very difficult to maintain the line between analysis and policy that everybody with experience considers essential in order to have an objective analysis of foreign policy.

One has to avoid the danger that the policymaker uses intelligence to justify his preconceptions and, conversely, that the intelligence analyst smuggles in his policy preferences in the guise of objective analysis. And if the intelligence director achieves quasi-cabinet status and has a monopoly on intelligence, his voice, whatever his formal position, in NSC deliberations is likely to become disproportionate.

If I can mention one personal experience I had, the 1973 war between Arabs and Israel took us by surprise. So in this sense it was an intelligence failure. But whatever warning we had, I as Secretary of State received initially from the intelligence unit in the State Department, information which called my attention to the deployment of Egyptian and Syrian forces close to the demarcation lines. It triggered me enough to ask the CIA and, for that matter Israeli intelligence, for a report every other day.

They reported the deployment, but they gave me a different interpretation from what my own people did, and I relied too much, not on my own people, but on the general process.

I am simply pointing out that a certain amount of competition between intelligence production and a certain capability within departments of maintaining intelligence sources is not at all undesirable, even if it is harder to plot on an organization chart.

I am also concerned about combining domestic intelligence with foreign intelligence under one leadership. Creating an intelligence czar with domestic surveillance authority that is not under the Attorney General, and measures that separate domestic intelligence from law enforcement go against all the lessons that democratic governments have learned the hard way.

I do not believe that a clear distinction can be made organizationally between tactical and operational military intelligence, and I think my colleagues associated with the other statement and John Hamre will speak for them tomorrow, have serious questions about an organization chart in which the deputies to the director of intelligence are also deputies to other Cabinet members. Based on our experience in the Government, we do not believe that such a bifurcation of authority can work in practice.

The 9/11 Commission has done an outstanding job in assembling the facts bearing on 9/11. They have made many important recommendations and they deserve a lot of credit for having raised the issues. But I believe before we take irrevocable legislative action, an examination should be made of the degree of reorganization that could be achieved by strengthening the existing institutions and by building on the director of central intelligence that already exists.

In my statement I point out a number of issues: separating intelligence from policy, improving the quality of intelligence, some of the problems of information-sharing. But since you have that statement available, I will be happy to answer questions about them.

Without doubt, I have my own views as to what direction we should go. One of these is that emphasizing quality is more important than moving boxes on an organization chart, and the quality is not dependent primarily on the organization chart. But whatever my own view is, at this point my recommendation is that Congress adopt a procedure that permits a careful examination of the fundamental issues that were raised by the 9/11 Commission, to draw on the experience of men and women who have held key positions in the field of national security, many of whom are uneasy about the pace in which restructuring of the country's intelligence is being pursued, as well as about some of the substance.

PREPARED STATEMENT

Let me conclude on this note and answer your questions. Thank you very much, Mr. Chairman.

Chairman STEVENS. Thank you very much, Dr. Kissinger.

I would like to put in the record the background statement of Dr. Kissinger and the op-ed piece that appeared in the "Washington Post" on August 16 entitled "Better Intelligence Reform."

[The information follows:]

PREPARED STATEMENT OF DR. HENRY KISSINGER

Mr. Chairman: Thank you for inviting me to appear before this Committee. Few issues facing the country match the importance of the reform of the intelligence community that you are considering. The proposals that give the impetus for this effort were put forward by the 9/11 Commission in a thoughtful, unanimous report. This Commission deserves the nation's gratitude for the meticulous manner by which it has assembled the facts of that tragedy and the thoughtful recommendations it has made. The majority of these proposals have either been implemented or are in the process of being implemented.

But the drastic restructuring of the intelligence community that is being proposed transcends the lessons of a single episode, however traumatic. It goes to the heart of the national security structure of the United States across a spectrum far exceeding the events of 9/11. It will basically alter the methods for dealing with the issue of terrorism but, equally important, will modify the way judgments about the nature of the political and economic forces that will shape the world over the next decades are reached.

Most major policy decisions involve judgments about consequences and about facts. Intelligence supplies the indispensable raw material from which these judgments are distilled. Any reform must start with examining whether its objectives can best be achieved by improving and modifying existing institutions or whether a substantial restructuring is needed.

The 9/11 proposals amount to a radical restructuring. To undertake such a step in the midst of a war is a major decision requiring the most careful consideration. Changes of the scope now being discussed will bring with them a long period—perhaps years—of turmoil throughout the intelligence community. Care must be taken lest a too hasty reorganization create vulnerabilities greater than those trying to be

solved. Thoughtfulness is more important than speed. This is especially the case when decisions are accelerated during an election campaign.

A pause for reflection appears all the more desirable when one examines the issues awaiting resolution:

The Role of the Proposed National Director of Intelligence

The decision to create another layer between the President and the existing institutions raises the following problems:

- If the director is to be the principal intelligence adviser to the President, a new bureaucracy would have to be created to redirect the flow of intelligence throughout the government and sift the intelligence input from the various components of the intelligence community. Where would the personnel for such a structure come from? Does it mean dismantling existing institutions, and which ones? Could the National Intelligence Director function without having the analytic branch of the CIA placed under his or her direction? If the CIA were reorganized in this manner, would it then shrink into an organization for conducting clandestine activities? If the essential relationship between analysts and operators is weakened, does the operational branch become rudderless and the analytical branch too academic?
- Is the new director to be in control of domestic intelligence? If so, is this compatible with the checks and balances most other advanced democracies have found preferable? Creating an intelligence czar with domestic surveillance authority that is not under the Attorney General, and measures that separate domestic intelligence from law enforcement, go against all the lessons that democratic governments have learned the hard way.
- How will competing views on intelligence be brought to the President's attention? Indeed, how will competing views emerge in so centralized a structure?
- Does a National Intelligence Director with such powers weaken the NSC process and the roles of the national security adviser and secretary of state?
- How is the tactical and operational military intelligence linked to the new structure being envisaged? The proposal to have the Under Secretary of Defense for Intelligence act at the same time as Deputy Director of Intelligence could weaken the authority of both principals.
- Could some of the objectives sought by reorganization be achieved by strengthening the existing institutions, especially the position of the DCI?

Separating Intelligence from Policy

This problem has two seemingly contradictory aspects. On the one hand, the analytical function needs to be distanced from the preferences of policymakers so that analytical conclusions, to the maximum extent possible, are based on the evidence and not on the policy preferences of particular policymakers. At the same time, care must be taken lest analysts push their own preferences under the guise of "objective" facts.

Collection, on the other hand, should reflect policy priorities, and covert action should be under the close control and scrutiny of policymakers. Excessive centralization may defeat both objectives. The intelligence chief should not have a policy role or a formal position as a member of policy bodies. But the control of clandestine operations requires a control that transcends the intelligence community and assures that policy and legal considerations are fully taken into account.

Improving the Quality of Analysis

This is the central challenge to reform. As the Senate Intelligence Report has pointed out, group think is a major danger. However, intellectual conformity and failure of analytical imagination are not the only sources of intelligence breakdowns. A major contributing factor is the inadequacy of the information base. This reflects shortcomings in trained personnel, the vagaries over decades of alternating emphasis and assaults on human intelligence, and also excessive compartmentalization. Since intelligence thrives on gaining access to secret information that is rigorously guarded by its possessors, and collection is not always successful in overcoming these obstacles, intelligence analysts are frequently forced to make analytical judgments with key pieces of information unavailable. Strengthening collection by improving human intelligence is one way of addressing this problem, but it can never solve the conundrum in a fully satisfactory way. What one should expect is that collection inadequacies are addressed properly, that analytical judgments are professional, and that available information is properly coordinated.

Encouraging different perspectives and alternative hypotheses is desirable. Yet not all hypotheses are equally sound, and some are rubbish. There is therefore need for a mechanism to both generate options and to establish criteria for choosing between them lest policymakers cherry-pick among competing hypotheses and select

only those that fit their policy proclivities. There must be a systematic ability to make professional judgments as to which hypotheses should be discarded as inconsistent with the bulk of the evidence.

Finally, the critical shortage of human expertise must be addressed. We not only need more National Security Education Program funding, but we need more Americans studying abroad, becoming fluent in foreign languages and gaining improved understanding of foreign cultures through such an experience.

Information-Sharing

Different components of the government have different missions and priorities that cause them to assign different levels of importance to protecting intelligence information. Law enforcement elements want to use intelligence to prosecute cases even if this will compromise the source. The intelligence collectors fundamentally mistrust the reliability of law enforcement elements in protecting the information, making them reluctant to share it. This is an inherent problem that can be minimized (but not eliminated) through good management. Good management requires that, when there are contradictions between using intelligence and protecting it, the decisions are made by an established procedure. Sharing should be optimized, not mandated in detail. To attempt to prescribe all the circumstances in bureaucratic or legalistic language would involve so much detail and so many exceptions as to defeat its own purpose.

Conclusion

The magnitude of the tasks outlined here suggests that Congress leave itself an opportunity to return to the issue early next year to permit a comprehensive approach.

I confess that my bias is toward coordination rather than centralization. The proposals for reform draw on the experience in building the current DOD organization. The DNI becomes the DOD, and the existing institutions for intelligence turn into the military services. But there is an important difference in the missions. Defense must build toward unified action; intelligence should serve coherence in analysis that aids the decision-making ability of senior policymakers.

But for present purposes, this is not the key point. I am not here to offer answers to the issues I raised. My recommendation to this Committee is therefore to adopt a procedure that permits a careful examination of the issues involved, drawing on the experience of men and women who have held key positions in the field of national security, many of whom are uneasy about the pace in which restructuring of the country's intelligence is being pursued. Perhaps the task could be assigned to the distinguished commission dealing with the issue of weapons of mass destruction, which is scheduled to report in March 2005.

[From the Washington Post, Monday, August 16, 2004]

HENRY KISSINGER: BETTER INTELLIGENCE REFORM

LESSONS FROM FOUR MAJOR FAILURES

President Bush has proposed a new post of National Intelligence Director. Not part of the Cabinet or located in the White House, the director would be charged with "coordinating" the intelligence budget and "working with" various intelligence agencies to set priorities. Sen. John Kerry has supported a more activist role for an intelligence director recommended by the Sept. 11 Commission. Both Houses of Congress are holding hearings to expedite legislation.

The sense of urgency in the middle of a Presidential campaign is being justified on the grounds that the country is in imminent danger; the implication is that the existing intelligence system is not capable of dealing with the immediate threats. This argument cuts both ways. Reorganization will bring with it months—or years—of adjustment throughout the executive branch, and the more sweeping the change, the more this will be true. Whatever happens, the short-term threats must be dealt with through improvements to the existing structure, which was instituted after Sept. 11. As for longer-range threats, care must be taken lest a hasty transition to a new system, generate unnecessary vulnerabilities. Thoughtfulness is more important than speed.

Terrorism, forthrightly described by the Sept. 11 Commission as an attack from radical fundamentalist Islam, is spearheaded by technically private groups basing themselves on the territory of sovereign States and impelled by a fanaticism transcending traditional political loyalties. Adapting the intelligence system to these new realities must start with an understanding of the problems requiring solution.

The current emphasis is on centralization; the principal disagreements concern the locus and authority of the proposed director of intelligence—whether he or she should have budgetary authority and whether the role should be free-standing or in the Executive Office of the President. The basic premise seems to be that the cause of most intelligence failures is inadequate collection and coordination. In my observation, the breakdown usually occurs in the assessment stage. The four major intelligence failures of the past three decades illustrate the point:

First, 1973 Middle East war, which caught both the United States and Israel by surprise; second, the Indian nuclear tests of 1998, which opened a new era of proliferation threats; third, Sept. 11; and fourth, the failure to find weapons of mass destruction in Iraq. In each of these intelligence failures—except possibly Sept. 11—the facts were at hand. The difficulties arose in interpreting what they meant. Even Sept. 11 was ascribed by the Commission to a failure of imagination in connecting the dots of available knowledge.

Before the 1973 Middle East war, the United States and Israeli governments were aware of every detail of the Egyptian and Syrian buildup. What they misjudged was its purpose. Nobody believed the Arab armies would actually attack, because every analyst at every level was convinced they were certain to be defeated. Every event, no matter how ominous, was interpreted as confirming that premise. Even when the Soviet Union withdrew dependents from Syria and Egypt 48 hours before hostilities started, it was viewed as caused by Soviet-Arab tensions.

Similarly, with respect to the Indian nuclear tests, public evidence was ignored because the intelligence community did not believe India was capable of concealing an actual test.

On the weapons issue—as the British Butler report on intelligence demonstrates—the assessment process broke down when the analysts from incontrovertible evidence—a decade of Saddam Hussein’s violations of the 1991 cease-fire agreement; building of dual-purpose plants for chemical and biological agents, efforts to acquire nuclear material; elaborate measures of deception—to the assumption that the demonstrated capacity to produce had been translated into stockpiles of weapons. (As early as 1998 President Bill Clinton, in an address explaining the bombing of Iraq, gave specific quantities for chemical and biological stockpiles.) That assessment went one step too far. But what we know now would not necessarily have changed the calculus for preemption. Could the United States wait until weapons were actually produced by a country with the largest army in the region, the second-largest potential oil income, a record of having used these weapons against its own population and neighbors, and—according to the Sept. 11 Commission—intelligence contact with al Qaeda?

The answer requires a primarily geopolitical, not an intelligence, judgment. This is why, in reorganizing the intelligence structure, care must be taken to keep the assessment process distinct from geopolitical and strategic advocacy. Intelligence is most reliable about events that have happened or are about to happen. It grows less definitive about the future. Intelligence agencies should be judged by their ability to collect information, to interpret it, to keep assumptions from determining conclusions and to understand underlying trends.

It is a fine line, but a crucial one for effective policymaking. Most major strategic decisions involve judgments about consequences. Intelligence should supply the facts relevant to decision; the direction of policy and the ultimate choices depend on many additional factors and must be made by political leaders. A National Intelligence Director in the Executive Office of the President would erode this distinction, give intelligence disproportionate influence in policymaking and skew intelligence away from analysis.

Similarly, the merging of foreign and domestic intelligence under a single official unchecked by any institution in the executive branch short of the chief executive gives cause for concern. This is not how most democracies handle the challenge. The frequently invoked analogy to the Joint Chiefs of Staff ignores the fact that the Joint Chiefs, while enjoying direct access to the President, must in their daily operations refine their ideas in interaction with the civilian Pentagon leadership. Until recently, the policy was to raise a wall between the foreign and domestic intelligence services to prevent emergence of a single, dominant, unchecked intelligence service. Sept. 11 showed that this effort had gone too far and impeded the coordination of evidence on terrorism. But it does not follow that eliminating the distinctions altogether is the best solution.

Reorganization needs to improve the quality of intelligence at least as much as its collection. Policy stands and falls on the ability to distilling trends from information. As a free-standing director of national intelligence, charged with coordinating (in the President’s proposal) were running the entire intelligence community (as in many Sept. 11 report) solve this challenge? Or does incessantly centralized system

magnified the inherent danger of intellectual conformity? What structure is most likely to achieve a sense for the intangible?

In practice, most of the proposed reorganization schemes abolish the provision in the National Security Act of 1947 that makes the head of the CIA also the director of foreign intelligence and entire government. The CIA chief has not been able to implement its theoretical powers because of the insistence of other agencies or departments—especially the Pentagon—on autonomy for their share of the intelligence process.

Layering a new National Intelligence Director over the CIA Director would have one of two consequences: a world where power flows from knowledge, and it would require creation of a massive new bureaucracy to redirect the flow of intelligence throughout the government and sift the intelligence input from the various components of the intelligence community. Where would the personnel for such a structure come from? Does it mean dismantling existing institutions, and which ones? Could the National Intelligence Director function without having an analytic branch of the CIA placed under his or her correction? If the CIA were gutted in this manner, what would become of the remnant? On the other hand, if the national director were without an agency to provide support, he or she would become little more than a conduit for the recommendations of the various agencies.

In either event, the CIA Director would no longer have direct access to the present, since the national director of intelligence would be defined as the President's principal intelligence adviser. Other alternative to deserve consideration; for example, enhancing the coordinating and budgetary authorities of the CIA Director on foreign intelligence, symbolized by changing this title to National Intelligence Director. The coordination between domestic and foreign intelligence activities could be achieved by institutions such as the "National Counterterrorism Center" proposed by the Sept. 11 Commission and possibly by a Presidential assistant for national intelligence, charged in addition with making certain that significant competing intelligence assessments reach the President.

There is no shortage of schemes of reorganization: the Sept. 11 Commission, the Senate intelligence report, the Scowcroft Commission, the Hamre proposal to centralize collection but leave the analytical function in existing institutions. What is urgently needed is a pause for reflection to form the various proposals into a coherent concept. A small group of men and women with high-level experience in government could be assigned this task with a short deadline, say 6 months, based on the following principles:

- Centralization must be balanced against diversity.
- Foreign and domestic intelligence should not be merged but should be coordinated by task forces, depending on the subject.
- Special provisions must be made for the systematic enhancement of quality; it cannot be left to moving around boxes on an organizational chart.

No reorganization plan will work if attention is not paid to the morale of the men and women staffing the intelligence services. Despite the portrayal of them around the world as devious master planners dominating policy, intelligence personnel in the real world are subject to unusual psychological pressures. Separated from their compatriots by security walls, operating in a culture suspicious of even unavoidable secrecy, they are surrounded by an atmosphere of cultural ambiguity. Their unadvertised and unadvertisable successes are taken for granted, while they are blamed for policies that frequently result from strategic rather than intelligence misjudgments.

Finding themselves in a kind of political wilderness, the intelligence services have been under assault for 30 years, ever since the floodgates were opened in the 1970s by the Church and Pike committees and subsequent probes in the 1980s and 1990s, which disclosed the names of many agents and almost all clandestine operations. These attacks reflected the political debates of the period. Liberals attacked the intelligence community for being too ideological and Cold War-oriented. Conservatives were critical because they considered the intelligence community not sufficiently ideological nor conscious enough of the element of power in international affairs. Inevitably, between the term of Directors William Colby and John Deutch, the emphasis was to reduce the reliance on agents and to emphasize technical means of collection less subject to the allegations (and sometimes) the reality of abuse. This was a major contributing factor to the shortfall in human intelligence regarding the terrorist threat remarked on by all commissions dealing with recent intelligence failures.

For all these reasons, intelligence reorganization needs to bring as well some stability for intelligence personnel. Thousands of dedicated people participated, at the request of their government, in some of the most important battles of the Cold War and are even now at the front lines of the war with radical, ideological Islam. Their

failures must be corrected. But they deserve recognition for their service even as the structures in which they function are being revised.

GUIDING PRINCIPLES FOR INTELLIGENCE REFORM—SEPTEMBER 21, 2004

America's security depends on strengthening our intelligence collection and analysis. Debate is under way on intelligence reform, and harnessing the energy of an election season is a healthy way to assure the issue receives the attention it deserves. Racing to implement reforms on an election timetable is precisely the wrong thing to do. Intelligence reform is too complex and too important to undertake at a campaign's breakneck speed. Based on our experience in both the executive and legislative branches of the U.S. government and on both sides of the political aisle, these are the basic principles we believe should guide any reform effort:

Identify the Problems

Rushing in with solutions before we understand all the problems is a recipe for failure. Only after a full appreciation of the Intelligence Community's problems—and its strengths—can sensible decisions be made about reform, including whether to restructure. Moreover, reform will have to be comprehensive to succeed. Addressing this or that shortcoming—however grave—in isolation will fail to produce the improvement in intelligence capabilities our nation's security demands.

Strengthen the Intelligence Community's Leader

The individual responsible for leading the Intelligence Community must be empowered with authority commensurate with his or her responsibility. Specifically and crucially, future leaders must have the ability to align personnel and resources with national intelligence priorities. Whether we maintain the Intelligence Community's current structure or create a new one, we must ensure that the Intelligence Community's leader has the tools to do his or her job.

Separate Intelligence from Policy

A fundamental principle for Intelligence Community reform must be that the intelligence community remains independent from policymakers. Nothing could be more important to a healthy national security structure. When intelligence and policy are too closely tied, the demands of policymakers can distort intelligence and intelligence analysts can hijack the policy development process. It is crucial to ensuring this separation that the Intelligence Community leader have no policy role. Otherwise, an Intelligence Community leader's voice could overwhelm those of Cabinet secretaries and the National Security Advisor and deprive the President of the benefit of robust, informed policy debate. A single individual with the last word on intelligence and a say in policy as well could be a dangerously powerful actor in the national security arena—using intelligence to advocate for particular policy positions, budget requests, or weapons systems that others lacked the knowledge to challenge.

For this reason, the leader of the Intelligence Community should not work inside the White House; he or she should be at arm's length from the policy process, not at the President's right hand. Nor should the leader become an instrument of diplomacy or policy formulation; his or her role should be to support others in these functions. Similarly, Intelligence Community reform must not rob Cabinet secretaries of their own ability to assess intelligence by centralizing the bulk of assessment resources; the secretaries must be able to turn to their own analysts for independent perspective and be able to task the Intelligence Community leader for input to the policymaking process. Finally, to protect against an unhealthy mixing of functions, we believe the person who is chosen to lead the Intelligence Community should be broadly acceptable to both parties and chosen for his or her substantive or management expertise.

Improve the Quality of Analysis

Intellectual conformity and failure of analytical imagination have been the major culprits in most intelligence breakdowns, from our failure to predict accurately India and Pakistan's nuclear tests, to our misjudgment of Saddam Hussein's weapons of mass destruction programs. Improving the quality of the analysis on which policy makers rely must therefore be a top reform priority. The best analysis emerges from a competitive environment where different perspectives are welcomed and alternative hypotheses are encouraged. Intelligence reform must institutionalize these traits in the analytical process. To preserve their independence, analysts must be insulated from policy and political pressure. Finally, we must not only concern ourselves with the appropriate structure of intelligence analysis, we must also address

the critical shortage of human expertise in critical fields. Funding for programs to address this deficiency is dangerously low and the trust funds for the National Security Education Program will be fully depleted within the next two years unless Congress acts.

Ensure More Effective Information-Sharing

Intelligence Community players have overwhelming cultural and bureaucratic incentives not to share their information with each other or with those outside the community. These include a natural impulse to hoard information to protect turf, and a deeply ingrained passion for secrecy. Domestic agencies and foreign agencies, in particular, traditionally have resisted sharing information with each other. Yet our nation has learned with painful clarity that failure to share, coordinate, and connect available intelligence can have devastating consequences. The next time an FBI special agent suspects an Arizona flight trainee is an al Qaeda terrorist, the Intelligence Community needs to know. Reform must fundamentally alter agency incentives and culture to require sharing. This must include addressing the excessive emphasis on secrecy and classification that inhibits constructive, timely information flows, while continuing to respect the need to protect genuine sources and methods.

Protect Civil Liberties

Collection of intelligence is inherently intrusive; spying on fellow citizens carries with it great potential for abuse. Even as we merge the domestic and foreign intelligence we collect, we should not merge responsibility for collecting it. Intelligence reform might well create a single strategic coordinator of domestic and overseas collection on cross-border threats like terrorism, but exclusive responsibility for authorizing and overseeing the act of domestic intelligence collection should remain with the Attorney General. This is the only way to protect the rights of the American people upon whose support a strong intelligence community depends.

Preserve Situational Awareness for Tactical Military Operations

As we have seen from the skies over Bosnia to the sands and cities of Afghanistan and Iraq, tactical intelligence and situational awareness are indispensable to our military's unparalleled operational success. Any successful intelligence reform must respect the military's need to maintain a robust, organic tactical intelligence capability and to have rapid access to national intelligence assets and information.

Assure Clarity of Authority for Clandestine Operations

The war on terrorism has blurred agency roles for some critical national security activities. The Department of Defense now performs more clandestine and intelligence operations than in the past; meanwhile, the CIA's Directorate of Operations engages more in traditional military functions, such as the successful campaign in Afghanistan. Authority for these newer roles is murky, and there are sometimes disparities in the type or level of approval needed for an operation, depending on who performs it. The new challenges we face mandate a wide range of tools and creative approaches to intelligence. But establishing absolute clarity of chain of command, oversight, and accountability for clandestine operations is essential.

Reform Congressional Oversight Too

Intelligence reform will not succeed unless Congressional oversight of the Intelligence Community becomes more effective as well. Rather than relying on review of agency submissions and after-the-fact investigation of failures or abuses, Congress should reach out periodically to test and assure the Community's health. Whether meaningful legislative oversight demands a major overhaul of committee structure or merely a change of philosophy, Congressional reform is as vital as changes affecting the Executive Branch.

Elections are a perfect time for debate, but a terrible time for decision-making. When it comes to intelligence reform, Americans should not settle for adjustments that are driven by the calendar instead of common sense; they deserve a thoughtful, comprehensive approach to these critical issues. If, as seems likely, Congress considers it essential to act now on certain structural reforms, we believe it has an obligation to return to this issue early next year in the 109th Congress to address these issues more comprehensively. We hope the principles we've suggested will help shape serious discussion of reform.

Chairman STEVENS. There are 10 of us and I hope that my colleagues would agree that a 5-minute time limit on questions for each person would be fair, and we will see if we have the necessity for a second round. We do have a second panel.

Mr. Secretary, I wonder about your statement in one regard. There are many voices calling for a strong National Intelligence Director, and you have just stated you have concerns about that office and its relationship to the community as a whole. You want some competition. Could you expand on that aspect of your statement?

Dr. KISSINGER. There are really two aspects of that question, Mr. Chairman. The first is we already have legislation that makes the head of the Central Intelligence Agency the Director of Central Intelligence. That legislation has not been fully carried out and could also be augmented. So I am not opposed to implementing and strengthening that legislation.

My concern is with creating another layer between the existing intelligence institutions and the President and focusing the whole intelligence concern on the funnel between the intelligence director to be created and the President, and not also keeping in mind the many lateral communications between intelligence analysts and operators that takes place daily. The President cannot make all the intelligence decisions.

Second, if one is concerned, as the Senate Intelligence Committee report is, about groupthink, that danger becomes even greater when you have one Director of Central Intelligence, with budgetary and personnel authority, through whom everything funnels, and who would have to recreate in essence the analytical branch of the Central Intelligence Agency or move it into his building. It is not natural for one organization to generate competing views.

So I believe that the danger of groupthink, that the Senate Intelligence Committee correctly pointed out, is likely to be emphasized by this sort of structure. I believe that a certain amount of competition between intelligence analysts is healthy. It was certainly my experience when I was in government.

If I can mention a personal observation, sometimes when I got two or three different assessments, I would suggest to bring the analysts in and let them explain to me how they came to these assessments. The originating agency usually was extremely annoyed when I did this, because they claimed that this was a way of interfering.

Now, if I had not had conflicting views I would not even have known that I needed to talk to these analysts. But one can be of two opinions whether it is a good idea for the White House to talk to analysts or not, because it is a form of pressure too. But I am not of two opinions about the high desirability of getting different perspectives, and I could cite many examples from my experience where I found this extremely helpful.

Chairman STEVENS. We are looking at a proposition here now that would create a committee of the Senate which would have legislative, and appropriations authority to oversee a National Intelligence Director, who would have unitary control over all of the aspects of intelligence, civilian and military, domestic and foreign, and have complete authority over preparing and presenting the budget and complete authority over moving funds from one segment of that community to another. I think I probably summarized the total concepts here. In other words, unitary control within the Senate, and the House would be similar, supposedly, and unitary control of one person in the intelligence community.

How does that strike you in terms of the totality of the intelligence mechanism, to have single control and to have this relationship develop between four Members of the Congress and one director, who will be overseeing all intelligence, foreign and domestic?

Dr. KISSINGER. When you have been in the position that I and several of the individuals who have signed this statement have been, then, with all due respect, something that cuts down the number of committees to which you have to report to will be perceived as a relief. But this probably goes too far, because to have one committee and one unitary organization, with the kind of vested interests that will feed into each other, is probably following my precept to extreme proportions.

How much congressional oversight can be reduced and still have the element of competition, both within the intelligence community and within different perspectives in the Congress, this is another one of those issues that ought to be given careful consideration. When I say careful consideration, I think if we gave it a 6 to 8 months deadline, provide something that permits a systematic approach based on the experience of many people, I think this is something that we will be grateful for in the aftermath.

Chairman STEVENS. Thank you.

Senator Byrd.

Senator BYRD. Thank you, Mr. Chairman.

Thank you again, Dr. Kissinger.

If the 9/11 Commission's recommendations for intelligence reform had been implemented in 2002, do you think that the intelligence community would have come to any different conclusion about Iraq's nonexistent weapons of mass destruction?

Should I repeat the question?

Dr. KISSINGER. No, no, I understand. I am thinking. It is an important question.

First of all, the issue really is what happened to these weapons of mass destruction, because undoubtedly they were there at one point because they were used. And President Clinton in 1998 listed specific quantities of weapons that he believed they had. Now, in the last report of the inspectors an argument is being made that Saddam Hussein was waiting for the sanctions to be lifted, after which he would go and do a major effort. And it is now conceivable to me that perhaps these weapons were destroyed around 2001 and 2002 so that he could get the sanctions lifted and then go and do a real production effort.

But be that as it may, we did not know that, and therefore the question is why did we not know it? The reason was lack of human intelligence and maybe some preconceived notions.

I do not believe that, given the mind set and given the absence of human intelligence, that the conclusions would have been fundamentally different, because these judgments were all made within, on that issue, a pretty unified intelligence assessment. There was no dispute.

Senator BYRD. So as I understand your response, you do not think that the intelligence community would have come to any different conclusion about Iraq's nonexistent weapons of mass destruction if the 9/11 Commission's recommendation for intelligence reform had been implemented in 2002?

Dr. KISSINGER. If the recommendations about strengthening human intelligence had been followed, they might come to different conclusions. But the organization of a strong central director would in my view not have affected the conclusions.

All the debate or almost all the debate on intelligence reorganization now concentrates on experiences from the terrorist phase of current foreign policy. But if I look at the long-term problems of foreign policy, we have huge transformations of the international system going on, shifts of the balance of power from the Atlantic to the Pacific, the rise of China, India, which will raise questions for intelligence analysis of fundamental importance. And we should not draw conclusions based only on one traumatic event, and one particular experience in relation to Iraq which really grew out of that traumatic event.

Senator BYRD. Mr. Chairman, may I have one second question?

Chairman STEVENS. Yes, sir, I think so.

Senator BYRD. In your view, Dr. Kissinger, why did our intelligence agencies fail so tragically? Was it because of how our agencies were supposed to work with each other on an organizational chart, or was it because enough money was not getting to the right intelligence and homeland security agencies?

Dr. KISSINGER. Certainly, human intelligence has had ups and downs. But over the period that I have participated in or observed foreign policy and intelligence activities, there have been periodic assaults, some of them from the Congress, on the clandestine operations, which is where human intelligence is located. So every 10 years, there has been a shakeup, and it is very difficult to maintain a nucleus of able and dedicated people under those conditions.

I think this is one of the problems we had in Iraq, where it appears that we had almost nobody on the ground, who could give us direct information from their experience. It is probably a question of money too, and it is also a question of stability and of having enough confidence.

And also remember that clandestine activities are not usually what farm boys of Indiana are trained in, so it tends to attract unusual types. So this is something for which we have to develop some tolerance in building up the intelligence services.

Senator BYRD. Thank you, Dr. Kissinger.

Thank you, Mr. Chairman.

Chairman STEVENS. We follow the early bird rule in effect, Dr. Kissinger, and Senator Hollings is next.

STATEMENT OF SENATOR ERNEST F. HOLLINGS

Senator HOLLINGS. Dr. Kissinger, 44 years ago I judged you as one of the outstanding young men in America and I am willing, after 38 years of being up here and working with you, to still judge you as one of the outstanding young men.

I say that because I disagree with the tack of your particular presentation here this morning. It strikes me as the old political axiom, when in doubt do nothing, and stay in doubt all the time. Now, if I were the President and a terrorist act occurred, say in Utah or up in Maine, this afternoon, I would want to call somebody on the National Security Council and find out what is what, what happened, namely a coordinator of domestic and foreign intel-

ligence. When the terrorist comes into this country through Mexico or someplace, foreign and domestic intelligence has got to be coordinated.

I know that I have that in Karl Rove for political intelligence. I am keeping up. I am on top. I know and have got to know, because the election is coming up. So, similarly with respect to the threat of terrorism in this country, what we need is an intelligence coordinator, both domestic and foreign, within the National Security Council.

This is exactly what Harry Truman did in 1947. He had the intelligence people come in and say: This is the situation, Mr. President. And the Defense Department would come in and say: Wait a minute; that is not in our national security interest. And about the time he was about to do that, the State Department would say: That is really in opposition to our foreign policy.

So he said: I am going to get you all in here as a National Security Council and you all beat up on each other and give me two or three options, and I will make a decision. The buck stops here with Harry.

Now, instead of just foreign threats we have also got domestic threats. And your testimony is that you would not combine foreign intelligence with the domestic intelligence. It is not law enforcement. It is the coordination of intelligence, and I speak from experience, not only of 50 years analyzing President Truman's operation, but particularly the intelligence task force of President Hoover back 50 years ago when I served on the Hoover Commission.

We had Allen Dulles and he came and he said: I am busy trying to keep on top of things; I do not have time to get over to General Erskine and General Schuyler at the Defense Department, or over to the State Department with Park Armstrong and Scott MacLeod. I remember him, I worked with him. I spent 2 years investigating the intelligence of the State Department as well as the CIA, CID, Army, Navy, Air Force, security clearances, atomic energy, Q clearance, all these things.

Now, I speak from experience of 8 years on the Senate Intelligence Committee. Bill Cohen and I came back from a trip to China when Desert Storm was about to break out and we went into the Intelligence Committee to get the brief on Baghdad and they said: We do not have a man in Baghdad. The CIA did not have somebody in Iraq. The CIA did not have somebody in Iraq. That is 13 years ago. Now we hear from the CIA again that we still did not have anybody there. Here we are going to invade a country.

The problem is not the agency. The problem is not the Department. The problem is the personnel on the one hand, the analysts on the other hand. General Schwartzkopf told Senator Stevens and myself, look, those analysts at the CIA in Desert Storm, they cut the corners and rounded the edges and everything else, he used the word "mush." He said: I had to depend on my pilots for intelligence.

The one thing I need this afternoon on a terrorist act in this country is a coordinator. Now, what is wrong with: There is hereby created a national intelligence coordinator, both domestic and foreign, in the National Security Council with authority over all intel-

ligence agencies as the President can see fit. Do not worry about confirmation; get the President's man; he has got to depend on him.

He can do this by Executive order right this minute. That is how Truman established the National Security Council. But we have got to get the responsibility fixed. It reminds me of being aboard ship in World War II: When in danger, when in doubt, run in circles, scream and shout. We need not disturb any of the agencies. We do not have to move anything, we do not have to change over anything, we do not have to bifurcate, we do not have to do any of those things.

We can study, as you say, in a deliberate fashion the 9/11 Commission report. But in the mean time between now and the end of this year before the Congress adjourns, give the President one coordinator there in his National Security Council and let him start seeing the problems and coordinating.

What is wrong with that?

Dr. KISSINGER. I am not saying that nothing should be done. I think conclusions should be drawn. My major point is it should be done with some deliberation.

Second, with respect to your specific question, I said in the concluding part of my statement, I am in favor of coordination, but not centralization. So if the President were to appoint a coordinator whose specific task is to find out what is available—

Senator HOLLINGS. We recommended this 50 years ago when I was on the Hoover Commission.

Dr. KISSINGER. I would favor that, or I would at least look at it with enormous sympathy. Now, whether that coordinator should be in the Office of the National Security Adviser or whether he should be freestanding, that is one of the things that a deliberate approach should go into. So I think it is perfectly appropriate and important to make sure that there is one focal point.

What bothers me is if that focal point becomes the chief operator of the whole intelligence apparatus, there is such a degree of centralization that the existing institutions atrophy; and one has to go through months and years of finding out how the practical lines of authority go, because no matter what is written in legislation, when the system begins operating, all the components will start maneuvering. That is what concerns me.

But your word of "coordination" and focal point of coordination should be an element. It needs to be considered how to do it. But then I think major aspects of it could be done now and much of it is being done already in the National Security Council. But it could be strengthened and should be strengthened.

Chairman STEVENS. Thank you very much.

Senator Burns, you are recognized for 5 minutes.

STATEMENT OF SENATOR CONRAD BURNS

Senator BURNS. Thank you, Mr. Chairman.

I just want to ask you, Dr. Kissinger, regarding the appointment of a National Intelligence Director, did you recommend any length of term or how he would be appointed, whether he is part of the White House staff, or approved by the Senate.

Dr. KISSINGER. Ideally, of course, he should be nonpartisan. In the early days of the intelligence machinery, CIA Directors were

kept from administration to administration. I would be reluctant to have a fixed Presidential term, a fixed term set by the Congress, which would remove the intelligence director from Presidential control.

What worries me, having attended many NSC meetings, is if a quasi-cabinet member walks in there and says, I am the only source of intelligence and I am telling you the consequences of your actions objectively are the following, what are the Secretary of State, the Secretary of Defense going to say in reply? It shifts the system in the direction of the intelligence director, and therefore I would give him a normal Presidential appointment, subject to the President's capacity to remove him.

The presumption should be that he should be nonpolitical. At the beginning of the Nixon administration, President Nixon ordered the following procedure: The CIA Director was called in at the beginning of the NSC meeting, he gave his briefing of the factual situation as he saw it, and then he was asked to leave, because he was not supposed to participate in the policy formulation.

We could not make it stick because halfway through the meeting somebody would then say, if we do option B, what are the consequences? Well, then we would have to haul the Director back in. So you cannot make an absolute distinction between policy and intelligence data, but you should make a big effort, because otherwise the temptation will be for the policymakers to use intelligence to support their preferences and vice versa.

Senator BURNS. I agree with that assessment and I agree with the term being subject to the President's discretion. From your Post article, the last thing you say, in order to take politics and policy out of the position of National Director of Intelligence—you say in your last paragraph or item that we must reform congressional oversight too, and that is spelled t-o-o.

Any time that you are going to have oversight by Congress, you are going to have disagreements on policy. I do not know how we separate the two—oversight and policy.

It is very, very difficult to do. Adding another layer of bureaucracy between the Congress and the President and the actual workings of the intelligence community does not accomplish much, and can hinder the ability to get information in a timely manner.

Dr. KISSINGER. As I said, I am uneasy about the extra layer and I am uneasy about some of the specifics, where under secretaries of agencies are simultaneously deputy secretary or deputy intelligence directors.

Senator BURNS. Thank you, Mr. Chairman.

Chairman STEVENS. Senator Hutchison, you are recognized for 5 minutes.

STATEMENT OF SENATOR KAY BAILEY HUTCHISON

Senator HUTCHISON. Thank you, Mr. Chairman.

I thank the distinguished former Secretary of State for coming and talking to us. I believe that you are correct. I am glad that so many of the former Secretaries of Defense and State are stepping up to say it would be ludicrous to push something through in the last 2 weeks of a session in a Presidential election year unless we have a firm understanding of how we can make it better.

Let me ask you a question about the methodology by which we could have better coordination, but still assure that there is some kind of capability for different views to be heard. In the intelligence community there is so-called red teaming, where analysts are able to take a recommendation at the lower levels and shoot holes in it. Do you think that we could fashion an office for alternative analysis charged with some limited autonomy? You have to have one person in charge, but like an inspector general, where there is some ability for an office to take the data, conclusions, assumptions, and give an alternative view. Is there a way that we could accomplish this in a responsible way in your opinion?

Dr. KISSINGER. How to improve the quality of intelligence is one of the key issues. I have thought, but am not yet in a position to recommend it firmly, that perhaps in the office of the director one could create a group of outside consultants whose job would be to make sure that the most important questions have been asked and to prevent that urgent issues drive out the important issues; and second, to make sure that serious alternative hypotheses have been considered.

The problem is one has to make sure that alternatives are considered, but not every alternative is valid and there may be some wacky ones that have to be eliminated in the process, but should not be eliminated just because they run counter to the existing views.

So I've thought of maybe creating an outside group, or maybe to create something like the Rand institution used to be for the Air Force for the intelligence community, whose job would be to make middle-term and long-term studies that can be read quickly into the intelligence system. Reforms like this and maybe others that others could think up I think are very important to make sure that we really ask the question of where we should be going and not just the question of how to solve our immediate issues.

Senator HUTCHISON. Are you speaking of an internal advisory committee such as the President's Foreign Intelligence Advisory Board?

Dr. KISSINGER. Recast something, recast the President's Foreign Intelligence Advisory Board, that has a systematic role and not just a role where it defines, something that is more geared into the intelligence apparatus, and whose members are specifically selected for their contribution, for their potential contribution to middle-term and long-term thinking.

Senator HUTCHISON. If you were going to do it within the Department, how would you structure an office with the ability to give an alternative view, but also the ability to throw out assumptions or recommendations that just don't make sense or are insupportable?

Dr. KISSINGER. It's why I suggested taking 6 to 8 months. I have not worked this idea out and this is something that a number of us, maybe a number of the people who signed that other document, who have had experience, would be able to structure. But it ought to be possible to get a bipartisan group of people with experience who are not geared to the immediate policy debates and who have no personal ambitions for themselves, to focus especially the middle and long-term considerations and opportunities.

Senator HUTCHISON. Thank you.

Dr. KISSINGER. I think it can be done, even though I can't give you a chart for it today.

Senator HUTCHISON. Thank you. We may be trying to work together to structure an organization like we have discussed.

Thank you, Mr. Chairman.

Chairman STEVENS. Senator Kohl, you are recognized for 5 minutes.

STATEMENT OF SENATOR HERB KOHL

Senator KOHL. Thank you very much, Mr. Chairman.

Dr. Kissinger, we appreciate your being here today and bringing to us your vast experience in Government and world affairs and all of the very deep and profound thoughts that you have had. In your judgment now, how much more difficult is it likely to be in the future for an American President to come before the country and declare that, based on evidence that he has uncovered or she has uncovered, it will be necessary to conduct another preemptive strike against a country that is suspected of having weapons of one sort or another? Is the whole concept of preemption raised to another level of concern and much more difficult to bring to the American people for their consideration?

Dr. KISSINGER. Let me separate the question into two parts: one, the concept of preemption; and the second, the impact of recent events on the credibility of making such assertions.

I think 9/11 introduced us into a new international system in which the principles by which the system had been run based on states and based on conventional technology have been shattered, and they've also been shattered by the fact that there are now private groups, the privatization of security threats, so that it is private groups now and not States that represent a danger, and that these private groups are not subject to principles of deterrence and diplomacy that used to characterize the cold war period.

So I agree with the principle of preemption. The question then is to what circumstances to apply it and how you determine it. The subsidiary question is who defines it. Should the United States define it alone or in conjunction with other countries?

On the first question, who defines it, if one looks at what happened in Iraq, there is still agreement that Saddam wanted to do it, that he had illegal laboratories to do it, illegal weapons delivery systems. But the magnitude of it was overrated and the destructiveness of the warheads or the availability of warheads was also overrated, largely because of the absence of adequate human intelligence and also because the real situation was that Saddam was spending a lot of money on concealment and a lot of diplomatic effort on acting as if he had large quantities.

So I think we would probably have learned from that experience and certainly the intelligence apparatus ought to be strengthened to prevent simple statements like "slam-dunk knowledge" from being made, even though I think that Tenet was a good Director. In that respect, improvements are necessary, but undoubtedly critics of the United States will use and have used the recent experience to complicate any such claims.

But the whole principle of preemption after the election should be looked at from the point of view of, A, its necessity, and B, its implementation.

Senator KOHL. I was not so much talking about the doctrine of preemption. I think under certain circumstances what you are saying is true. My point was that bringing a preemption situation to the American people in the future—

Dr. KISSINGER. Will be more difficult.

Senator KOHL [continuing]. Will be much more difficult; is that not true?

Dr. KISSINGER. I think that is probably true. It depends on the facts of the case, but there are bigger hurdles.

Senator KOHL. Thank you.

Thank you, Mr. Chairman.

Chairman STEVENS. Thank you, Senator.

Senator Cochran, you are recognized for 5 minutes.

STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. Mr. Chairman, thank you very much.

Dr. Kissinger, thank you for being here today and sharing your thoughts with us on these subjects. I have read your "Washington Post" op-ed piece dated Monday, August 16, and I have looked through your statement today and listened to your testimony carefully. It seems to me that we may be down to a point in this discussion of the 9/11 report and recommendations where we are dealing with semantics and not paying as much attention as we should to the substance of it. I think your testimony helps refocus our attention to the substantive changes that are important in order to achieve improvements in our intelligence-gathering capacity and not just renaming offices or changing the acronyms.

For example, it occurs to me that if we are talking about a new coordinator, as the Senator from South Carolina mentioned, as being an overriding important change that we ought to contemplate, the national security adviser may be well situated in terms of proximity to the President and working closely with the President to actually coordinate that, without doing too much damage to the authorities and responsibilities of the director of central intelligence, for example.

I know Judge Posner, who is going to testify tomorrow, actually suggests that the Director, the NSC Director, should do this job. What is your reaction to that suggestion?

Dr. KISSINGER. My experience has been that the NSC does that job, because when a crisis occurs, that is the first thing the NSC Director does, is go to the various agencies and says, what do you know about it? As I look back on my experience and also talking to others, at a minimum what is needed is that the NSC Director have on his staff a deputy specifically charged with looking at intelligence, because in the normal course of events, if there is a crisis you automatically collect the intelligence, but unless there is some conflict you usually wait for intelligence to come to you because there are so many other things to do.

So somebody specifically charged with the sort of coordinating responsibility is desirable. I would prefer for neatness of relationships to keep it in the office of the NSC Director, but I am open

minded in that subject. I think it would work well in the office of the NSC Director as a deputy to the NSC Director, and that would give him or her enough authority to make sure that there is an adequate flow of intelligence.

Senator COCHRAN. There has been some attention paid to the fact that the Department of Defense controls most of the money that actually goes into and is spent for intelligence-gathering activities. Is that a problem? Is that really true? Does the shift need to be more toward the Director of Central Intelligence and the budget that is provided to that organization? Have we gone too far in providing the Pentagon with more intelligence-gathering power and resources than is justified?

Dr. KISSINGER. The coordination of collection should give the Director of Central Intelligence a significant role and should not enable the Defense Department to act unilaterally without close consultation with the Director of Central Intelligence. Then if there is a dispute it will in the normal course of events have to be settled by the President.

Now, the numbers are somewhat misleading because the sort of intelligence that the Defense Department collects requires a lot of high technology and therefore they are in the nature of things a lot more expensive than the sort of intelligence that is collected by the CIA through human sources, and it is not an adequate description of the flow of intelligence. But undoubtedly when these instruments, these technological instruments, are created there will be some dispute as to the amount of time these technologies can be used by various agencies. So long as the CIA Director has a major input and so long as the Defense Department cannot rule unilaterally, but has to take these disputes to the President, I think the major concerns can be met.

Senator COCHRAN. Thank you.

Chairman STEVENS. Senator Domenici, 5 minutes, please.

STATEMENT OF SENATOR PETE V. DOMENICI

Senator DOMENICI. Thank you very much, Mr. Chairman.

Dr. Kissinger, I got here late, but that does not mean that I am not interested. I will ask you afterwards how your little son who came to New Mexico with you, where he is now, but obviously he is no longer a little son. He is probably—

Dr. KISSINGER. He is in the entertainment business. How a son of mine got there, I cannot quite understand.

Senator DOMENICI. I do not know how a son of yours got in the entertainment business. But you know, you are pretty entertaining.

In any event, I have four words that kind of lead to my questions: one, "covert"; and "clandestine," two; the other one is "coordination"; and the last one is "military." So let me talk about "covert" and "clandestine." Mr. Secretary, I was here when Frank Church conducted long hearings about the CIA. I was very chagrined as I watched him, but I imagine nobody else was. But I believe that started the downfall of covert activity and clandestine activity by the CIA. I do not ask you to agree, but you seem to be half nodding.

Dr. KISSINGER. I agree.

Senator DOMENICI. In any event, I do not see how CIA could attract spies. Clandestine people that you have just described, you know, they are rather peculiar. They are different. They are not just ordinary people. I do not see how they would sign up after the Church hearings. I mean, if we are going to go and disclose them in a public hearing you have just about destroyed the clandestine activities.

Is that true?

Dr. KISSINGER. I think they did great damage, because it is hard. Much of clandestine activity, much of what is called human intelligence, does not guarantee a result. People have to be put into place for consequences or for results that may be 5 or 10 years down the road. They also have to be people that are adapted to the culture in which they operate, so that they may not be types that when the operations become public that look like classical Americans.

So one has to have an understanding for what, when we talk about human intelligence, what people are really talking about. Then the typical clandestine operation is in the area between diplomacy and military actions and, therefore, is in its nature difficult, ambiguous, and uncertain. So when they are publicized periodically, it makes it very difficult.

On the other hand, the Church committee did point out correctly that there was not adequate congressional oversight.

Senator DOMENICI. That is all right, that is fine.

Dr. KISSINGER. So that part of it I think was a good thing to do.

Senator DOMENICI. Well, Mr. Secretary, I for myself as a Senator, I have been regularly very disturbed when I ask questions about how come we did not know what was going on, on the ground, did we not have somebody there? And might I say, now that the Soviet Union has collapsed, the only place I ever heard in the world that we had someone was Russia. Many of these other countries like Iraq and others, we did not have anybody on the ground. I used to say: Why do we pay so much money to the intelligence operations if we do not?

I read the report and it is a brilliant disclosure of facts. It reads almost like a novel.

Dr. KISSINGER. The 9/11 report?

Senator DOMENICI. Yes.

Dr. KISSINGER. Outstanding.

Senator DOMENICI. But it does not recommend anything about clandestine or covert. We have to decide whether what we set up is going to encourage these kinds of activities. I believe that would be a major decision, and we better provide enough money for it, enough schools for it, and decide that we have to do it.

Would you agree with that?

Dr. KISSINGER. Yes, and enough stability and continuity.

Senator DOMENICI. Now, coordination versus a director with power. Senator Hollings went through a lot of history and he ended up with a good word, "coordination." I am confident that the President has authority to set up a coordinator now. In fact, some people tell me he might already have done it with his proposal.

A coordinator is much different than somebody who is going to screen and decide both policy and facts. I think that the latter

would be very very wrong. Could you explain the difference, and quickly, between the report's suggestion and what the responsibilities of an intelligence coordinator would be?

Dr. KISSINGER. On the operational side, a director who operates would, I believe, atrophy the CIA as we know it, because you cannot have two operators at the same time. Therefore, second, the issues that concern me most are quality, which you do not achieve by centralization, but by a careful restructuring of the current system, because you cannot avoid this.

Coordination would say we will improve the existing system and we will tighten it up, and a lot of it has already been done, and we will put in place somebody who makes sure that we draw out of these existing institutions the way the national security adviser now does with respect to Defense, State, and the interested agencies. Therefore, on the whole, if we could start from scratch I would put that person as a deputy under the national security office. But it can be made freestanding. I am agnostic. I have a slight preference.

Senator DOMENICI. Mr. Secretary, the principal concern in that report that we are talking about is the lack of coordination and exchange of information between those who do intelligence work. That is really what they are worried about.

Dr. KISSINGER. But that coordination can be achieved in my view without tearing apart the existing structure, creating a new structure that in its analytic branch will have to be very similar to what already exists, separating the analysts from the operators, and on top of it creating the problems on how to handle clandestine operations.

Senator DOMENICI. Mr. Secretary, let me just interrupt for a minute. We have not talked about the need for the military having intelligence for the warmakers in the field. Now, clearly, wherever we are fighting we need intelligence right there on the ground.

Dr. KISSINGER. And it should be nearly automatic.

Senator DOMENICI. Absolutely.

Dr. KISSINGER. It should not have to go through a long clearance process. I am sure the generals who testify after me will be able to give better evidence than I can on this subject.

Senator DOMENICI. Thank you very much.

Thank you, Mr. Chairman.

Chairman STEVENS. Thank you very much.

Senator BYRD. Dr. Kissinger, thank you again for your very enlightened comments. Your testimony should be valuable to this effort and particularly valuable to our committee here.

I also thank the outstanding group of public servants whose names you have brought with you today and with whom you share your views. I think it is a very imposing group. It seems to me what the whole group is saying: Stop, look, and listen, slow down; do not act with haste. I will not comment further on that point.

One other thing I just simply want to say for the record. Senator Kohl introduced the subject of preemptive strikes. Not that he said he approved of it or anything of that kind, but that has been introduced into this conversation, the preemptive doctrine. The thing that gives me very great pause about that doctrine is the fact that it is unconstitutional on its face. It is fundamentally flawed.

The Constitution says very clearly in Section 8 of Article I that the Congress shall have power to declare war. Now, it seems to me that the doctrine of preemption says that one man, the President, shall have power to declare war. So I think that fundamentally on its face the doctrine is unconstitutional because I do not see how any President can arrive at a decision to put the country into a war, of course unless it is invaded, wherein he has the innate power to act to defend the country. But I cannot see how under the doctrine of preemptive strike that any President can make this decision by himself, without taking into his confidence the Members of Congress, and Congress should have some ability to debate it, because otherwise it is an unconstitutional thing.

It seems to me that we ought to at least bow to the Constitution as we enter into this temple of the destructive doctrine of first strike. That is the thing that gives me pause.

I only make that comment, Mr. Chairman, for the record.

Chairman STEVENS. Thank you very much.

Dr. Kissinger, we really thank you very much for your appearance here today, and I thank you personally for your advice over the years as a friend and a person who gives guidance to so many of us here. We do appreciate it, and hopefully we will get some people here to think twice about what we are doing.

Senator DOMENICI. Mr. Chairman.

Chairman STEVENS. Yes, sir.

Senator DOMENICI. I want to say for the record, because I misspoke, there is a statement in the 9/11 Commission's study that says: "Recommendation: The CIA Director"—not the new entity—"The CIA Director should emphasize: (a) rebuilding the CIA's analytic capacity; (b) transforming the clandestine service by building its human intelligence; (c) developing a stronger language program with high standards and sufficient financial incentives," and they go on to two more.

So for the record and for those who might be watching, they did make that recommendation. And I am very sorry that I did not say it. Dr. Kissinger, I am very sorry if I misled you.

Dr. KISSINGER. Mr. Chairman, may I make one very brief comment about the 9/11 Commission?

Senator DOMENICI. Please.

Dr. KISSINGER. Despite the fact that I have questioned some of the recommendations with respect to intelligence, I want to compliment the chairman and the vice chairman and the members for a great national service in putting together the best account of that tragedy and for making many recommendations that either have been accepted and will be accepted. Tom Kean and Lee Hamilton have performed a great national service that I deeply respect, whatever shades of differences I have on the intelligence organization, and there too they have called our attention to problems that need to be dealt with.

Chairman STEVENS. Thank you very much, Dr. Kissinger. We appreciate you being here.

Our next panel will be a panel of former military officers: General Joe Ralston, former NATO EUCOM Commander, SACEUR, as we call him; Admiral Denny Blair, former Commander of the U.S.

Pacific Command; and Admiral Jim Ellis, former Commander of the U.S. Strategic Command.

Gentlemen, in the interest of time I am going to suggest that we ask you to each read your statements and then we will have questions as they may occur after those statements. We are operating, unfortunately, under some pressure here because of the timeframe and so many members have gone to other committee meetings. I think they are coming back. I hope they are. But we do appreciate your consideration.

General Ralston, will you please proceed first.

**STATEMENT OF GENERAL JOSEPH RALSTON, U.S. AIR FORCE [RET.],
FORMER COMMANDER, U.S. EUROPEAN COMMAND**

General RALSTON. Mr. Chairman, to you and Senator Byrd and to the committee: Thank you very much for giving us the opportunity to be here today and to give you our views from a military perspective for those people who have served as combatant commanders.

Mr. Chairman, I have three short points that I would like to make for the committee. First of all, let us realize that a lot of things have been done post-9/11 to fix some of the things that have been pointed out, and let me give you an example, the best way to explain that. When I was commander, Supreme Allied Commander of Europe, post-9/11 our soldiers in Sarajevo had captured an individual that we considered to be a terrorist and we got some very disturbing information out of his computer that was there, that led us to believe he had direct links back to organizations inside the United States.

That was information that I very desperately wanted to get to the FBI. Now, pre-9/11 and shortly thereafter we did not have a very good way of doing that. I had to go to the Chairman of the Joint Chiefs of Staff, who had to go to the Secretary of Defense, who had to go to the Attorney General, who had to go to the Director of the FBI, and that was just to get me speaking to Director Mueller.

Now, once we did that, we were able to fix the situation and as a direct result we got FBI agents on the ground in Europe that could take that information that we had captured and get it directly back to the people who could deal with it here in the United States. We set up what was called a joint inter-agency coordinating group, which is in existence today, within European Command, and the other combatant commanders did a similar type of thing, where we had FBI, Customs, Treasury, as well as National Security Agency, DIA, and so forth.

So let us not lose sight as you go through your very important duties that a lot of progress has been made.

My second point: I read some of the suggestions that the National Intelligence Director should select and recommend to the Congress the people to head the DOD intelligence community components. Most people seem to think that that means the National Security Agency and the National Geospatial Agency and the National Reconnaissance Office, and that may or may not be a good idea for you to debate.

But my point is that the details are very important, because the heads of the service intelligence—the head of Army intelligence, the head of Air Force intelligence, the head of naval intelligence—are also DOD intelligence community component heads. Let me give an example of why I think that would be a bad idea if you included all of those, and I will talk from an Air Force perspective, but it is true across the board.

The Air Force as an institution evaluates all of their intelligence officers from the time they are second lieutenants, for 30 years, and they are looking to see who is providing the best intelligence to the operational commanders and ultimately to the pilots in the cockpit who have to hit the pickle button and drop the bomb. Now, that information that the Air Force has collected goes into their judgment as to who is the best of those people they have been watching for 30 years to provide that.

That is information that is not available to the National Intelligence Director who is trying to make a decision on what someone may or may not have done in Washington, DC. And if you take that responsibility away from the Secretary of Defense and from the services, then I think you will have done a grave disservice to getting the operation done.

My third point, Mr. Chairman, is along the lines of the budget. I hear recommendations that the National Intelligence Director will formulate and present to you the budgets for national programs. It has been my judgment for many years that things do not clean up that nicely, that you have national programs and tactical programs. They are always mixed.

I use as an example, you may have an overhead imagery system that most people would consider would be a national system. It is in the National Foreign Intelligence Program (NFIP) and under the recommendations the National Intelligence Director would have sole authority over that. Well, what is sometimes forgotten is that a small piece of that system is what is responsible for getting a picture inside the cockpit of an airplane that is very much needed on the tactical side.

If the National Intelligence Director had the authority when a new priority comes up to take \$10 million away from that program to put it on his new priority and it happened to be the link that was getting that imagery into the cockpit, without the Secretary of Defense having an opportunity to nonconcur on that, I think once again that would be a grave disservice.

So my message in all of this is a lot of things have happened already to improve the coordination that we are talking about and I would strongly urge that the Senate take a deliberate look and make sure that you do not inadvertently screw some things up that would adversely impact our operational capability.

Mr. Chairman, that is all I have. Thank you.

Chairman STEVENS. Your message is simply do no harm, right? General RALSTON. Yes, sir.

Chairman STEVENS. I think that that should be our guideline here, do no harm to what has been done since 9/11.

Admiral Blair.

**STATEMENT OF ADMIRAL DENNIS C. BLAIR, U.S. NAVY [RET.], FORMER
COMMANDER, U.S. PACIFIC COMMAND**

Admiral BLAIR. Mr. Chairman, when you are planning and conducting a military operation, intelligence is absolutely essential, just like ammunition, just like transportation, just like all the other forms of logistics, just like communications.

Perhaps in the past the national foreign intelligence program, the NFIP, was primarily directed toward supporting high-level policy decisions, but that is not true now. NFIP programs are integral to military operations right down to the tactical level, as General Ralston said. The National Security Agency and the National Geospatial Information Agency are combat support agencies. They are right there with the combatant commanders from the early stages of intelligence preparation of the battlefield, when you are trying to understand what it is you might be going into, all the way through all the phases of operations.

So I strongly recommend that their operations, their funding, their personnel policies, the evaluation of their effectiveness be primarily the responsibility of the Secretary of Defense, whose job it is to put together the entire defense program for the country. I believe that should be done, then integrated with other forms of intelligence by this National Intelligence Director.

To me it just does not make sense for an official outside of DOD to determine DOD requirements and to provide funds to DOD and then to monitor whether they are being carried out. It would be sort of like the Department of Transportation having the responsibility to provide trucks to the Department of Defense.

Now, I do favor a strong National Intelligence Director and one who is separated from the duties of Director of the CIA. I believe that that director, that National Intelligence Director, should have a large and competent requirements, program analysis and evaluation, and budgeting staff, sort of like the joint staff, PA&E and the Office of the Comptroller in the Department of Defense.

I believe, however, that the Department of Defense should originate the programs of the DOD combat support agencies as part of its overall defense planning for the country's needs and then that this National Intelligence Director, assisted by a strong, competent staff, integrate them with the requirements from other users of intelligence to see to what extent they can satisfy those, and also look for the other forms of intelligence which can in turn support the operations of the Department of Defense. He should bring the collectors and the customers together with a very competent data-based set of decisions.

If there is a strong difference between that National Intelligence Director and the Secretary of Defense, then they have to take their differences to a common superior in the White House. And if the NID has a good strong staff that can do the staff work for it, then he should have no fear of standing up to the Secretary of Defense if there is a legitimate difference there that has to be adjudicated.

Now, there are lots of aspects of the intelligence proposals that I read about that are very attractive, that I think will make things better. I believe improving sharing of relevant data across both domestic and foreign intelligence agencies is absolutely vital. I believe that upgrading the information networks in order to do that is ab-

solutely vital. I believe updating standards of professionalism of those involved in the intelligence business and scattering them around so that they are more widely experienced are all very good.

But I just do not believe that increasing the role of the National Intelligence Director to the point of determining requirements, providing money, and monitoring performance within the Department of Defense combat support agencies will give us better warfighting support.

Thank you, Mr. Chairman.

Chairman STEVENS. Thank you very much, Admiral.

Admiral Ellis. Thank you for being here, Admiral.

[The statement follows:]

PREPARED STATEMENT OF ADMIRAL DENNIS C. BLAIR

Senator Stevens, members of the Committee. You are interested in how currently proposed intelligence reforms will affect intelligence support to military operations.

When planning or conducting a military operation, intelligence is one of the absolute key supporting functions—like ammunition, transportation and communications.

Perhaps in the past intelligence capabilities funded by the National Foreign Intelligence Program—NFIP—primarily supported national-level policy makers. No more. NFIP programs provide intelligence support that is integral to military planning and operations. The National Security Agency and the National Geospatial Information Agency are combat support agencies. They are involved with military plans and operations from the early stages—intelligence preparation of the battlefield—through all stages of conflict. I recommend that their operations, funding, personnel policies and effectiveness continue to be determined primarily by the Secretary of Defense.

To me it makes no sense for an official outside the Department of Defense to decide what NFIP programs DOD needs, then to provide NFIP funds to DOD, then to monitor those programs. That would be like the Department of Transportation deciding what kind of and how many trucks DOD needs, then providing funding to the Department for trucks.

I strongly favor a powerful National Intelligence Director who is not the Director of the Central Intelligence Agency. I believe that Director should have a large and competent requirements, programming and budgeting staff, comparable to the Joint Staff, PA&E and the office of the Comptroller in the Defense Department. However I believe that the Department of Defense should originate the budgets for DOD combat support agencies as a part of building the Defense capabilities this country needs. The NID, assisted by a competent staff, should then look across the other users of intelligence in the U.S. government and integrate the DOD intelligence budget with those of other intelligence providers. In many cases DOD combat support agencies will be collecting intelligence of use to others besides the armed forces. The NID needs to ensure that these capabilities are included and integrated.

In case of strong differences between the NID and the Secretary of Defense, the issue should be taken to the White House for solution. With a strong and capable staff providing data-based recommendations, the NID should have no fear about seeking these decisions.

But what about the current war on terrorism—can't we do better? Isn't good, shared intelligence the key to success?

Yes, if we put someone besides an intelligence official in charge of planning and conducting that war.

Intelligence works when it is driven by commanders and operators or by officials with line responsibility in government departments. It does not work when it is generating its own objectives and requirements. To give a National Counter Terrorism Center reporting to the NID the responsibility for planning the war on terrorism is like making a football team's scouts the head coach. A head coach wants tremendous scouts—he wants to know everything possible about the opposing team—on game day he wants the scouts up in the spotter's booth predicting what the opposing team's next play will be—but it is the coach who must call the plays. He knows what his players can and cannot do, not the scouts—he knows what other games he must play—not the scouts.

The fastest way to fix intelligence in the war on terrorism is to designate the head coach. Right now we have a committee conducting the war—the CIA is conducting

part of the war, DOD is conducting part of the war, FBI is conducting part of the war, DHS is conducting part of the war, the Departments of State and Treasury are conducting other parts. The results are predictable. Our adversary is moving faster than we are, we are missing opportunities in internal friction, and the intelligence services are doing their best, particularly the TTIC, but they are doing it in a vacuum, rather than as part of operations to defend against and destroy terrorism. It may be that we need several teams to win this war—one for the United States headed by DHS, several joint interagency task forces overseas headed by either DOD or CIA officials. But right now we have none.

There are many other aspects of current intelligence reform proposals that are good—improving sharing, upgrading networks, increasing professional standards. However I strongly recommend against two proposals in various bills:

—To give the NID overall responsibility for the NFIP budget activities in the Department of Defense;

—To place the NID in charge of developing the strategy for the war on terrorism. Thank you, and I would be happy to answer questions.

STATEMENT OF ADMIRAL JAMES O. ELLIS, U.S. NAVY [RET.], FORMER COMMANDER, U.S. STRATEGIC COMMAND

Admiral ELLIS. Mr. Chairman, thank you. Thank you, Senator Byrd, as well, and distinguished members of the committee, for your generous invitation to participate in this important hearing.

The carefully considered judgment that you and your colleagues will contribute to the process of intelligence reform and the assessment of the conclusions of the National Commission on Terrorist Acts Upon the United States will have real and far-reaching effects throughout the broad intelligence community. As you are also well aware and have already noted in your remarks, it will also directly impact the hundreds of thousands of men and women serving in uniform in the Department of Defense whose reliance on timely, responsive, accurate and accessible intelligence grows larger every day.

As has been noted, I left their ranks on the first of this month after 39 years in uniform. While my operational service stretched from Vietnam to Kosovo, it was in my last assignment, as Commander, United States Strategic Command, that I was actively involved in the dramatic efforts to which General Ralston referred within the Department of Defense to reshape the Department's intelligence entities in order to better meet new and emerging challenges.

Much quantifiable progress has been made in the interlinked areas of command, control, communications, computers, intelligence, surveillance, and reconnaissance, as well as the new realm of information operations. With the full support of the Secretary of Defense and the Under Secretary of Defense for Intelligence, the combat support agencies, such as the NSA and DSSA, have been integrated into active support of Department Title X functions in order to flatten organizational structures, shrink response time lines, and bring the tremendous capabilities of those agencies to the front-line support to the warfighter.

Though much remains to be done, especially in the areas of so-called horizontal integration, outside the Department, these significant strides are noteworthy and should be allowed to mature to their full potential.

As you continue your deliberations, I would offer only four inter-related points for your consideration. First, as we consider the range of changes proposed we must be assured they specifically address the shortfalls we want to correct. The establishment of ac-

countability is a worthwhile goal, but in my view it is far more critical that we provide genuine solutions to identified problems. In other words, rather than just identifying who is responsible, the Nation must also be well served by ensuring that he or she now leads an organization that is significantly better organized, trained, and equipped.

In my view, though I am not a cynic, there is no such thing as a perfect organization. While an organization may be fully postured for success in some areas, it will inevitably be suboptimized for others. The inevitable seams and areas of reduced capability or capacity must be intentionally aligned where they have the least impact. I am fond of noting that you can organize for what you do the most or for what is most important. The secret is to know the difference. The structure, in an effort to eliminate stovepipes, must not also merely substitute internal stovepipes for inter-agency stovepipes.

Second, the trend toward centralization must not add layers of bureaucracy that, while they may add some value, bring unacceptable penalties in agility, flexibility, responsiveness, and accessibility. Today's American armed forces, transforming into high-speed, lethal, networked, and joint elements, must be served by an intelligence process that can keep pace or they will not achieve the full promise of their technology, much less their people.

The fact is that the classic war college categories of strategic, operational, and tactical are less and less relevant in a networked, globalized, and embedded world. Intelligence developed at levels classically termed strategic can have real and significant tactical implications and the converse is certainly true.

Third, we must ensure that we are designing a community, a process, and an organization that will serve a full range of alternative futures. Years ago, the military was often accused of gearing up to fight the last war. Just as that is no longer true, we must ensure that we do not design a national intelligence system that would not be responsive should the character of future threats evolve in ways we cannot or do not anticipate.

When I used to speak to junior staff officers, I would opine that, though they may be asked to plan for 100 contingencies, it is likely that fate will deal them the 101st. But it is the elements that were developed for the 100, supported by an agile and imaginative organization, that provided the structure and process to allow them to be rapidly reassembled and realigned to meet emergent and unexpected challenges.

The premium for the indefinable future is on agility, speed, and flexibility, not, I would submit, on a single-point solution which is inevitably, if understandably, wrong.

My fourth and final point for your consideration is this. While there is certainly value in improved intelligence oversight and process reform, these should not come at the expense of fearless, insightful, and, yes, sometimes contrarian, intelligence analysis. As Peter Bernstein, who writes extensively on this subject, points out: "Data is neutral, neither good nor bad, and consists of facts. It is in the analysis that takes these cold facts and creates quality intelligence from them that the real challenges lie. It is in our effort to move up the continuum from data to information to knowledge and

ultimately to wisdom that we add the critical value to the technical collection.”

We should be wary of homogenizing centralized processes that, albeit unintentionally, may suppress or filter differing views. Recent op-ed pieces have noted the inevitability of surprise in our past and offered as well that often a surprise is a result of deficient analysis, not collection or even sharing of data.

Bernstein’s favorite example concerns the Battle of the Bulge, with which some in this room have some familiarity, where Patton’s Twelfth Army had near-perfect knowledge of the German forces moving up to oppose them, thanks to partisans, spies, POW’s, and aerial reconnaissance. The failure was not one of collection, but lay in the fact that all assumed the divisions were moving up to blunt the planned allied offensive, never anticipating that the German commander intended an attack of his own.

We should be wary of those who offer, “perfect intelligence,” or ironclad probabilities. Concrete probability figures, always difficult to compute, are only legitimate when you know you have considered all possible outcomes. In an array of alternatives that proves to be larger than the possibilities you had imagined, probability numbers are worse than useless. It is in the full definition of the range of possibilities that quality dispassionate analysis is most important.

Such skills, valuable beyond all price and linked to the operators and the warfighters, as well as the strategists and policymakers, must be available to all who serve our Nation’s security and not enhance one group at the expense of another.

Members of the committee, I thank you for your attention and I look forward to your questions.

Chairman STEVENS. Thank you very much, Admiral.

[The statement follows:]

PREPARED STATEMENT OF JAMES O. ELLIS, JR.

Mr. Chairman, Ranking Member Byrd, distinguished members of the Committee, thank you for your generous invitation to participate in this important hearing. The carefully considered judgment that you and your colleagues contribute to the process of intelligence reform and the assessment of the conclusions of the National Commission on Terrorist Attacks Upon the United States will have real and far-reaching effects throughout the broad intelligence community. As you are also well aware, it will also directly impact the hundreds of thousand of men and women serving in uniform in the Department of Defense whose reliance on timely, responsive, accurate and accessible intelligence grows larger every day.

As has been noted, I left their ranks on the first of this month after 39 years in uniform. While my operational service stretched from Viet Nam to Kosovo, it was in my last assignment as Commander, United States Strategic Command that I was actively involved in the dramatic efforts within the Department of Defense to reshape the Department’s intelligence entities in order to better meet new and emerging challenges. Much quantifiable progress has been made in the interlinked areas of command, control, communications, computers intelligence, surveillance and reconnaissance as well as the new realm of Information Operations. With the full support of the Secretary of Defense and the Undersecretary of Defense for Intelligence, Combat Support Agencies such as NSA and DISA have been integrated into active support of Department Title 10 functions in order to flatten organizational structures, shrink response times and bring the tremendous capabilities of those agencies to the front line support to the warfighter. Though much remains to be done, especially in the area of so-called “Horizontal Integration” outside the Department, these significant strides are noteworthy and should be allowed to mature to their full potential.

As you continue your deliberations, I would only offer four interrelated points for your consideration.

First, as we consider the range of changes proposed, we must be assured that they specifically address the shortfalls we want to correct. The establishment of accountability is a worthwhile goal but, in my view, it is far more critical that we provide genuine solutions to identified problems. In other words, rather than just identifying who is responsible, the Nation will be better served by ensuring that he or she now leads an organization that is significantly better organized, trained and equipped. In my view, there is no such thing as a perfect organization. While an organization may be fully postured for success in some areas, it will also be sub-optimized for others. The inevitable seams and areas of reduced capability or capacity must be intentionally aligned where they have the least impact. I am fond of noting that you can organize for what you do the most OR for what is most important; the secret is to know the difference. The structure, in an effort to eliminate stovepipes, must also not merely substitute internal stovepipes for interagency stovepipes.

Secondly, the trends toward centralization must not add layers of bureaucracy that, while they may add some value, bring unacceptable penalties in agility, flexibility, responsiveness and accessibility. Today's American armed forces, transforming into high speed, lethal, networked and Joint elements, must be served by an intelligence process that can keep pace or they will not achieve the full promise of their technology, much less their people. The fact is that the classic War College categories of "strategic," "operational," and "tactical" are less and less relevant in a networked, globalized and imbedded world. Intelligence developed at levels classically termed "strategic" can have real and significant tactical implications and the converse is certainly equally true.

Third, we must ensure that we are designing a community, a process and an organization that will serve a full range of alternative futures. Years ago, the military was often accused of gearing up to fight the last war. Just as that is no longer true, we must ensure that we do not design a national intelligence system that would not be responsive should the character of future threats evolve in ways we cannot or do not anticipate. When I used to speak to staff officers I would opine that, though they may be asked to plan for a hundred contingencies, it is likely that fate will deal them the one hundred and first. But it is the elements that were developed for the one hundred, supported by an agile and imaginative organization, that provide the structure and process to allow them to be rapidly reassembled and realigned to meet unexpected challenges. The premium for the indefinable future is on agility, speed and flexibility not, I submit, on single point solutions which are inevitably, if understandably, wrong.

My fourth and final point for your consideration is this: while there is certainly value in improved intelligence oversight and process reform, these should not come at the expense of fearless, insightful and, yes, sometimes contrarian intelligence analysis. As Peter Bernstein, who writes extensively on the subject, points out, data is neutral, neither good nor bad, and consists of facts. It is in the analysis that takes those cold facts and creates quality intelligence from them that the real challenges lie. It is in our effort to move up the continuum from data to information to knowledge and to wisdom that we add the critical value to the technical collection. We should be wary of homogenizing centralized processes that, albeit unintentionally, may suppress or filter differing views. Recent Op Ed pieces have noted the inevitability of surprise in our past and offered, as well, that often the surprise is a result of deficient analysis, not collection or even sharing of data. Bernstein's favorite example concerns the Battle of the Bulge where Patton's 12th Army had near-perfect knowledge of the German forces moving up to oppose them, thanks to partisans, spies, POW's and aerial reconnaissance. The failure was not one of collection but lay in the fact that all assumed the divisions were moving up to blunt the planned Allied offensive, never anticipating the German Commander intended an attack of his own. We should be wary of those who offer "perfect intelligence" or iron-clad probabilities. Concrete probability figures, always difficult to compute, are only legitimate when you know you have considered all possible outcomes. In an array of alternatives that proves to be larger than the possibilities you had imagined, probability numbers are worse than useless. It is in the full definition of the range of possibilities that quality dispassionate analysis is most important. Such skills, valuable beyond all price and linked to the operators and the warfighters, as well as the strategists and policy makers, must be available to all who serve our Nation's security and not enhance one group at the expense of another.

Members of the Committee, thank you for your attention. I look forward to your questions.

Chairman STEVENS. Let me first call on Senator Domenici, who has to leave for another meeting.

Senator DOMENICI. Mr. Chairman, I am going to just make an observation. But first I want to say to you and the ranking member I thank you. By having these hearings, you have performed a great service in terms of where we are going. I mean, these witnesses, these members of the military that are here, they know what they are talking about and we have to listen to them.

I want to say to you, I am not on the committees drafting this legislation, but I think you can be assured that you and Dr. Kissinger told us some things that will help substantially with our effort to do the right thing. This is a truly important endeavor of historic proportions, and I for one will make note as we study it of your numerous, excellent, objective suggestions. You know what the problems are from the standpoint of the fighting people that work for us in terms of our defense.

I thank you very, very much.

Thank you, Mr. Chairman.

Chairman STEVENS. Thank you, Senator.

Senator Byrd, do you have questions or comments?

Senator BYRD. Thank you, Mr. Chairman.

I associate my comments with those just expressed by the Senator from New Mexico. I thank the members of the panel.

I will be brief, Mr. Chairman.

The size of the insurgency in Iraq has been consistently underestimated, in terms of the size and the force, and it has resulted in continuing bloodshed among the 138,000 troops that we still have in Iraq. My question: What does this continuing insurgency mean in the context of reform of the military's intelligence agencies? Does it build a more urgent case for intelligence reform now, or does it mean that Congress should wait a while, should wait perhaps until the war is finally over before taking action?

General Ralston, would you like to comment?

General RALSTON. Senator Byrd, let me express an opinion. I think again many of the things that were apparent on the day of 9/11, improvements have been made within the existing authority that the President, the Secretary of Defense, and the Director of Central Intelligence have.

With regard to the particular issue that you talk about, the insurgency in Iraq, this is something that has already been noted earlier, I think certainly human intelligence operatives on the ground in Iraq would have been very helpful in the past. Regarding where we are right now, I must tell you that I have been out of uniform for 1½ years now, so I only know what I read in the open sources, and I am really not qualified to make a comment on the size of the insurgency or where that is going.

Admiral BLAIR. Senator Byrd, I think where we are now illustrates the sort of new face, new face of intelligence. In my experience there are really two categories of intelligence that we need. One is intelligence to take action. This is the type that you need for troops in the field. In Iraq, our troops in the field need to know who the leadership of these insurgents is, where are their houses, how do they get their money, how do they get their weapons, where

are they going to be tomorrow? It is that sort of very action-oriented type of intelligence that we need.

I believe that, although we are not doing as well as we should, the tools are there to be able to do that with applied attention and filling in some of the deficiencies in the parts of that that are the most valuable.

The other type of intelligence I find is policy support intelligence. This is to answer questions like should we stay there, do we need to raise the number of troops, do we need help from allies, how long is this thing going to last, how much determination do our adversaries have, and what effect are our operations having? Those are decisions that are not targeting individuals, but targeting the weight of effort of this country as we move in.

I think that just by my describing those you can see that a lot of that intelligence is overlapping. If you have very good intelligence on just who the leaders are and where they are going and whether you can hit them, that is going to tell you a lot about their long-term intentions and what the United States should be doing as a country to work with them in many fields, not just the military fields.

So I think that we have the tools that are there and we should not wait until it is over to be able to set up our organizations and our procedures to be able to answer both those kinds of questions with all the tools that we have. But I think we should use it as a validation of what we are doing here.

Admiral ELLIS. Senator Byrd, General Ralston has addressed the issue of human intelligence that has been raised by a number of you in your remarks. Certainly that is a key element and indicator of the types of skills and talents that, though they take years to create and sustain, are going to be increasingly important as we confront the challenges of this new century. So I won't elaborate on that.

The other piece that I think is important relative to the insurgency goes back to my final comment in my opening remarks and that is the difficult challenges associated with analysis. In other words, even when there is agreement on the facts, sometimes the analytical underpinning can come to different conclusions. A process that values that, that respects that and appreciates it and that has a way of sifting that out and balancing the competing and contrasting views while we still move forward, as we must in order to take action, has to be an important part of the future of the Nation's intelligence community. That would be a take-away that I would bring from the insurgency experience in Iraq.

Senator BYRD. Mr. Chairman, if I may I have one more question.

Chairman STEVENS. Certainly, sir.

Senator BYRD. If the Department of Defense got Iraq wrong just as badly as the civilian intelligence community did, what reforms are required in the Pentagon's intelligence agencies? General Ralston.

General RALSTON. Senator Byrd, I would just like to point out that only recently did the Pentagon institute an Under Secretary of Defense for Intelligence. Prior to that time, there was an Assistant Secretary for Command, Control, Communications, and Intelligence. "Intelligence" being at the end of that chain was about

where the priority rested. I can tell you that for many years as I worked with the C3I, as they called him, that while they were good people, they spent 98 percent of their time on the command and control and the systems that went with that, not on the intel.

So I think in my judgment having an Under Secretary of Defense for Intelligence has in fact provided some focus for the Department of Defense and hopefully that will be helpful.

Senator BYRD. Admiral Blair.

Admiral BLAIR. Senator Byrd, I think your question illustrates that a lot of the responsibility for what we call intelligence failure really rests with leaders and operators and officials. I think that you have to tell the intelligence community what you intend to do and then they can do their job. They cannot warn you about everything. They cannot predict everything.

I do not believe we asked them the right questions, we, the leadership of the Department and of the country, asked them the right questions in order to elicit the best answers in terms of what we would be running into and what we needed to do. So I see too much talk about everything being an intelligence failure if something goes wrong.

As I said, I believe intelligence is a tool for operations and plans and policy decisions, just like many other things, and it is really up to those who are leading to make their intentions clear, ask in the right way, in order to get the kind of intelligence they deserve. Too often we put our intelligence organizations in terms of having to come up with their own questions as well as their own answers. I believe that had the questions been asked properly we would have had better intelligence predictions of what we were running into as we have.

Senator BYRD. Admiral Ellis.

Admiral ELLIS. Thank you, Senator. Following on General Ralston's note about the Under Secretary of Defense for Intelligence, I would like also to build a little bit on what I noted in my remarks, that there were other initiatives that relate to intelligence within the Department of Defense that have been underway in the years since 9/11, that are beginning to bear fruit.

I talked about the way in which historic combat support agencies have now been folded in in one element to direct front-line support to combatant commanders, such as the post that I formerly occupied, who then can make that information readily available to regional combatant commanders, who are of course executing the operations in support of our Nation's security around the globe.

There is a great deal of flattening and integration and, the words that you used earlier and your colleagues did, coordination is now existent within the Department to better facilitate those processes. I think in some ways there are models and examples within the Department of Defense that can be used as we explore how to better address the challenges of the larger intelligence community. I am sure that those who are actively now representing the Department will be able to further enlighten you on the advantages and the benefits they have seen from those successes over the last 3 years, because I believe that they are significant.

Senator BYRD. Mr. Chairman, I thank all of the members of the panel and I thank you again.

Chairman STEVENS. Thank you very much.

Having the three of you here—and I have worked with pleasure with all three of you when you were in uniform—I am constrained to ask a question related to what the Senator has just asked. We were briefed about 3 to 4 days before the Iraqi engagement started on terms of the deployments that were in the Mediterranean, ready to go through Turkey, men and materials that were to go into the northern part of Iraq and go south, and the others that were coming in through Kuwait and go north.

The whole plan was a movement from the north toward Baghdad and the south toward Baghdad. Because of internal changes in Turkey, just about 48 hours before that all started we were denied access through Turkey and all of those men and materials went around, through and down and back, and came up through Kuwait. Our plan for the operations in Iraq was totally changed, with the whole problem of going all the way north and then coming back to Baghdad to establish security around the capital.

You all were in uniform at that time. I do not want to embarrass you in any way, but what was the change that came about in the plan and how was it affected? That seems to me to have left a tremendous gap in terms of northern Iraq that led to the army just sort of disappearing, to the movement of men and materials across borders without any possibility of sanction, and really changed the plans for invasion of Iraq.

Could I ask you to comment on that? Am I wrong about this, General?

General RALSTON. Mr. Chairman, let me give you at least my perspective on that. You are correct in that very late in the game it became apparent that we were not going to be able to send the 4th Infantry Division through Turkey and down into northern Iraq. Now, that presented the commanders with a problem at the last minute and, given that that were the circumstances, I believe that they handled it well.

They did a large airborne operation into northern Iraq using the 173rd out of Italy, that used to be under Admiral Ellis' command there. I think, given the circumstances, they performed extraordinarily well with that airborne assault and they did the best they could at the last moment.

I think all of us have been around long enough to know that, no matter what plan you have, something is not going to work at the last moment and you have got to have plan B, you have got to have an alternative. And at least my recollection is that they did a very good job with the circumstances that they were presented with.

Chairman STEVENS. Thank you.

Admiral Blair.

Admiral BLAIR. Senator, in my current job as president of the Institute for Defense Analyses, we have had a chance to do some work on trying to reconstruct some of the activities that happened during Operation Iraqi Freedom. What we found was, even under the alternate plan, the coalition forces led by the United States did in fact engage the great majority of the Iraqi forces and chewed them up and destroyed them.

So the change of direction and the loss of the northern attack did not in fact leave a sanctuary where Iraqi forces holed up in and

then attacked us later. The forces coming up from the south did engage almost all of the Iraqi forces. It turned out that they destroyed all of their equipment, but, as we know, the Iraqi troops got out of their tanks and left and lived to resent another day and some of them to fight another day. So I do not think that that loss of that northern flank kept us from the main military objective of that phase of the war, which was engaging and destroying the main Iraqi forces.

Chairman STEVENS. Admiral Ellis.

Admiral ELLIS. Thank you, Mr. Chairman. I would only add that uncertainty will characterize all conflict or political disputes. We can work and have worked, I think, to minimize that. But even in this modern high-tech world, we have to be mindful that sometimes the fog of war can go digital, and there can be so much data out there that sifting through that to find the kernels of knowledge and ultimately wisdom that we require is still a demanding experience.

That is why I think we need to put a premium, even as we work to reduce the risk, on the agility and flexibility that General Ralston and Admiral Blair referred to, which, given this unexpected turn of events, we were able to respond. We need to anticipate that as much as we can and we need to understand that there is a fundamental difference between the consequences of an outcome and the probability of an outcome. Something may be very, very improbable, but if it happens it can have huge consequences, and that type of thought process has to undergird all of our planning and I believe does within the Department of Defense.

Chairman STEVENS. Thank you very much.

Senator Burns I think is next.

Senator BURNS. Just one short question. Murphy's law is always ever-present. I think there is not an operation that we should go into that we do not have a plan B and backups, so that is it. But I caught in the testimony this morning, especially from you, Admiral Blair, that agility is the key. In your own assessment of the military part of intelligence, are we agile enough to change the way we do things in light of an enemy that is faceless, operates in the shadows, and employs completely different tactics than we have ever seen in the world before to deal with that? Are we agile enough to complete that message, to complete the mission that is in front of us today?

The U.S.S. *Cole* comes to mind. How did we change when that incident happened? Or the bombings of the Embassy; how did we change internally to deal with this new enemy? Are we agile enough to do that?

Admiral BLAIR. Sir, I think we are very agile at reacting to this sort of thing. In each of the cases that you mentioned, I was on active duty for both of them and there were extensive changes made within the Navy, within the joint forces, that made us much stronger against that kind of threat.

We perhaps do not anticipate the new things as well as we should, but we do react to adversity by fixing problems and getting better. I would say the key to that really are the people that we have in the armed forces. When you look at one key, it is the sergeants and the petty officers and the junior officers. Those of us in senior positions generally think that the best we can do is give

them the resources they need, listen to them, make the adjustments to do it.

I think we are agile within the military forces. Sometimes I worry about our agility across departmental lines.

Senator BURNS. I will let all three of you comment on this. In light of that, then we have seen what happened at the U.S.S. *Cole*. Then we can look backwards and we can connect the dots and the information we might have had with regard to attacks like this in a semi-hostile environment in which the ship was moored.

Did we change things then to look for different pieces of information that would give us some preemptive capabilities? That is what I am looking for, because, you know, it is easy to see the mistakes maybe of 9/11 because the rear-view mirror is always 20–20.

I want you to comment on that, and also do you believe that the paramilitary element of the CIA provides a unique capability that really contributes? There are some that would say the report says that it is redundant, and you might comment on that. General Ralston.

General RALSTON. Yes, sir, Senator Burns. Let me take both of those to start off with. With regard to did we learn things from the *Cole* and other incidents that helped us: During my experience in Europe—and I am sure the other commanders had the same experience—we probably got 30 messages a day saying something is going to blow up in your area of responsibility; we're not sure exactly where, we do not know exactly when.

Now, you take 30 a day times 30 days a month, that is 900 a month. That is 10,800 a year, and over a 3-year period that is over 30,000 messages. Now, every one of those has to be looked at and evaluated. You cannot automatically hit the delete button every time one comes up. And some of those, through intuition or whatever, there was enough there that we would take overt actions to thwart whatever the particular threat was.

You never hear about those. You never hear about the attacks that were thwarted because the intelligence community gave us the information that allowed us to do that.

My personal judgment is 30,000 messages are too many. I would like to see something less than that. But that is the situation that we are dealing with today.

With regard to the paramilitary capability at the CIA, I personally believe that it is a necessary and important capability. I will defer to Admiral Blair, who dealt with that on a much more personal basis during his time at CIA. But that is my own personal opinion.

Admiral BLAIR. In reply to your question, Senator, I do not think—I think a commander has to be better than his intelligence. If you just sit there and wait until intelligence tells you that there is going to be an attack in this part there, then what do they need you for as a commander? Might as well just put the intel officer in charge. By the way, I think that is part of the mistake we are making with some of this legislation.

I would sit there as a commander and I would think: You know, have not heard anything for a while, but they are out there plotting something, so I am going to change a look. I am going to turn a ship around, not let it go into that port. I am going to put it in

and I am going to put a big security detachment around it. I sent messages to my people to go out and do things that make them unpredictable.

It is just very hard to get inside of every organization that wishes the United States ill and expect to have their battle plan handed to you. You have got to get beyond that. And we did that in a lot of cases. I think that now that we are on the offensive against Islamic terrorism, we can do even more. That is the way we are going to beat it, not counting on getting perfect intelligence for it.

As far as paramilitary operations go, I believe that we should have components within the Department of Defense and within the CIA and that they should be working very closely together to apply the right kind of capability to the right kind of task, because some of them are better at it than others, and in certain circumstances you want somebody there who is not tied to the armed forces of the United States. In other cases you want somebody who has an ID card, subject to Geneva Convention, and so on. You want both tools in your kit.

Admiral ELLIS. Senator, I would only add on the *Cole* example that you cited that I was the Navy's commander in Europe when that untoward event happened in the Central Command area of responsibility, and things changed dramatically. The Navy completely rethought port security programs. They identified new capabilities in embarked marine units, and so completely gave a new assessment and a new twist to that.

I would also add that it dramatically enriched, thanks to the support from European Command, our interaction with allies in terms of intelligence-sharing and the type of information that in many ways they are uniquely privy to because of the relationships and the positions that they occupy around the world. So our ability to assess and assimilate that and to some degree their willingness to come forward with that type of intelligence was enhanced, regrettably after the fact rather than before.

On the paramilitary side, I would only echo the comments of my colleagues here, in that that represents a unique capability. I mean, we have in the military, as you know very well, capable special operations forces. My son is a major in the Army Rangers. And they represent tremendous capabilities. But there is a unique dimension that comes from the agency and those paramilitary forces that I think better fleshes out the full spectrum of capabilities the Nation is going to need in this uncertain future.

Senator BURNS. Thank you.

Chairman STEVENS. Senator Cochran.

Senator COCHRAN. When I was in the Navy we had an Office of Naval Intelligence and I was a shipboard legal officer with a collateral duty and ended up working with that agency to some extent. But I was mainly a naval officer learning how to drive the ship and do what all naval officers at sea get to do if they are lucky enough to have a job like that.

But my question is, now with all of the jointness and the Goldwater-Nichols legislation that reformed the way the military was organized, are we going to need to improve or enhance the capabilities of joint intelligence operations by adding to whatever legislation we may pass in light of the 9/11 Commission report? Should

we do anything to improve and modernize the individual services' organizations and force them into more of a cooperative unit? Should there be a joint military intelligence agency formed instead of the individual service agencies? Should that be considered by the Congress?

General RALSTON. I will give you an opinion, Senator Cochran. I think, first of all, there has been so much progress since 1986 as a result of Goldwater-Nichols that we are an entirely different military today than we were 18 years ago, and sometimes we do not realize how far we have come in that regard. We today have joint intelligence organizations where you will have intelligence personnel from the various services if that is necessary in a particular theater to do.

I would broaden your question slightly and say, as you look at things that may need to be done over the future, I think there were some lessons in Goldwater-Nichols that probably are applicable to the broader intelligence community. How do you get people at CIA to understand the culture of DIA or the National Security Agency, and vice versa? So some kind of mandated rotation of people from one intelligence agency to another so they can better learn what is going on in that job may be useful to the overall intelligence community. So I think that is something that deserves looking at.

Admiral BLAIR. Senator Cochran, I believe we still need naval intelligence officers. Submarines are being built around the world and we need people who are worrying about where submarine warfare is going so that the Navy can build the right kind of countersystems and can advise anti-submarine commanders when they have it. So you still need a strong service component.

Then when we operate at the joint level, you slam your service intelligence officers together and they pool their knowledge to try to help joint operations. I believe we could use better education of our intelligence officers as they move from their single service early training to their joint middle age. When you get to these senior levels, I would say about 75 percent of the jobs are joint intelligence flag officer jobs, admirals and generals. Unlike the preparation on the line side, where we have National Defense University and we have joint components of service education, we do not do very well in transportation our joint intelligence officers to do that.

So I think you put your finger on an area, but I think the solution is strong education through the mid-range of those intelligence officers' upbringing.

Admiral ELLIS. Senator Cochran, that is a great point you make. I would only add that I hope your experience was the same as mine, that the key to being a good joint officer is that you first have to be a good naval officer or service officer in which you find yourself. If there is a risk in focusing on jointness too early on a career path or making everything joint—"born joint" I guess is the terminology these days—you lose the essence of that service culture that that officer when he or she arrives in that joint billet provides, that is so essential to those joint commands that already exist, as General Ralston noted.

The other caution I would add is that, as with all highly skilled and very capable and dedicated force structures, the gene pool is fairly shallow in intelligence. As you work with reform and talk

about creating other entities or other agencies, you have to ask yourself, how much does that dilute the numbers and how long does it take you to grow additional numbers if indeed they are required in order to fill that out?

So some restructuring within the confines of existing numbers, preserving service equities, as has already been noted, and the important element that service officers contribute to the joint environment, while at the same time addressing institutional and organizational change, is part of the challenge that is going to be confronting this committee and the Nation in the months ahead.

Senator COCHRAN. Thank you very much. Your answers were very helpful and your attendance here today is appreciated very much.

Chairman STEVENS. I thank you, too. I believe I have imposed on past associations to ask you to come today at your own expense and appear here to give us your comments. I want you to know that the record of today and tomorrow will be printed and be on every Senator's desk before we start consideration of the 9/11 legislation that will be presented to us next week. I think it is essential that members have an opportunity to review the comments of people who have experience in the field.

In my opinion, the 9/11 Commission had a year to review all of the reasons for the failure of our national systems. Only two of those members had any previous experience with intelligence, to the best of my knowledge. They did a great job on their report. There is no question it is a really historic document. I still question their recommendations. They deserve and are getting our thorough review right now.

But I think we also should listen to and above all should not ignore the comments of those who had real experience in the system and have seen the system change since 9/11. That I think is the greatest contribution that you have made today, is to give us some of your experience of what has happened since 9/11. The system has evolved and, as I indicated, I think that our watchword should be do not harm the system as it exists today as we try to evolve it into a better system in the future.

I do believe that the 9/11 Commission's report will see some action by this Congress. I do not know yet what it will be. But I come back to where I started today and that is that few people recognize that 150,000 out of the 175,000 employees of the Federal Government who are involved in intelligence today are military and that 80 percent of the money that goes into intelligence today is defense money.

I still believe that both the commission and so far the Congress has failed to recognize the importance of not harming that system, because we are getting most of our people through the military system. They are attracting in a great many of these people that we are talking about in terms of analysts. They come through the military system into the intelligence system.

COMMITTEE RECESS

Tomorrow we are going to listen to: Judge Richard Posner, he is a judge of the Court of Appeals of the Seventh Circuit and a professor of law at the University of Chicago; Dr. John Hamre, who

we all know, former Deputy Secretary of Defense; and Mr. Dale Watson, former Assistant Director for Counterintelligence, the Counterintelligence Division of the FBI. I think they too have not been listened to so far and we want to make sure that the Senators have available their testimony.

Again I thank you very much for coming and look forward to our continued friendship. Thank you very much.

[Whereupon, at 12:19 p.m., Tuesday, September 21, the committee was recessed, to reconvene at 10 a.m., Wednesday, September 22.]

REVIEW OF THE 9/11 COMMISSION'S INTELLIGENCE RECOMMENDATIONS

WEDNESDAY, SEPTEMBER 22, 2004

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The committee met at 10:10 a.m., in room SH-216, Hart Senate Office Building, Hon. Ted Stevens (chairman) presiding.

Present: Senators Stevens, Cochran, Specter, Domenici, Bond, Bennett, Byrd, Inouye, and Feinstein.

OPENING STATEMENT OF SENATOR TED STEVENS

Chairman STEVENS. We apologize for the delay. We are told some Senators are in a car and we believe they will join us. We hope that they will be here.

We thank you very much for coming to be with us today. Particularly, Judge Posner, we know that you have flown in from Chicago. We are grateful to you for making the trip.

We have with us three distinguished witnesses who will provide us their perspective on intelligence reform and the larger recommendations of the 9/11 Commission. The witnesses are: Dr. John Hamre, who was the former Under Secretary of Defense and is now President and CEO of the Center for Strategic and International Studies; Judge Richard Posner, Judge of the Court of Appeals for the Seventh Circuit, who has written a very thoughtful, provoking article regarding intelligence reform. As I told the judge, he is the one that really sparked my mind that we ought to inquire further into the attitudes of people who have had long experience in this area. I believe you are a professor at the University of Chicago Law School. We thank you very much, Judge, for joining us. The last witness will be Dale Watson, former Executive Assistant Director of Counterterrorism and Counterintelligence for the FBI. We are very honored to have you join us today and we appreciate very much your taking the time to come express yourself on this important subject.

This is the second day of hearings. Dr. Kissinger and a panel of former military commanders in chief came yesterday to provide us their perspectives on intelligence reform. We look forward to your testimony.

As we look to the future, I think it is appropriate that we assess what change is needed within our intelligence community and how the overall system can be improved. However, we should not lose sight of how the integral intelligence system has been changed since 9/11 and how important it is to our national security, and we

believe we should not be in a rush to make the reform and possibly guarantee the failure because of the speed with which it is made. I said yesterday I think our slogan ought to be: "Do no harm to the system that exists now due to the changes that have been made since 9/11." We hope to gain a better understanding of these matters as we listen to the three witnesses today.

Senator Byrd, do you have an opening statement to make?

STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. I do, a brief one, Mr. Chairman. Is this on, this mechanism? Well, the United States has been a great power in this world and it has been able to put a man on the Moon and bring him home safely again, but it has not been able to perfect a good public address system.

Now, thank you, Mr. Chairman. Let me join in welcoming our witnesses and expressing my appreciation for their willingness to appear before the committee today. Thank you again, Mr. Chairman, for carving out the time to hold these hearings in the midst of the busiest time of the year.

I do not believe that we can overstate the importance or the difficulty of the challenge before the Congress. Reforming the Nation's complex array of intelligence organizations is an undertaking of monumental proportions. Yet, there appears to be a growing drum beat of opinion that Congress has no choice but to undertake a complete overhaul of intelligence in the few weeks remaining in the session.

I have to disagree. We may well have adequate time to address some of the most straightforward recommendations made by the 9/11 Commission and others, but there are many complicated issues involved with intelligence reform that will require far more work and far more time to resolve. Dr. Kissinger made a strong case yesterday for taking enough time to do the job right, and that is the way it ought to be done. Perhaps 6 to 8 months, he said. That hardly seems unreasonable, given the magnitude of the intelligence changes being proposed.

Dr. Kissinger also pointed out that intelligence reform has ramifications far beyond any single incident. The 9/11 Commission recommendations, which formed the basis for the majority of the proposals being developed in Congress, are predicated on the lessons learned from one tragic episode.

But Congress should look at a far broader canvas, including the intelligence failures that contributed both to the war and to the continuing insurgency in Iraq. The 9/11 Commission looked back. Congress must look forward as well as back. Congress must develop intelligence reforms that not only address the failures of the past, but that also anticipate the requirements of the future. And it is not a job to be undertaken lightly in the final stretch of all times and the final stretch of an election year.

I hope that the Senate will give ample time and consideration to all of the proposals for intelligence reform and will not feel pressured to act with undue and unwise haste.

Now, Mr. Chairman, I will not be able to remain long. I have to go to another appointment, but I look forward to reading the hear-

ing transcripts and to hearing from these witnesses. I again thank you, Mr. Chairman, for holding these hearings.

Chairman STEVENS. Thank you, Senator. These hearings will be printed and be on the desk of every Senator by Monday morning.

Does any other Senator wish to make an opening statement? Senator Inouye.

STATEMENT OF SENATOR DANIEL K. INOUE

Senator INOUE. Mr. Chairman, I want to commend you for holding these hearings to assess the views of former military and foreign policy and intelligence experts on the recommendations of the 9/11 Commission.

I apologize that I was not here yesterday, but I was carrying out my duties as vice chairman of the Committee on Indian Affairs. I have been briefed on the testimony of Dr. Henry Kissinger and the former combatant commanders and I plan to review the transcript of that hearing as well when it becomes available.

I say that because of the importance of this issue and the seriousness that I believe must be attached to this matter. Every Member of the Congress needs to consider this with extreme care. Mr. Chairman, the 9/11 Commission provided the American people with an outstanding review of the events of 9/11, the mistakes, the flaws, and bad luck that allowed those 19 hijackers to board and take over four commercial airliners in our domestic airports and then to turn them into kamikaze bombers. We should all be grateful for the time and energy that the commissioners and their staff devoted to uncover the details of this tragedy.

However, as some readers have examined their report, they have come to different conclusions than the commission about how best to respond to the events of 9/11. The commission sees an intelligence community failure to connect the dots. Others liken the challenge to searching for needles in a haystack and try to tie a few individuals to potential crimes while ensuring that we are not engaged in racial profiling or trampling on the civil liberties of our citizens. While the commission believes there was a lack of imagination in our intelligence community, others note the difficulty of trying to prepare for an unprecedented incident.

Mr. Chairman, I believe everyone who has an understanding of our Nation's intelligence capability believes we should and can do more to improve the relationship among the intelligence providers and users to ensure a more seamless integration. However, should we rush through this legislation which might turn the intelligence community upside down to ensure this integration? The need for this hearing is to assess this very critical point.

So again, Mr. Chairman, I thank you for calling the hearing, and I look forward to a very thoughtful and thought-provoking exchange with these very notable witnesses.

Chairman STEVENS. Thank you very much.

Senator Feinstein, did you have a statement?

Senator FEINSTEIN. Thank you. Just a very brief one, Mr. Chairman. I want to thank you for the hearing.

I am here as one member of the Intelligence Committee who believes it is very important that we get this right. I also, in my time on the committee, have come to see the need, I think rather early

on, for a National Intelligence Director, separate from policy. I hope that this group before us today, all of whom are very distinguished, will comment on a few things.

The first is the defense connection: How you would have a National Intelligence Director with strong budgetary and personnel authority and able to control the dollars, 85 percent of which now are controlled by the Department of Defense, and yet still maintain an appropriate line with defense? What would you do with TIARA? What would you do with JMIP? That is the first thing.

The second thing would be where you would place an NID? The 9/11 Commission said the NID should be placed in the Office of the President. They then backed away from that. My own view is that the NID should be in the CIA or on the premises because that is the most troubled, I believe, of the agencies.

The third thing I wanted to ask you about is the declassification of the top line of the budget.

But the issue I think that separates policy and intelligence is whether the NID is a term appointment, and if so, what is the length of term? Five years or 10 years, to give some kind of independence? Or should the NID be a pleasure appointment of the President?

Thank you very much.

Senator DOMENICI. Mr. Chairman.

Chairman STEVENS. Senator Domenici.

STATEMENT OF SENATOR PETE V. DOMENICI

Senator DOMENICI. I do not have a substantive statement. I just wanted to say I am sorry I do not know all the witnesses as well as I know Dr. Hamre. I know him from his days here. I would think he is particularly qualified to talk about authorization and appropriations because he served as an assistant to Sam Nunn for a long time here in the Congress. In that capacity, he saw authorization versus appropriation. This commission is suggesting that all of that be vested in the intelligence group itself. I have great skepticism about that.

Yet, I would like the intelligence people to be assured they are going to present their views. I do not know that the only way to do that is to give them both the authority to authorize and the authority to appropriate. But I do think if they have great concern about what is recommended by committees, I think they ought to have a very powerful way of making sure we understand what it is they need in a very big and powerful way. Perhaps before they are finished—I do not know that I can be here—some of you at the witness table can address that issue. I would hope that you could, Doctor, because you know a lot about it.

Thank you, Mr. Chairman.

Chairman STEVENS. Thank you very much.

Gentlemen, it is my intention to ask each of you to make your statement. Then we will have questions as members might wish to ask of any of you. Because some of the members are going to leave, I think it would be best to hear all of your statements, if it is possible. We will call on you first, Dr. Hamre.

We put in the record the full statements of all three of you, and the background statement of your career will precede that state-

ment. That, as I said, will be printed, as well as the question and answer session, and delivered to Senators by Monday of next week.

STATEMENT OF DR. JOHN J. HAMRE, PRESIDENT AND CEO, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

Dr. HAMRE. Chairman Stevens, ranking member Byrd, all of the distinguished members of this committee, I am very grateful to be invited back. I remember very clearly the many opportunities I had to come before this committee earlier. They are all vivid in my imagination. Not all of them were fun, but it was vivid and, quite frankly, one of the proudest experiences of my life was being able to come before this committee. I was the very frequent recipient of very fatherly advice from Senator Byrd on the Constitution and the role of an appointed officer of the Government, and I do thank you for all of that guidance through the years.

I will be very brief because I know we are starting now to say the same things over and over again to each other. I will try to take a moment, Senator—I did not mean to address it but I will— to say something about the authorization/appropriations.

First, let me say I am very grateful that you are taking these hearings. As a country, we both want our Government to protect us and we frankly want to be protected from our Government. That depends on the oversight of the people's branch of the Government, the Congress. So you are doing right now the most important mission that the people have given you, which is to oversee for us these very important changes.

I am very worried that there is a tremendous energy in passing legislation right now. It is an energy that is really derived more from politics than from the substance of the case. The 9/11 Commission—and I share your admiration for their work—was really quite astounding. But I think they too narrowly designed a set of recommendations around one problem, and that was this so-called “connect the dots” problem. I personally think we have overstated the case that that was an intelligence failure. In my mind, it was more a policy failure than an intelligence failure because none of us, myself included, really took seriously that threat, and the intelligence community followed in line.

Now, far more serious I believe was the intelligence failure with Iraq, forecasting that we would find large stocks of chemical and biological weapons—I thought we would find them—and not finding them. There was no place in the world that has been more scrutinized than Iraq for the last 10 years by our intelligence community. How could we miss something so big as this? I think that it was a product of a collective group-think that settled over the community, and we did not really analyze the facts well.

My worry about the recommendations of the 9/11 Commission is that it will make that problem worse. If we try to bring the entire establishment of the intelligence community under one personality, we are going to exacerbate the tendency toward group-think. We are not going to make it better. And in my view, that is a bigger problem. We are going to make bigger mistakes as a country if we just put all of our reasoning under one entity.

So let me, if I may, say I share very much your view that the guiding philosophy right now should be “do no harm.” It is good for

the medical community. It is good for the political community. We ought to be very careful to do no harm, as you said, Mr. Chairman, here today.

I think there are three primary objections that I have for the general theme that seems to be emerging.

First, I think we have to avoid the politicization of intelligence, and putting a National Intelligence Director in the White House is a bad idea. That would be a terrible mistake because the closer you get to the Oval Office, the more political the activity. And that is not a bad thing. We designed our system that way. That is okay. But you do not want your intelligence activities to be politicized. You want dispassionate, honest assessment of difficult facts, and you do not want that brought into an environment that is shaped by people's hopes for how they can characterize their work for the future and make plans for the future. So I think it is a bad idea to do that.

Second, I think it is very worrisome to have an all-powerful intelligence authority that then puts at risk the constitutional responsibilities of Cabinet secretaries. Ultimately, policy is made by Cabinet secretaries. It should not be made by an intelligence director. And the Cabinet secretary needs to have his own independent basis to reach a conclusion, not be dependent on a single stream of information coming from an intelligence czar. So I think it is extremely important that the Cabinet secretaries not lose their capacity to do intelligence analysis.

Now, I do think we can do a much better job of coordinating and centralizing the intelligence factories, the satellites and the listening stations and things that produce raw material, but I do not think we should be trying to centralize the assessment. We cannot put at risk the constitutional authorities that are vested by you in Cabinet secretaries to carry out and be official officers of the Government, and they have to come to the table and be able to render their own independent judgment, not be dependent on someone else.

Third, I am very worried about the formulation for providing budget control and authority to someone other than the Cabinet secretary that owns the institution. Divided command and control is always a formula for problems, at best problems and most likely chaos. The recommendation of the commission, which is to leave the intelligence organizations in the Cabinet departments, but to give the personnel and budget authority to a new central intelligence director, I think is a bad idea. From my own personal experience being comptroller, I do not know how I would run the place when I do not really control the people for the Secretary and it is another department that is running them. I think that is a very bad idea. It is much better to have clean lines of authority.

I have written before that if we are going to create an NID—and I do not want a weak NID and we are going to get one, I am afraid if we do not do this right—then I think you need to put real institutional power underneath it, and I frankly would be willing to move the factories to put them under the NID. But I do not think it is a good idea to have divided control of budgets in the entire intelligence community where they are under one guy, but they are

institutionally placed in another organization. I think that is going to be chaotic.

May I say a word about the authorization and appropriations process? This is the fifth committee that I have spoken before since this whole issue has come up, and in every committee, I have been asked this question about the quality of oversight.

Frankly, the quality of congressional oversight is not good. It is not as strong as it needs to be. I think we are confusing it by this issue of consolidating authorizations and appropriations. I have said to the Armed Service Committees—I used to work there, as you know—that they have made a huge mistake thinking that they are powerful only by trying to do what you do, shape the dollars. There are reasons you have authorization committees. They are to set the broad trends and directions for the policy goals and to oversee the functioning of the Government. But they spend far too much time wanting to shape the way you appropriate little lines in the budget, and I think that is a mistake. You play a crucial and indispensable role. They play a crucial and indispensable role, but they are neglecting it, in my view, by putting too much time and attention on budget detail.

I would like to see them spend far more time looking at the large purposes, the large policy directions, and overseeing the true functioning of these institutions. That is what I think was intended by having separate authorization and appropriations processes. They can be complementary, but during the last 20 years, frankly, they have been in conflict with each other. And I think that needs to change, and I will be glad to amplify on that further at another time.

PREPARED STATEMENT

Thank you for the privilege of coming before all of you.
Chairman STEVENS. Thank you very much.
[The statement follows:]

PREPARED STATEMENT OF JOHN J. HAMRE

Chairman Stevens, Ranking Member Senator Byrd, distinguished members of the Committee, it is an honor to again come before this distinguished committee to discuss one of the most important subjects of our day—how we organize the intelligence functions of the United States Government to meet the future challenges confronting our country. At the outset let me emphasize how grateful I am that you are making a dedicated study of this matter. America's security depends on a sophisticated and robust intelligence community. But Americans are nervous about their own government at times. We must have a government that can protect us, and we all want to insure we are protected from abuses by our government. That depends on the oversight of the people's branch of government, the United States Congress. I am very grateful you are assuming these responsibilities at this critical time.

Mr. Chairman, we are now very far along the road in this debate. Unfortunately, from my perspective, the shape of this debate has been driven more by political imperative than deep analysis of the challenges we face in this area. We do need intelligence reform, I believe. But I believe the debate to date, and the proposals before the Congress, are too narrowly constructed around one perceived failure of the intelligence community, and that is the failure to coordinate the activities of the components of the intelligence community.

Frankly, I believe that the so-called intelligence failure of 9/11 is overstated. I believe that 9/11 was just as much a failure of the policy community—the near uniform absence of consciousness of the specific threats we experienced on 9/11 by the policy world. Far more serious were the failings of the intelligence community that forecast massive stocks of chemical and biological weapons in Iraq. No place on

earth was more scrutinized than Iraq during a period of a decade, yet we missed this story almost completely. Again, the policy community is not without blame. But this has to be considered a massive intelligence failure, too.

The recommendations of the 9/11 commission are almost entirely oriented around the issue of coordination. That was not the problem with the missing weapons of mass destruction in Iraq. Narrow “group think” plagued us in that instance, and I firmly believe that problem will be worsened by the recommendations of the 9/11 Commission.

Do No Harm

Mr. Chairman, we are being propelled by the election to rush to pass legislation before you adjourn the 109th Congress. Elections are great times to hold debates, but terrible times for making binding decisions. The medical community has enshrined the principle of “do no harm” in the practice of medicine. I think that is good counsel to the Congress at this critical moment. In this regard, I think there are several key issues that I would bring to your attention.

The Politicization of Intelligence

The intelligence community is always seeking to serve the needs of the policy leaders. There is a fine line between “serving the needs” and “pleasing” the policy bosses. It is critical that the intelligence community not cross over that line. The 9/11 Commission completely breaks through that line. Putting the intelligence czar in the White House at the right hand of the president is a terrible idea.

By definition, the closer your office is to the Oval Office, the more political your activities. That is not a bad thing. That is a good thing. Politics is a constructive force in American government. But intelligence should not be part of the political life of the White House, and locating the DNI in the White House would invite the direct politicization of intelligence.

Eroding the Responsibilities of Constitutional Officers

Making the intelligence czar the single focal point for intelligence inputs to the president and the cabinet is a terrible idea. Undercutting the cabinet secretaries who are constitutional officers of the government charged to manage the instruments of foreign and security policy for the country is a bad idea.

Through the 1970s, it was the practice of the National Security Council to have the Director of Central Intelligence attend the start of the meeting, brief the cabinet secretaries and other members of the Council on the facts, answer questions, and then depart the meeting so that the Council could deliberate the policy alternatives for the government. I believe that was the superior model. Current practice has the DCI participating throughout the deliberations. The 9/11 Commission would make the new DNI a super-agent in those meetings. This is a trend in the wrong direction.

Accountability for the policies and activities of the U.S. government flow from the president down through the constitutional officers of the government—the cabinet secretaries. They must be both free to decide and completely accountable for their decisions. I fear these recommendations would undercut their standing and their accountability.

Confused Command Relationships

The 9/11 Commission called for giving the DNI control over the budgets and personnel within the departments of other cabinet secretaries. I believe this is a bad idea. I served as Comptroller for the Defense Department and then as Deputy Secretary. I can tell you from personal experience that ambiguous command relationships invariably lead to serious substantive problems. The formulation of divided command authority envisioned by the Commission is an invitation to turmoil at best and most likely serious operational problems.

So What Should the Congress Do?

Mr. Chairman, distinguished members of the Committee, I have delineated the reservations I have about the 9/11 Commission recommendations. I know that there are competing bills now under consideration in the Congress. Some of those bills closely match the recommendations of the commission and some depart significantly from those recommendations. As I said, I am most worried that the Congress will feel propelled by the impending election to decide something. We did that when we created the Department of Homeland Security, and candidly that is a mess. The risks of making a serious mistake here are greater, I believe.

Yesterday, my think tank—the Center for Strategic and International Studies—released a short declaration of principles developed by a bipartisan and very distinguished group of former government leaders who have had exceptional and direct

experience in foreign and security affairs for the United States. Those principles, which, I should add, reflect the collective opinion of the distinguished signatories rather than those of the Center, put forward a uniform message of caution. The declaration also contains useful suggestions to guide a more deliberative reform process. I would ask permission of the Chairman to have this declaration of principles included at this point in the record.

Conclusion

Mr. Chairman, we do need to reform our intelligence community. But we need that reform to be based on a dispassionate assessment of all the failings of the intelligence and policy communities, not just the coordination problem perceived to have been the cause of 9/11. Centralizing intelligence management to solve coordination problems will exacerbate the greater failings of the intelligence world, I believe. I strongly caution the Committee to take the time to fully assess all the problems we need to fix and ground a reform on a thorough, bipartisan foundation of representative government and government accountability.

Thank you for the privilege of testifying before you today. I am pleased to answer any questions you might have.

[From the Washington Post, August 9, 2004]

A BETTER WAY TO IMPROVE INTELLIGENCE: THE NATIONAL DIRECTOR SHOULD
OVERSEE ONLY THE AGENCIES THAT GATHER DATA

(By John Hamre)

It's refreshing to have a big debate in Washington. Too often our debates are small and arcane. The Sept. 11 commission has touched off a much-needed debate of constitutional proportions: How do we best organize the intelligence functions of the Government to protect the Nation, yet oversee those functions to protect our citizens from the Government?

The commission has rendered an enormous contribution to the Nation. But its recommendations need to be the starting point for a great debate, not the final word. Political passions are rising, which portends danger. The American system of Government is designed to move slowly, for good reason. Such a big and complex country needs to fully consider all the implications of major changes. We make mistakes when we move quickly, and we can't afford to make a mistake here.

Good as they are, the commission's recommendations are too narrowly centered on one problem. This is understandable. The commission was established to examine the problems the Government had detecting and preventing the terrorist attacks on Sept. 11, 2001. By definition, that was a matter of coordination among elements of the Government, both vertically within organizations and horizontally across institutions. This is often referred to as the "connect the dots" problem.

But that isn't the only trouble with the intelligence community. Before the war in Iraq, the policy and intelligence communities held the near-unanimous conviction that Iraq was chock full of chemical and biological weapons, yet we found nothing. We collectively embraced a uniform mind-set, which is every bit as serious a problem as connecting the dots.

The field of view of our intelligence community is too narrow. The community is relatively small and its component institutions isolated. It is understandably and necessarily preoccupied with protecting sources and methods. And bureaucracies naturally fight for resources. In that environment, intelligence bureaucrats, like bureaucrats in any organization, strive to please their policy bosses. Taken together, these factors contribute to an endemic narrowness of perspective. The shorthand label given to this problem is "groupthink."

We need to fight that narrowness by creating more competition for ideas in the intelligence assessment world. The competition among ideas is improved when different organizations reporting to different bosses compete for better insights and perspectives. Bringing together the entire intelligence community under a single boss who exercises budget and personnel control would further constrain the constructive competition we need within the intelligence community.

The two great problems—connecting the dots and avoiding groupthink—are in tension with each other. Implementing an organizational solution to just one of the problems will worsen the other.

The great debate underway in Washington has two camps. The Sept. 11 commission, Sen. John Kerry and many congressional leaders believe a new director of national intelligence (DNI) can succeed only if the person in that job controls the budg-

ets and personnel of the intelligence agencies. People in this camp would leave the agencies with their host departments but give the budgets and control of personnel to the new director.

President Bush chose a different path. His plan would create a relatively weak DNI, whose power would come from managing a set of interagency processes and supervising a set of ill-defined new centers. Unfortunately, if unintentionally, this approach also diminishes the bureaucratic standing of the CIA.

In sum, both approaches are flawed. I know from personal experience in Government that ambiguous command authority is dangerous. Keeping intelligence agencies within a department whose budgets and senior leadership depend on people outside the department won't work. Similarly, we have a long history to demonstrate that the power and standing of central coordinators of interagency processes—Washington policy wonks now call them “czars”—deteriorate rapidly with time.

More fundamentally, each of these two approaches solves one of the great problems but exacerbates the other. The Sept. 11 commission's proposal would improve “dot-connecting” but would threaten competition among ideas. The president's recommendation would better sustain idea competition but do little to solve the problem of interagency coordination.

Frankly, I didn't favor the idea of creating a DNI, but I understand politics. Both political leaders in a hotly contested campaign have endorsed it as a symbol. We will have a DNI. We now have to ensure that we get a good solution. There is a third path.

The new DNI should run the existing interagency intelligence centers or their successors and coordinate the tasking process. But the DNI needs to be undergirded with real institutional power. The technical collection agencies—notably the National Reconnaissance Office, the National Security Agency and the National Geospatial-Intelligence Agency—could be transferred to the DNI. The new director would manage the factories that provide raw material and support to the intelligence bureaus, which would remain within the Cabinet departments.

This approach would facilitate the integration of data collection while preserving diversity of perspective across the community for purposes of strategic assessment. Cabinet secretaries could devote their energies to demanding better analysis, rather than managing large bureaucracies that run machines to collect raw material for the intelligence process. This approach also would ensure that oversight of domestic surveillance on American citizens remained a responsibility of the attorney general, who is charged with protecting our civil liberties. Even here, however, the FBI could turn to the central collection agency, but under the attorney general's supervision.

My friends in the Defense Department are shocked that I have suggested this approach. Modern American war-fighting is more dependent on high-technology intelligence than ever before, they note. We cannot decouple the close working ties between our intelligence capabilities and our war fighters.

But there are ways to ensure that we sustain those close working ties. We should continue to send our best military personnel to work in these agencies and to support national collection efforts with tactical military intelligence systems. The DNI should have a board of directors made up of senior operators from the supported departments. And underlying it all is what I know to be true: that all civilian employees in these agencies consider it their highest priority to support the American warrior in combat. That will not change, even if these institutions report directly to a DNI.

Yes, there will be challenges and problems, but they are manageable. It is said that the intelligence community needs a reform like that of the Goldwater-Nichols Act, which transformed the Defense Department. In fact, Goldwater-Nichols changed the Defense Department because it institutionalized demand for better capabilities from the military services. The Pentagon fiercely fought Goldwater-Nichols when it was proposed by Congress. Now it swears by its results. We have proved in the Defense Department that we can bring competing institutions together for a common purpose without forcing people to wear a common uniform.

The writer is president and chief executive of the Center for Strategic & International Studies and a former deputy secretary of defense. The views expressed here are his own.

Chairman STEVENS. I referred to Judge Posner before. We are delighted to have a scholar of your prominence, Judge, come to testify before us. I would call the attention of the members to the background statements in your folders. I can tell you that I have

learned with great glee some of the things you have written, Judge Posner. You are a voice really coming from the judicial wilderness. We appreciate your coming.

STATEMENT OF HON. RICHARD A. POSNER, JUDGE, COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Judge POSNER. Thank you very much, Senator. It is an honor to be here. I do not have the expert knowledge of the other witnesses you have heard. I do think I am competent to read a document like the 9/11 Commission report and identify problems of logic and evidence which kind of leap out even to the non-expert reader.

My particular concern is with the organizational recommendations made by the commission which occupy only 28 pages of an almost 600-page document. I am going to make four points very, very quickly.

First, there is no evidence that the commission's organizational recommendations were informed by a study of the principles of organization or by consultation with experts in organization theory. No effort is made in the report to describe or assess the organization of intelligence gathering by other countries, countries we consider our peers in many respects and countries that have had often more durable terrorist problems than we have. No effort is made in the report to evaluate other organizational responses to problems, for example, the formation of the Department of Homeland Security, which has been criticized; the drug czar, which was a parallel that could have been explored but was not.

Second, the organizational recommendations reflect an unexamined bias in favor of centralization over diversity in the organization of the intelligence function. The report recognizes that the CIA is more nimble than the armed forces when it comes to responding forcibly to terrorism. Yet, it wants to sacrifice this valuable example of organizational cultural diversity and transfer this function to the Defense Department.

So there are basically two ways of controlling a set of agencies that are engaged in related tasks. One is vertical and hierarchical. Each agency head reports to some superior official and so on, up to the very top. But the other is a horizontal, decentralized mode of organization where the agencies are allowed to preserve their autonomy and their cultural uniqueness in personnel policies and methods and traditions, but there is some coordination, some loose control. This is a complex tradeoff between these two forms of organizing multiple agencies engaged in related tasks and the commission's report does not discuss the tradeoff.

Third, the recommendation for a National Intelligence Director, as it is framed by the commission, portends an organizational nightmare, and Dr. Hamre has referred to some of the problems. Senator Feinstein asked pertinent questions about it. The proposal is a formula for turf battle. Turf battle is something I do know something about directly because I was Chief Judge of my court for 7 years, a very modest organization, but there are turf battles in every Government setting where there is some interface with another agency, in my case the court of appeals versus the district court.

Some of the proposals in the report seem really quite bizarre. I was struck, for example, by the proposal that one of the deputies to the National Intelligence Director would have veto power over the selection of civilian and military officials, for example, the head of the FBI's Counterterrorism Division and an actual commander of the Special Operations Command. It is an extremely strange, complex, unprecedented, I think, organization that is being proposed. Again, it underscores the concerns that the Senators have expressed and Dr. Kissinger and others about the impossibility of creating a new structure in the waning weeks of the election season.

And fourth—and this is the most important point, in a way the most fundamental point—an organizational solution is only suitable if you have an organizational problem. Now, we tend to neglect this obvious point because organizational solutions sometimes are simpler to effectuate than other solutions. They are visible. They are dramatic. They convey the impression of a vigorous response to a problem, but if the problem is not an organizational problem, then a reorganization will not solve it.

I do not find in the 9/11 Commission report any indication that the attacks could have been prevented if only we had had an intelligence czar. If you look at why we failed, much of it I think has to be credited to the sheer novelty and audacity of the attacks and the ability of al Qaeda to avoid betrayals from within its ranks, which would be the general problem of a complex conspiracy: that you would have someone to spill the beans and it unravels.

Of course, another factor that the commission rightly emphasized are problems with sharing of information, but this probably, by the evidence of the report, was just as serious within agencies as across agencies, within the CIA and within the FBI. And how can problems of sharing within agencies be solved by layering another set of controls over the agencies?

Now, there are a number of other problems with the intelligence apparatus of the United States that the commission report flagged. There was inadequate screening of visa applicants, building evacuation plans—that is not exactly intelligence. Building evacuation plans were inadequate. There were misunderstandings about the actual rules for limiting sharing of information between law enforcement and intelligence officers. There is a grossly insufficient number of intelligence officers who are fluent in Arabic. The list goes on and on, but it is a list of managerial failures. It is not an indictment of a structure. Organizations have problems, but they are not necessarily or even commonly organizational problems.

Clearly there is a need for coordination, a need for budgetary coordination to prevent gaps in unproductive redundancies, but I thought that was why we have a National Security Council and a National Security Advisor and an Office of Management and Budget. So again, it is very unclear what a new layer of bureaucracy will add.

Now, issues of Government organization are baffling. Where you have a boundary between agencies, you have a turf war, and if you erase the boundary, you lose diversity and competition with the power of intelligent control. If only one person reports to the chief executive with regard to a particular function, then you are pretty

much at that person's mercy. He will tell you only as much as he thinks you need to know.

PREPARED STATEMENT

So I do not find the commission's very brief discussion of organizational issues an adequate recognition of the difficulties involved in organizing Government activities intelligently, and I would urge caution on Congress before changing the existing structure of the statement.

Thank you.

Chairman STEVENS. Thank you very much, Judge.

[The statement follows:]

PREPARED STATEMENT OF RICHARD A. POSNER

I am honored to be asked to testify before this committee regarding proposals for revamping our system for gathering intelligence relating to national security, specifically with reference to terrorist threats.

I must make clear at the outset that I am not an expert on intelligence or national security. I do think however that I am competent to read a document like the 9/11 Commission's report and identify problems of logic or evidence that are visible on the face of the document itself, as it were. And one doesn't have to be an expert to realize the absurdity of trying to reorganize a major governmental function which happens to involve national security, 6 weeks before a Presidential election that pivots on national-security issues and to recognize the inauthenticity of the endorsement of the 9/11 Commission's recommendations by both Presidential candidates.

The vast bulk of the report consist of a narrative of the background to the 9/11 attacks, the attacks themselves, and the immediate response to them; and I have no criticisms of that part of the report. My criticisms focus on the much shorter part of the report that contains the Commission's analysis and recommendations, and particularly on the Commission's organizational recommendations, which occupy only 28 pages of the report. The main recommendation is the creation of an intelligence "czar"; a secondary one is the shifting of operational antiterrorist activities from the Special Activities Division of the CIA to the Defense Department. I should add parenthetically that considering the fate of the czars, the use of the term by the proponents of the NID idea to describe a director of national intelligence is unfortunate.

My major criticisms are the following. First, there is no evidence that the Commission's organizational recommendations were informed by a study of the principles of organization or by consultation with experts in organization theory. No effort is made in the report to describe or assess the organization of intelligence gathering by other nations. And no effort is made to evaluate the most closely analogous effort at an organizational solution to problems of fighting terrorism—namely the formation of the Department of Homeland Security—despite widespread belief that the effort has been a failure. Another analogous organizational innovation, the creation of the drug "czar," is also ignored, as is the evidence marshaled by the political scientist James Q. Wilson and others that reorganizations proposed by outsiders to the agencies proposed to be reorganized generally fail.

Second, the Commission's recommendations reflect an unexamined bias in favor of centralization of the intelligence function and slight the benefits of diversity and competition in the production of useful intelligence. The report recognizes that the CIA is more nimble than the military in responding forcibly to terrorists, yet would sacrifice this valuable example of diversity in national-security cultures by transferring the CIA's special-operations function to the Defense Department.

There are basically two ways of exercising control over agencies (or for that matter individuals) engaged in related tasks. One is vertical or hierarchical: the head of each agency reports to a superior official and so on up to the top man (or woman). Another is horizontal or decentralized: the agencies are autonomous, but someone is responsible for coordinating their activities, exercising in effect a loose control. The latter form of organization, because it fosters creativity and diversity, seems inherently better designed for intelligence than a hierarchical form of organization, given the uncertainty involved in producing and evaluating intelligence, which argues for a diversity of inquirers. The choice between vertical and horizontal methods

or organization, and its implications for the optimal organization of our intelligence apparatus, seem to have eluded the Commission.

Third, the recommendation for a National Intelligence Director portends an organizational nightmare of overlapping budgetary and command responsibilities. Our already complex intelligence apparatus will be made more so by adding a new layer over the existing multiple agencies. I envisage endless turf battles between the NID and the individual agencies under his nominal direction, especially in the wide area of overlap between anti-terrorist and military intelligence gathering. The CIA's moral, ability to recruit able people, and general effectiveness seems likely to be impaired by the reduction in the authority of the CIA's director that the Commission's proposal envisages. And the heterogeneity of our intelligence agencies, which include for example the National Reconnaissance Office, which is engaged in the design and launching of spy satellites, will defeat the NID's efforts to obtain any real control over or even understanding of the entire intelligence apparatus. Among the nightmarish complexities recommended by the 9/11 Commission is that the deputy to the NID would have veto power over the selection such civilian and military officials as the head of the FBI's counterterrorism division and the commander of the military's Special Operations Command. One of the NID's deputies would be the undersecretary of defense for intelligence, who would thus have two masters—the NID and the Secretary of Defense. This is a formula for bureaucratic disaster.

Fourth and most important, an organizational solution is suitable only for an organization problem. This rather obvious point tends to be neglected simply because organizational changes are often simpler than other reforms; they are also highly visible and dramatic and thus convey the impression, however misleading, of a vigorous response to the problem. But if the problem is not organizational problem, reorganization will not do any good.

I can find no evidence in the 9/11 Commission's report or any other materials that I have read that the failure to anticipate and prevent the 9/11 attacks or respond to them more effectively was due to the absence of an intelligence czar. It seems to have been due primarily to the sheer novelty and audacity of the attacks and to the ability of Al Qaeda to avoid betrays from within its ranks.

A secondary factor emphasized in the Commission's report is a lack of sharing of information. But this problem was as serious within agencies—within the CIA and particularly the FBI—as between agencies, and so it is difficult to see how inserting a new layer of control over the agencies will solve the problem. The only organizational failure that the Commission detected is the incompatibility of the FBI's law enforcement activities with its anti-terrorist activities, and for the failure the Commission offers no cure.

The Commission could have recommended breaking the FBI's anti-terrorist function off and crating a new anti-terrorist agency on the model of the United Kingdom's MI5. That would have been a constructive suggestion. MI5 and MI6 (England's counterpart to the CIA) work well together because they're both intelligence agencies. The FBI doesn't work well with the CIA, because the FBI is not an intelligence agency, but a criminal investigation agency, in other words a plainclothes police department. MI5 has no power of arrest; the power to arrest terrorists is lodged in the Special Branch of Scotland Yard, Scotland Yard being England's counterpart to the FBI.

Presumably MI5 has some of the same problems of coordinating with the Special Branch as the CIA does in coordinating with the FBI; in both cases, you have an intelligence agency working with a criminal investigation agency. But a section of the FBI that was, like the Special Branch of Scotland Yard, specialized to arresting and otherwise assisting in the criminal prosecution of terrorists might well make a better fit with a domestic intelligence agency modeled on MI5 than the current counterterrorism branch of the FBI makes with the rest of the FBI. Because the dominant culture of the FBI will continue to be that of criminal investigating, intelligence officers lodged in the FBI will always seem odd men out; a person wanting a career in intelligence will not be attracted to working for a police department. But it is quite otherwise with someone wanting a career in the criminal investigation and prosecution of terrorists, a respectable and indeed exciting field of police work. Such a unit in the FBI could hold its head high, and would at the same time have strong incentives to cooperate with the domestic intelligence agency.

There are other problems with our intelligence apparatus that the Commission's report (the narrative portion, that is) flags: Inadequate screening of visa applicants, deficiencies in building-evacuation plans, misunderstood rules regarding the permissible limits of sharing of intelligence between criminal investigators and intelligence officers, an insufficient number of officers fluent in Arabic—the list goes on and on. But it is a list of managerial failures, not an indictment of the organizational structure.

Organizations have problems, obviously, but they are not necessarily, or perhaps commonly, organizational problems. Barry Turner, in an article on disasters, lists the following common causes of “large-scale intelligence failures”: “rigidities in institutional beliefs, distracting decoy phenomena, neglect of outside complaints, multiple information-handling difficulties, exacerbation of the hazards by strangers, failure to comply with regulations, and a tendency to minimize emergent danger.”¹ None of these is a failure likely to be cured by a reorganization.

The 9/11 Commission was surely right that there is a need to coordinate the activities and budgets of the various intelligence agencies to prevent gaps and unproductive redundancies. But the Commission does not explain why that coordination function can’t be performed by the staff of the President’s National Security Advisor and the Office of Management and Budget.

Issues of government organization are baffling. Where you have a boundary, you have a turf war; and if you erase the boundary, you lose diversity and competition, and with it the power of intelligent control. If only one person reports to you, you’re pretty much at his mercy; he’ll tell you just as much as he wants to. I do not find in the Commission’s report an adequate recognition of the difficulties involved in organizing governmental activities intelligently. I would urge caution on Congress in changing the existing structure of our intelligence system.

[From The New York Times, August 29, 2004]

THE 9/11 REPORT: A DISSENT

(By Richard A. Posner)

The idea was sound: a politically balanced, generously financed committee of prominent, experienced people would investigate the government’s failure to anticipate and prevent the terrorist attacks of Sept. 11, 2001. Had the investigation been left to the government, the current administration would have concealed its own mistakes and blamed its predecessors. This is not a criticism of the Bush White House; any administration would have done the same.

And the execution was in one vital respect superb: the 9/11 commission report is an uncommonly lucid, even riveting, narrative of the attacks, their background and the response to them. (Norton has published the authorized edition; another edition, including reprinted news articles by reporters from The New York Times, has been published by St. Martin’s, while Public Affairs has published the staff reports and some of the testimony.)

The prose is free from bureaucratish and, for a consensus statement, the report is remarkably forthright. Though there could not have been a single author, the style is uniform. The document is an improbable literary triumph.

However, the commission’s analysis and recommendations are unimpressive. The delay in the commission’s getting up to speed was not its fault but that of the administration, which dragged its heels in turning over documents; yet with completion of its investigation deferred to the presidential election campaign season, the commission should have waited until after the election to release its report. That would have given it time to hone its analysis and advice.

The enormous public relations effort that the commission orchestrated to win support for the report before it could be digested also invites criticism—though it was effective: in a poll conducted just after publication, 61 percent of the respondents said the commission had done a good job, though probably none of them had read the report. The participation of the relatives of the terrorists’ victims (described in the report as the commission’s “partners”) lends an unserious note to the project (as does the relentless self-promotion of several of the members). One can feel for the families’ loss, but being a victim’s relative doesn’t qualify a person to advise on how the disaster might have been prevented.

Much more troublesome are the inclusion in the report of recommendations (rather than just investigative findings) and the commissioners’ misplaced, though successful, quest for unanimity. Combining an investigation of the attacks with proposals for preventing future attacks is the same mistake as combining intelligence with policy. The way a problem is described is bound to influence the choice of how to solve it. The commission’s contention that our intelligence structure is unsound predisposed it to blame the structure for the failure to prevent the 9/11 attacks, whether it did or not. And pressure for unanimity encourages just the kind of herd

¹ Barry A. Turner, “The Organizational and Interorganizational Development of Disasters,” 21 *Administrative Science Quarterly* 378 (1976).

thinking now being blamed for that other recent intelligence failure—the belief that Saddam Hussein possessed weapons of mass destruction.

At least the commission was consistent. It believes in centralizing intelligence, and people who prefer centralized, pyramidal governance structures to diversity and competition deprecate dissent. But insistence on unanimity, like central planning, deprives decision makers of a full range of alternatives. For all one knows, the price of unanimity was adopting recommendations that were the second choice of many of the commission's members or were consequences of horse trading. The premium placed on unanimity undermines the commission's conclusion that everybody in sight was to blame for the failure to prevent the 9/11 attacks. Given its political composition (and it is evident from the questioning of witnesses by the members that they had not forgotten which political party they belong to), the commission could not have achieved unanimity without apportioning equal blame to the Clinton and Bush administrations, whatever the members actually believe.

The tale of how we were surprised by the 9/11 attacks is a product of hindsight; it could not be otherwise. And with the aid of hindsight it is easy to identify missed opportunities (though fewer than had been suspected) to have prevented the attacks, and tempting to leap from that observation to the conclusion that the failure to prevent them was the result not of bad luck, the enemy's skill and ingenuity or the difficulty of defending against suicide attacks or protecting an almost infinite array of potential targets, but of systemic failures in the Nation's intelligence and security apparatus that can be corrected by changing the apparatus.

That is the leap the commission makes, and it is not sustained by the report's narrative. The narrative points to something different, banal and deeply disturbing: that it is almost impossible to take effective action to prevent something that hasn't occurred previously. Once the 9/11 attacks did occur, measures were taken that have reduced the likelihood of a recurrence. But before the attacks, it was psychologically and politically impossible to take those measures. The government knew that Al Qaeda had attacked United States facilities and would do so again. But the idea that it would do so by infiltrating operatives into this country to learn to fly commercial aircraft and then crash such aircraft into buildings was so grotesque that anyone who had proposed that we take costly measures to prevent such an event would have been considered a candidate for commitment. No terrorist had hijacked an American commercial aircraft anywhere in the world since 1986. Just months before the 9/11 attacks the director of the Defense Department's Defense Threat Reduction Agency wrote: "We have, in fact, solved a terrorist problem in the last 25 years. We have solved it so successfully that we have forgotten about it; and that is a treat. The problem was aircraft hijacking and bombing. We solved the problem. . . . The system is not perfect, but it is good enough. . . . We have pretty much nailed this thing." In such a climate of thought, efforts to beef up airline security not only would have seemed gratuitous but would have been greatly resented because of the cost and the increased airport congestion.

The problem isn't just that people find it extraordinarily difficult to take novel risks seriously; it is also that there is no way the government can survey the entire range of possible disasters and act to prevent each and every one of them. As the commission observes, "Historically, decisive security action took place only after a disaster had occurred or a specific plot had been discovered." It has always been thus, and probably always will be. For example, as the report explains, the 1993 truck bombing of the World Trade Center led to extensive safety improvements that markedly reduced the toll from the 9/11 attacks; in other words, only to the slight extent that the 9/11 attacks had a precedent were significant defensive steps taken in advance.

The commission's contention that "the terrorists exploited deep institutional failings within our government" is overblown. By the mid-1990's the government knew that Osama bin Laden was a dangerous enemy of the United States. President Clinton and his national security adviser, Samuel Berger, were so concerned that Clinton, though "warned in the strongest terms" by the Secret Service and the C.I.A. that "visiting Pakistan would risk the president's life," did visit that country (flying in on an unmarked plane, using decoys and remaining only 6 hours) and tried unsuccessfully to enlist its cooperation against bin Laden. Clinton authorized the assassination of bin Laden, and a variety of means were considered for achieving this goal, but none seemed feasible. Invading Afghanistan to pre-empt future attacks by Al Qaeda was considered but rejected for diplomatic reasons, which President Bush accepted when he took office and which look even more compelling after the trouble we've gotten into with our pre-emptive invasion of Iraq. The complaint that Clinton was merely "swatting at flies," and the claim that Bush from the start was determined to destroy Al Qaeda root and branch, are belied by the commission's report. The Clinton administration envisaged a campaign of attrition that would last

3 to 5 years, the Bush administration a similar campaign that would last 3 years. With an invasion of Afghanistan impracticable, nothing better was on offer. Almost 4 years after Bush took office and almost 3 years after we wrested control of Afghanistan from the Taliban, Al Qaeda still has not been destroyed.

It seems that by the time Bush took office, "bin Laden fatigue" had set in; no one had practical suggestions for eliminating or even substantially weakening Al Qaeda. The commission's statement that Clinton and Bush had been offered only a "narrow and unimaginative menu of options for action" is hindsight wisdom at its most fatuous. The options considered were varied and imaginative; they included enlisting the Afghan Northern Alliance or other potential tribal allies of the United States to help kill or capture bin Laden, an attack by our Special Operations forces on his compound, assassinating him by means of a Predator drone aircraft or coercing or bribing the Taliban to extradite him. But for political or operational reasons, none was feasible.

It thus is not surprising, perhaps not even a fair criticism, that the new administration treaded water until the 9/11 attacks. But that's what it did. Bush's national security adviser, Condoleezza Rice, "demoted" Richard Clarke, the government's leading bin Laden hawk and foremost expert on Al Qaeda. It wasn't technically a demotion, but merely a decision to exclude him from meetings of the cabinet-level "principals committee" of the National Security Council; he took it hard, however, and requested a transfer from the bin Laden beat to cyberterrorism. The committee did not discuss Al Qaeda until 1 week before the 9/11 attacks. The new administration showed little interest in exploring military options for dealing with Al Qaeda, and Donald Rumsfeld had not even gotten around to appointing a successor to the Defense Department's chief counterterrorism official (who had left the government in January) when the 9/11 attacks occurred.

I suspect that one reason, not mentioned by the commission, for the Bush administration's initially tepid response to the threat posed by Al Qaeda is that a new administration is predisposed to reject the priorities set by the one it's succeeding. No doubt the same would have been true had Clinton been succeeding Bush as president rather than vice versa.

Before the commission's report was published, the impression was widespread that the failure to prevent the attacks had been due to a failure to collate bits of information possessed by different people in our security services, mainly the Central Intelligence Agency and the Federal Bureau of Investigation. And, indeed, had all these bits been collated, there would have been a chance of preventing the attacks, though only a slight one; the best bits were not obtained until late in August 2001, and it is unrealistic to suppose they could have been integrated and understood in time to detect the plot.

The narrative portion of the report ends at Page 338 and is followed by 90 pages of analysis and recommendations. I paused at Page 338 and asked myself what improvements in our defenses against terrorist groups like Al Qaeda are implied by the commission's investigative findings (as distinct from recommendations that the commission goes on to make in the last part of the report). The list is short:

(1) Major buildings should have detailed evacuation plans and the plans should be communicated to the occupants.

(2) Customs officers should be alert for altered travel documents of Muslims entering the United States; some of the 9/11 hijackers might have been excluded by more careful inspections of their papers. Biometric screening (such as fingerprinting) should be instituted to facilitate the creation of a comprehensive database of suspicious characters. In short, our borders should be made less porous.

(3) Airline passengers and baggage should be screened carefully, cockpit doors secured and override mechanisms installed in airliners to enable a hijacked plane to be controlled from the ground.

(4) Any legal barriers to sharing information between the C.I.A. and the F.B.I. should be eliminated.

(5) More Americans should be trained in Arabic, Farsi and other languages in widespread use in the Muslim world. The commission remarks that in 2002, only six students received undergraduate degrees in Arabic from colleges in the United States.

(6) The thousands of Federal agents assigned to the "war on drugs," a war that is not only unwinnable but probably not worth winning, should be reassigned to the war on international terrorism.

(7) The F.B.I. appears from the report to be incompetent to combat terrorism; this is the one area in which a structural reform seems indicated (though not recommended by the commission). The bureau, in excessive reaction to J. Edgar Hoover's freewheeling ways, has become afflicted with a legalistic mind-set that hinders its officials from thinking in preventive rather than prosecutorial terms and pre-

disposes them to devote greater resources to drug and other conventional criminal investigations than to antiterrorist activities. The bureau is habituated to the leisurely time scale of criminal investigations and prosecutions. Information sharing within the F.B.I., let alone with other agencies, is sluggish, in part because the bureau's field offices have excessive autonomy and in part because the agency is mysteriously unable to adopt a modern communications system. The F.B.I. is an excellent police department, but that is all it is. Of all the agencies involved in intelligence and counterterrorism, the F.B.I. comes out worst in the commission's report.

Progress has been made on a number of items on my list. There have been significant improvements in border control and aircraft safety. The information "wall" was removed by the USA Patriot Act, passed shortly after 9/11, although legislation may not have been necessary, since, as the commission points out, before 9/11 the C.I.A. and the F.B.I. exaggerated the degree to which they were forbidden to share information. This was a managerial failure, not an institutional one. Efforts are under way on (5) and (6), though powerful political forces limit progress on (6). Oddly, the simplest reform—better building-evacuation planning—has lagged.

The only interesting item on my list is (7). The F.B.I.'s counterterrorism performance before 9/11 was dismal indeed. Urged by one of its field offices to seek a warrant to search the laptop of Zacarias Moussaoui (a candidate hijacker-pilot), F.B.I. headquarters refused because it thought the special court that authorizes foreign intelligence surveillance would decline to issue a warrant—a poor reason for not requesting one. A prescient report from the Arizona field office on flight training by Muslims was ignored by headquarters. There were only two analysts on the bin Laden beat in the entire bureau. A notice by the director, Louis J. Freeh, that the bureau focus its efforts on counterterrorism was ignored.

So what to do? One possibility would be to appoint as director a hard-nosed, thick-skinned manager with a clear mandate for change—someone of Donald Rumsfeld's caliber. (His judgment on Iraq has been questioned, but no one questions his capacity to reform a hidebound government bureaucracy.) Another would be to acknowledge the F.B.I.'s deep-rooted incapacity to deal effectively with terrorism, and create a separate domestic intelligence agency on the model of Britain's Security Service (M.I.5). The Security Service has no power of arrest. That power is lodged in the Special Branch of Scotland Yard, and if we had our own domestic intelligence service, modeled on M.I.5, the power of arrest would be lodged in a branch of the F.B.I. As far as I know, M.I.5 and M.I.6 (Britain's counterpart to the C.I.A.) work well together. They have a common culture, as the C.I.A. and the F.B.I. do not. They are intelligence agencies, operating by surveillance rather than by prosecution. Critics who say that an American equivalent of M.I.5 would be a Gestapo understand neither M.I.5 nor the Gestapo.

Which brings me to another failing of the 9/11 commission: American provinciality. Just as we are handicapped in dealing with Islamist terrorism by our ignorance of the languages, cultures and history of the Muslim world, so we are handicapped in devising effective antiterrorist methods by our reluctance to consider foreign models. We shouldn't be embarrassed to borrow good ideas from nations with a longer experience of terrorism than our own. The blows we have struck against Al Qaeda's centralized organization may deflect Islamist terrorists from spectacular attacks like 9/11 to retail forms like car and truck bombings, assassinations and sabotage. If so, Islamist terrorism may come to resemble the kinds of terrorism practiced by the Irish Republican Army and Hamas, with which foreign nations like Britain and Israel have extensive experience. The United States remains readily penetrable by Islamist terrorists who don't even look or sound Middle Eastern, and there are Qaeda sleeper cells in this country. All this underscores the need for a domestic intelligence agency that, unlike the F.B.I., is effective.

Were all the steps that I have listed fully implemented, the probability of another terrorist attack on the scale of 9/11 would be reduced—slightly. The measures adopted already, combined with our operation in Afghanistan, have undoubtedly reduced that probability, and the room for further reduction probably is small. We and other nations have been victims of surprise attacks before; we will be again.

They follow a pattern. Think of Pearl Harbor in 1941 and the Tet offensive in Vietnam in 1968. It was known that the Japanese might attack us. But that they would send their carrier fleet thousands of miles to Hawaii, rather than just attack the nearby Philippines or the British and Dutch possessions in Southeast Asia, was too novel and audacious a prospect to be taken seriously. In 1968 the Vietnamese Communists were known to be capable of attacking South Vietnam's cities. Indeed, such an assault was anticipated, though not during Tet (the Communists had previously observed a truce during the Tet festivities) and not on the scale it attained. In both cases the strength and determination of the enemy were underestimated, along with the direction of his main effort. In 2001 an attack by Al Qaeda was an-

anticipated, but it was anticipated to occur overseas, and the capability and audacity of the enemy were underestimated. (Note in all three cases a tendency to underestimate non-Western foes—another aspect of provinciality.)

Anyone who thinks this pattern can be changed should read those 90 pages of analysis and recommendations that conclude the commission's report; they come to very little. Even the prose sags, as the reader is treated to a barrage of bromides: "the American people are entitled to expect their government to do its very best," or "we should reach out, listen to and work with other countries that can help" and "be generous and caring to our neighbors," or we should supply the Middle East with "programs to bridge the digital divide and increase Internet access"—the last an ironic suggestion, given that encrypted e-mail is an effective medium of clandestine communication. The "hearts and minds" campaign urged by the commission is no more likely to succeed in the vast Muslim world today than its prototype was in South Vietnam in the 1960's.

The commission wants criteria to be developed for picking out which American cities are at greatest risk of terrorist attack, and defensive resources allocated accordingly—this to prevent every city from claiming a proportional share of those resources when it is apparent that New York and Washington are most at risk. Not only do we lack the information needed to establish such criteria, but to make Washington and New York impregnable so that terrorists can blow up Los Angeles or, for that matter, Kalamazoo with impunity wouldn't do us any good.

The report states that the focus of our antiterrorist strategy should not be "just 'terrorism,' some generic evil. This vagueness blurs the strategy. The catastrophic threat at this moment in history is more specific. It is the threat posed by Islamist terrorism." Is it? Who knows? The menace of bin Laden was not widely recognized until just a few years before the 9/11 attacks. For all anyone knows, a terrorist threat unrelated to Islam is brewing somewhere (maybe right here at home—remember the Oklahoma City bombers and the Unabomber and the anthrax attack of October 2001) that, given the breathtakingly rapid advances in the technology of destruction, will a few years hence pose a greater danger than Islamic extremism. But if we listen to the 9/11 commission, we won't be looking out for it because we've been told that Islamist terrorism is the thing to concentrate on.

Illustrating the psychological and political difficulty of taking novel threats seriously, the commission's recommendations are implicitly concerned with preventing a more or less exact replay of 9/11. Apart from a few sentences on the possibility of nuclear terrorism, and of threats to other modes of transportation besides airplanes, the broader range of potential threats, notably those of bioterrorism and cyberterrorism, is ignored.

Many of the commission's specific recommendations are sensible, such as that American citizens should be required to carry biometric passports. But most are in the nature of more of the same—more of the same measures that were implemented in the wake of 9/11 and that are being refined, albeit at the usual bureaucratic snail's pace. If the report can put spurs to these efforts, all power to it. One excellent recommendation is reducing the number of Congressional committees, at present in the dozens, that have oversight responsibilities with regard to intelligence. The stated reason for the recommendation is that the reduction will improve oversight. A better reason is that with so many committees exercising oversight, our senior intelligence and national security officials spend too much of their time testifying.

The report's main proposal—the one that has received the most emphasis from the commissioners and has already been endorsed in some version by both presidential candidates—is for the appointment of a national intelligence director who would knock heads together in an effort to overcome the reluctance of the various intelligence agencies to share information. Yet the report itself undermines this proposal, in a section titled "The Millennium Exception." "In the period between December 1999 and early January 2000," we read, "information about terrorism flowed widely and abundantly." Why? Mainly "because everyone was already on edge with the millennium and possible computer programming glitches ('Y2K')." Well, everyone is now on edge because of 9/11. Indeed, the report suggests no current impediments to the flow of information within and among intelligence agencies concerning Islamist terrorism. So sharing is not such a problem after all. And since the tendency of a national intelligence director would be to focus on the intelligence problem du jour, in this case Islamist terrorism, centralization of the intelligence function could well lead to overconcentration on a single risk.

The commission thinks the reason the bits of information that might have been assembled into a mosaic spelling 9/11 never came together in one place is that no one person was in charge of intelligence. That is not the reason. The reason or, rather, the reasons are, first, that the volume of information is so vast that even with

the continued rapid advances in data processing it cannot be collected, stored, retrieved and analyzed in a single database or even network of linked databases. Second, legitimate security concerns limit the degree to which confidential information can safely be shared, especially given the ever-present threat of moles like the infamous Aldrich Ames. And third, the different intelligence services and the subunits of each service tend, because information is power, to hoard it. Efforts to centralize the intelligence function are likely to lengthen the time it takes for intelligence analyses to reach the president, reduce diversity and competition in the gathering and analysis of intelligence data, limit the number of threats given serious consideration and deprive the president of a range of alternative interpretations of ambiguous and incomplete data—and intelligence data will usually be ambiguous and incomplete.

The proposal begins to seem almost absurd when one considers the variety of our intelligence services. One of them is concerned with designing and launching spy satellites; another is the domestic intelligence branch of the F.B.I.; others collect military intelligence for use in our conflicts with state actors like North Korea. There are 15 in all. The national intelligence director would be in continuous conflict with the attorney general, the secretary of defense, the chairman of the Joint Chiefs of Staff, the secretary of homeland security and the president's national security adviser. He would have no time to supervise the organizational reforms that the commission deems urgent.

The report bolsters its proposal with the claim that our intelligence apparatus was designed for fighting the cold war and so can't be expected to be adequate to fighting Islamist terrorism. The cold war is depicted as a conventional military face-off between the United States and the Soviet Union and hence a 20th-century relic (the 21st century is to be different, as if the calendar drove history). That is not an accurate description. The Soviet Union operated against the United States and our allies mainly through subversion and sponsored insurgency, and it is not obvious why the apparatus developed to deal with that conduct should be thought maladapted for dealing with our new enemy.

The report notes the success of efforts to centralize command of the armed forces, and to reduce the lethal rivalries among the military services. But there is no suggestion that the national intelligence director is to have command authority.

The central-planning bent of the commission is nowhere better illustrated than by its proposal to shift the C.I.A.'s paramilitary operations, despite their striking success in the Afghanistan campaign, to the Defense Department. The report points out that "the C.I.A. has a reputation for agility in operations," whereas the reputation of the military is "for being methodical and cumbersome." Rather than conclude that we are lucky to have both types of fighting capacity, the report disparages "redundant, overlapping capabilities" and urges that "the C.I.A.'s experts should be integrated into the military's training, exercises and planning." The effect of such integration is likely to be the loss of the "agility in operations" that is the C.I.A.'s hallmark. The claim that we "cannot afford to build two separate capabilities for carrying out secret military operations" makes no sense. It is not a question of building; we already have multiple such capabilities—Delta Force, Marine reconnaissance teams, Navy Seals, Army Rangers, the C.I.A.'s Special Activities Division. Diversity of methods, personnel and organizational culture is a strength in a system of national security; it reduces risk and enhances flexibility.

What is true is that 15 agencies engaged in intelligence activities require coordination, notably in budgetary allocations, to make sure that all bases are covered. Since the Defense Department accounts for more than 80 percent of the Nation's overall intelligence budget, the C.I.A., with its relatively small budget (12 percent of the total), cannot be expected to control the entire national intelligence budget. But to layer another official on top of the director of central intelligence, one who would be in a constant turf war with the secretary of defense, is not an appealing solution. Since all executive power emanates from the White House, the national security adviser and his or her staff should be able to do the necessary coordinating of the intelligence agencies. That is the traditional pattern, and it is unlikely to be bettered by a radically new table of organization.

So the report ends on a flat note. But one can sympathize with the commission's problem. To conclude after a protracted, expensive and much ballyhooed investigation that there is really rather little that can be done to reduce the likelihood of future terrorist attacks beyond what is being done already, at least if the focus is on the sort of terrorist attacks that have occurred in the past rather than on the newer threats of bioterrorism and cyberterrorism, would be a real downer—even a tad un-American. Americans are not fatalists. When a person dies at the age of 95, his family is apt to ascribe his death to a medical failure. When the Nation experiences a surprise attack, our instinctive reaction is not that we were surprised by

a clever adversary but that we had the wrong strategies or structure and let's change them and then we'll be safe. Actually, the strategies and structure weren't so bad; they've been improved; further improvements are likely to have only a marginal effect; and greater dangers may be gathering of which we are unaware and haven't a clue as to how to prevent.

Richard A. Posner is a judge on the United States Court of Appeals for the Seventh Circuit, a senior lecturer at the University of Chicago Law School and the author of the forthcoming book "Catastrophe: Risk and Response."

Chairman STEVENS. Now we turn to Mr. Dale Watson. He is the former head of the Counterterrorism Division within the FBI, and he was there at the time of 9/11. We thought that he had specific knowledge of what existed before and what exists now after 9/11. We thank you very much for being willing to come.

All three of you have come at your own expense and it is your own decision. You are not Government employees. We are grateful to you for coming to help us on this issue.

Mr. Watson.

STATEMENT OF DALE WATSON, FORMER EXECUTIVE ASSISTANT DIRECTOR OF COUNTERTERRORISM AND COUNTERINTELLIGENCE, FEDERAL BUREAU OF INVESTIGATION

Mr. WATSON. Thank you, Senator Stevens. It is good to be back. This reminds me of old times. I have worked with some of you very closely in the past.

I am looking at this from a more practical approach. Dr. Hamre and Judge Posner have laid out some issues here. But what I thought I would do this morning very briefly is talk about some of the broad issues in the commission. There are a lot of recommendations in there outside my area of responsibility, but look at those, and then add on at the end. There were two issues probably that were not addressed that probably you need to be aware of. Whether you take them on or not is certainly a matter of congressional oversight.

So first, let me address the NID issue. First of all, I agree that we do need an NID. I base that upon what you said previously, Senator Stevens. I remember working very hard with the counterterrorism program starting in 1996 where our best coordinating effort was through the CSG at the NSC, and that was run by Dick Clarke and reported back to the National Security Advisor. It was a coordinating body that functioned very well, but it had no authority, and basically that was a policy decision.

When I stepped back and looked at it, with no authority, no budget, to require agencies within that community to do anything, you really had a fragmented approach to counterterrorism. I think the commission pointed that out, that no one was really focused upon the overall big picture, so to speak, and setting priorities and objectives. Whenever the CSG would meet, they would talk about, well, we are policy guys and we are not going to order the FBI to *x*, *y*, and *z* inside the United States.

From the FBI perspective, I was more concerned about, one, attacks on Americans overseas, Khobar Towers, the Embassy bombings, or what Hizbollah was doing in the United States. I really did not have a function or a piece or a very broad knowledge of what Hizbollah's organizational function and skills were, even though I learned that because I needed to know that because Hizbollah was in the United States, but at the same time, there was nobody really

focused upon what is Hizbollah doing or al Qaeda doing and what are the future threats. And it was fragmented. NSA was going a great job, DOD, colleagues at the State Department, and certainly the CIA.

So my initial response is, yes, sir, there is a need for a NID. I will tell you where that is placed is very crucial, and Dr. Hamre makes some good points, and organizational points by Judge Posner are well taken. I think you need to look at that closely. But that position I believe needs to be created, and that position needs to have some function and responsibility and it needs to be able to look at the overall effort, threats now affecting the United States, as well as American interests overseas, and look at that and be able to predict and look forward.

That leads to the question of what kind of person should be appointed to this, and obviously that will be determined. But I will tell you this. This position must be a job and not a position. The individual that has this responsibility of being the NID needs to work within the NID and within the intelligence community. The NID should not be a public relations job. The NID should not be on the speaking circuit or conducting liaison. The NID should be a central-focused individual that looks at where there are across the board in all areas. And if the NID works for counterterrorism or if the National Counterterrorism Center works, then the U.S. Government I think has an obligation or should look at forming other centers such as a cyber center and the other areas mentioned by the 9/11 Commission. Very crucial. I think the NID is a term appointment. I think the NID has to have the responsibility and be able to the task. So that is my initial take on that.

Looking at forming the NCTC, I think that is not a bad idea at all, as long as the people there understand that that is not an operational function. It is not to be involved in the nuts and bolts of the daily operations of the FBI or CIA overseas or NSA or wherever the other entities come into play in this. I think they need to set very specific requirements. I think they need to study, if you are looking strictly at counterterrorism, all terrorist organizations. You look at FARC. You look at Tamil Tigers. You look at any threat coming on the horizon from the U.S. Government as related by the NID and set those priorities out. And with the National Counterterrorism Center, I think they need to identify what the gaps are. If the FBI sees something peculiar in Detroit, Michigan about individuals' suspicious activities about renting buses, for instance, then that information needs to be funneled in there and a determination by a smart analyst needs to be made as to whether this is a trend or just an anomaly. So I believe that the NCTC concept is right.

In addition to that, though, in order for the NCTC to work, there has to be accountability. There has to be some way to measure whether this function of the organizations assigned to the NCTC and the tasking requirements are measurable, and you have to hold people accountable. So if the NID says the new threat to U.S. Government and U.S. citizens inside the United States or overseas might be some new group of individuals that we do not know about, the tasking should come down to, look at that, task out to the FBI, task out to all the other agencies associated with that, and

then have some type of reporting requirement that measures accountability. Did the FBI just say, okay, we have got this, we will wave them off? There should be some requirement to report back and some evaluation process to be able evaluate that, and I strongly believe that. If you do not have accountability, you really do not have much in the order of a functional, operational organization. Again, I think they are not operational, but I think it could be and possibly a real model.

Let me switch quickly to the FBI. I believe the commission is right that we do not need to break up the FBI. I think they are making great strides and progress in what they are trying to do. I will caution one word about trying to move the FBI into an intelligence-driven organization. There is value added in criminal work. I think that has been well documented. And making FBI agents strictly intelligence officers is not necessarily the best approach in all circumstances. I think there needs to be a combination of law enforcement and intelligence analysts, and combining the law enforcement piece with the strict intelligence function is a real value added.

One glaring error that I think I noticed with the NCTC is that they did not address in the NID the other agencies that are involved in the protection of this country within the United States. And I know they are not members of the intelligence community, but you need to somehow or another pull in the DEA's of the world, and the ICE, and the border folks, and make sure that information—I am not saying change their mission or function—on what goes on at our borders gets put into the National Counterterrorism Center, as well as passed up to the NID. I think they overlooked that. I am not real sure why it was not included in there. So I think that would be very helpful.

I think the career path in the FBI that they are developing, I think that has been well documented.

Just a couple of other quick areas. It is not in my area of expertise, but let me comment on the budget. It needs to be a process of appropriators and authorizers. I do not understand that totally, but I will tell you I think that needs to be streamlined. I can recall many times being up here in different committees of this Senate and being asked specifically by a Senator, what do you need, Mr. Watson, and knowing full well in the back of my mind we only had x number of analysts or we needed some electronic new device equipment. But the response was we are doing okay. We will work with you through OMB and through the Department of Justice. I am not real sure how you fix that problem and get to the knowledge that you need in your oversight process, but that is the way the system is set up and I fully understand that.

A couple other things. The commission mentioned oversight. I would not dare tell you how Congress should be set up or run. It is way beyond my expertise and is not in my area that I should even comment on other than to say that I would recommend streamlining that somehow, maybe get down to two committees or something. There is a lot of crossover in a lot of committees, and I think you know that.

Quickly, two other areas I would like to briefly mention. One is the information sharing. Information sharing is talked about. It is

a buzzword around this town. You cannot go anywhere without people talking about needing better information sharing. Generally, most people that talk about that are talking about being able to get a top secret document from the CIA over to the State Department, over to the FBI, or back out and around and so forth. That is correct. And I think there is a lot of work and a lot of effort that should be put into that.

But the true value of information sharing, if you are looking at terrorist threat, is through our State and local law enforcement people, 600,000 sworn employees, 18,000 departments in the United States, over 3,000 sheriff's departments. And I am here to tell you there is not an Executive order, there is not a law on the books and probably never will be and should not be that requires the sheriff in Alaska to share any information with the chief of police in Anchorage or vice versa. That is what is meant by trying to make sure that people understand the need for information sharing.

So I think the solution on that ultimately, if we want to prevent acts of terrorism inside this country, will be from a patrol officer or a deputy sheriff on the road who sees something, and reports that. There should be a mechanism and a way to do that. I think DOJ, particularly the Department of Justice, should take the leadership in that and try to form that process up through the JTTF's. It is a very difficult project, but it needs to be addressed and it needs to be done.

I will say information sharing is not a technology issue. It has nothing to do with having the technology to be able to take information from x police department to the sheriff's department. That is not the issue.

The other issue that needs to be figured out in information sharing is how are we going to use public source data. There are great companies like Choice Point, IMAP Data, that have a lot of information, and it is oversight again of how much the Government needs to know and what you collect and how. I think there is a solution there, and I think it needs to be looked at. I do not think everyone needs to panic about the ability of law enforcement or intelligence people to be able to say, on a legitimate reason, what do we know about x and what is his credit history, et cetera.

The last is I believe that there should be a Federal system of evaluation some way in the intelligence community. I have alluded to that earlier. When I was in the FBI, I started MAXCAP05, which was identifying gaps, but you must have accountability. You must be able to say x agencies, here are the gaps, here is what they need, and here are the performance measures that you use.

Real quickly, two other things and then this is it. On security clearances, that was not addressed, but that is a huge problem in this country that affects our national security. The length of time to obtain a security clearance, who has control of those security clearances, and where is this office located, and how do you get employees quickly cleared if you need to get them cleared? That is currently an old system. I know the laws are based upon longtime legislative enactments by Congress. I would urge somebody to take a look at that.

Last, unauthorized disclosure. As with more information sharing, as we go forward in sharing a lot more intelligence information, this is a real problem about the leaking of classified information. I think someone needs to take a look at that. It might require an Executive order. I do not think a legislative fix is needed, but something maybe universally applicable through all Federal agencies to set up administrative procedures. Having access to classified U.S. intelligence information or military information is not a right, it is a privilege. And I think if you violate that privilege and leak unauthorized, that hurts our national security. And the only example I will use is when bin Laden's INMARSAT phone calls were leaked to the media, that caused us great damage and really blinded us for a long period of time.

The obvious question on all this, where does this leave DHS? I am not really sure exactly where they come out in the mix on the intelligence side and reorganization of the intelligence community. They are a vital part. They have a large organization. They need to somehow or another be incorporated in this mix.

In closing, I would like to say we—and I agree totally with Senator Byrd and you, Senator Stevens, and all the Senators here, should go very slowly and make sure we do not do anything to infringe upon our civil liberties. We were attacked because of who we are, and I would never advocate that we change that. I know our system is set up so 99 guilty people can go free as opposed to allowing 1 innocent man or person to be prosecuted. So I am in total agreement with you on looking at that.

That is all I have, Senator.

Chairman STEVENS. Well, thank you very much.

I will tell the members of the committee that Judge Posner has a timeframe problem. Is that correct? You should depart by 11:30?

Judge POSNER. I have to leave before 12 noon.

Chairman STEVENS. Yes. Well, that is a timeframe problem. May I suggest that we go through one round of questions for Judge Posner? You do not have any, do you, John?

Dr. HAMRE. No, sir.

Chairman STEVENS. Dale, do you have any?

Mr. WATSON. No, sir. I am fine.

Chairman STEVENS. I think we will go back to them, if that would be agreeable to you, Senator Byrd.

Senator BYRD. Yes.

Chairman STEVENS. Let me ask just one question Judge Posner. You have noted in your article that the 9/11 Commission report was 338 pages long, followed by 90 pages of analysis and recommendations. You sort of asked yourself what improvements were implied by the investigative findings and listed seven areas: the need for detailed evacuation plans for major buildings, creating methods to ensure that borders are less porous, screening airline passengers carefully, eliminating barriers between the CIA and FBI, training more Americans in foreign languages, specifically Arabic, Farsi and other dialects of the Muslim world. Next, those assigned to the war on drugs should be transferred to the war on terrorism. And seven, making sure the FBI has the structural reform it needs.

Now, those are not subjects we are discussing right now, Judge.

Judge POSNER. Correct.

Chairman STEVENS. We are discussing structure. We are discussing power and control rather than solutions. Could you expand on how you made those suggestions and whether you think we ought to address those improvements now as compared to addressing the change in structure now?

Judge POSNER. Yes. The first 338 pages of the commission's report are an extremely detailed and thorough narrative of the background to the attacks, the attacks themselves, and the immediate response. It is a very fine job. It obviously involved tremendous work.

If you just stop there and ask, what have we learned about the problems that enabled these attacks to succeed and do as much damage as they did, it is clear that there were serious problems such as not having enough intelligence officers who have the right language training, not having an adequate system of airline security, not having adequate building evacuation plans, and so on. I also think a serious problem—I think Mr. Watson alluded to—within the FBI is the relation between their criminal investigation and their intelligence functions. Those are the problems that the report itself identifies, and the solutions that spill out of that analysis address particular managerial problems, some of them legal and so forth.

Then after that, the commission goes off on what is really a different tangent in considering organizational change because it is not clear, from reading their narrative, that the problems were organization problems for which organization solutions or reorganization would be indicated. So I think there is a mismatch between this very detailed narrative and a rather more summary discussion of organizational change that really does not match the problems that the report itself had identified. It is as if one group of people—maybe this is true—had written up the narrative, and then another group of people say, we are interested in tables of organization and the like, and that is what we are going to focus on in the recommendations part of the report.

Chairman STEVENS. Thank you very much. I have other questions.

Senator Byrd.

Senator BYRD. Thank you, Mr. Chairman.

One recommendation of the 9/11 Commission that has not received much attention is the plan to create a National Counterterrorism Center, which would conduct operational planning, not just analysis, for both domestic and foreign missions. Judge Posner, what are the dangers of merging domestic and foreign counterterrorism operations under one organization?

Judge POSNER. Well, I think first there is the issue that Dr. Hamre mentioned which is the merger of intelligence gathering with operational responses or formulation of policy. The problem is that if you have policy responsibilities, then in evaluating intelligence, your evaluation is going to be skewed by your conception of the right direction of policy change. So I think having the intelligence function as purely a research function and policy separate is very important.

The other part of your question has to do with having the same organization engage in domestic and foreign counterintelligence. Of course, the danger is that when we are dealing with foreigners, especially with national enemies, whether they are civilian or military, we allow our foreign intelligence greater latitude than we think appropriate when dealing with our own citizens. That is why, for example, in the United Kingdom, which has a very long history both of confronting terrorist threats and of dealing with them effectively, they have separated the foreign and domestic intelligence functions. They have MI6 for foreign intelligence; they have MI5 for domestic intelligence. That I think is a valuable division to preserve.

Senator BYRD. What safeguards are necessary to protect the civil liberties of American citizens from overzealous intelligence agencies, which, in years past, have operated secretly within the United States?

Judge POSNER. I do not think there is an answer to your question in the following sense. I think there is a basic tradeoff between security concerns and civil liberties concerns. If we allow a domestic intelligence agency to function the way MI5 functions—that is, you have people who are engaged in secret surveillance activities, they are not constrained by the procedural safeguards of the criminal process because they are not planning to prosecute. They intimidate, they blackmail, they spy, and so forth—there are going to be abuses if people are allowed to engage in those activities. On the other hand, those activities will uncover and thwart and break up plots against the United States. This is quintessentially a democratic judgment, a judgment for the Congress and the President, how you are going to trade off civil liberties values against security concerns.

Now, the more we feel endangered, the greater latitude we will allow for antiterrorist activities. If we feel safer or if we feel we have other ways of dealing with the terrorist threat that do not involve this kind of domestic intelligence snooping and dirty tricks activity, then we will curtail that function.

But I certainly agree with you that to have the same organization engage in domestic and foreign counterintelligence will be too rough on our citizens or too gentle with the foreigners if it has uniform policies.

Senator BYRD. Thank you, Judge Posner. Thank you, Mr. Chairman.

Chairman STEVENS. Senator Inouye.

Senator INOUE. Judge Posner, in your statement you have said that it is virtually impossible to prepare for the unthinkable, including a suicide attack of such magnitude as 9/11. Are you also suggesting that the commission has very little to back up its claim that the tragedy was a result of an unsound intelligence structure?

Judge POSNER. Yes, that is my view. The reason for it is that the 9/11 Commission report is dominated, as it has to be just as a matter of psychology, by hindsight. Once a surprise attack occurs, you go back and you look and you find that there were clues. But if you look through our history and the history of other countries, whether you are talking about Pearl Harbor or talking about the Tet Offensive or the Battle of the Bulge, you can always go back and,

with the benefit of hindsight, see that clues were missed. The problem with that as a formula for blame is that it is not possible for the Government to respond to every possible clue, every possible danger because the number of possible threats is infinite.

Actually one of the concerns I have about the 9/11 Commission report is that it really is oriented toward preventing not new threats, but a repetition of 9/11. Now, an exact repetition of 9/11 is extremely unlikely because that has already happened. We know about that. What I think we have to worry about more than we do is biological terrorism, nuclear terrorism, agricultural terrorism because, you know, destruction of agriculture by biological weapons could be as destructive as biological warfare against people. So we ought to try to think about the disasters that have not happened, but that is very difficult to do, so we tend to think about what has already happened.

In the case of al Qaeda, its operations had been abroad rather than in the United States. So that is what we were focused on. I think Mr. Watson suggests that. We were looking at the possibility of further attacks on American personnel or facilities overseas. So we missed what happened.

So as I say, Government is imperfect, intelligence is a very difficult activity, and so looking back, you can always find how, with perfect foresight, a disaster could have been prevented, but we will never have perfect foresight.

Senator INOUE. Do you believe that the intelligence community, as it is structured today, has the imagination and the capacity to reasonably predict or foresee certain types of attacks?

Judge POSNER. I do not know. I certainly would not say that our existing setup is ideal. That would carry me far beyond my knowledge. But what does seem apparent from the report and from the testimony and from what the Senators have said is that the analysis and formulation of organizational proposals for such an extraordinarily complicated and sensitive issue as national intelligence is so difficult that it really should not be done on the basis of a 28-page discussion in the commission's report.

Senator INOUE. My final question, sir. In your mind, do you think it is wise to make a determination of such magnitude as overturning the intelligence community in the next 2 weeks?

Judge POSNER. No. I think it would be most unfortunate. I think the analytical problems cannot be solved in that time, and also a Presidential campaign that pivots on national security affairs is not the right setting in which to reorganize the national security apparatus of the Nation.

Senator INOUE. I thank you very much, sir.

Chairman STEVENS. Senator Cochran.

Senator COCHRAN. Mr. Chairman, thank you.

Judge Posner, I read your op-ed piece in the New York Times the other day and found it interesting and helpful. I even, after reading it, thought that you might have come up with a good suggestion when you suggested that the National Security Advisor could be considered an alternative to a major new bureaucracy that might result from the appointment of a National Intelligence Director. In other words, the person to whom that advisor reports directly is the President, and as President Truman said, the buck stops there.

The President is the person for whom this intelligence is intended, if you are talking about something that requires a Presidential act to defend against, such as an effort to bomb the Twin Towers or the U.S. Capitol or the White House. The President needs to know that and needs to know it quickly. So I was impressed with that suggestion.

Have you had an opportunity to try to rebut the critics of that now? I noticed they are saying do not get policy mixed up with intelligence gathering. The processes should not be mixed, or at least they should not be funneled through the same person. I guess the National Security Advisor is involved in helping the President make policy. So it might seem that that would be inconsistent with that view.

But yesterday I asked Dr. Kissinger about that in the hearing we had, and I wonder what your thoughts are now. Do you still consider that an alternative to a National Intelligence Director or as just a supplement?

Judge POSNER. Well, that is a very difficult question and I may be skating on thin ice. My conception of the National Security Advisor, which may be naive, is that he or she has a coordination function. There is the Defense Department, the State Department, the CIA, the other agencies concerned with national security, and it is important for the President that he have someone whom he trusts who can arbitrate disputes among these and make sure that they all get a hearing before the President.

To the extent that it is a coordination role, rather than a policy-making role—and I know that in the past, National Security Advisors sometimes have been competitors with the Secretary of State for the ear of the President, but if the role is a coordination role, then it seems to me appropriate for the National Security Advisor or a subordinate National Security Advisor to indicate to the intelligence agencies what areas of intelligence are of particular concern and to make sure there are no gaps and to make sure that particular intelligence functions that are very important are adequately funded.

My impression was that all executive power emanates from the White House so that if you want high-level coordination of intelligence, you want it to be in the White House. But you have pointed to a serious problem, that you do not want policymaking and intelligence to be merged in a single individual.

Senator COCHRAN. One alternative that people have talked about too is looking at the United Kingdom's organization of the MI5 and MI6, separating foreign intelligence gathering and domestic intelligence gathering and putting two people, I guess, who are coequal in power and rank. What is your reaction to that as an alternative?

Judge POSNER. Well, I think it is something that deserves more consideration than the commission gave it. The commission discusses it in a couple of pages and brushes it off. But I think it makes a lot of sense. I know Mr. Watson will disagree strongly.

But the problem is that—and Mr. Watson alluded to it—the FBI is basically a police department. It engages in criminal investigation. That is its main role. And counterintelligence or domestic intelligence is really a very different sort of thing. The FBI is not oriented toward prosecution. It is oriented toward surveillance and

interfering with plots and catching plots, but not with prosecuting people. There is a question whether these two very different cultures, one of domestic intelligence, one of criminal prosecution, can merge within the same agency. To the extent the FBI will always be primarily a criminal investigation agency, a police department, the people engaged in having intelligence careers within the FBI will always be second-class citizens. That is the danger.

The English have a very long history of dealing with terrorists and subversive problems. Think how vulnerable they were in World War II, how concerned they were with penetration by German agents and with their own domestic fascist party, fascist sympathizers. And of course, they have the Irish problems. They have a very long history of dealing with terrorism, generally very effectively, and this is the structure they have evolved.

So now, as I understand it, they have these two agencies, the domestic and the foreign, MI5, MI6. Then there is another agency which engages in electronic surveillance like our National Security Agency. Then there is a chairman who presides over the three agencies and reports to the prime minister. It is a simple structure, simple, informal.

Now, the United Kingdom is, of course, a much smaller country with fewer international challenges than we face. They have always had a more streamlined government than ours, a smaller government. But they seem to have managed this problem effectively. I think they have left military intelligence to the military. One of the series of problems that have been raised about the commission's recommendations is very confusing questions of who is going to actually control military intelligence. Will it be the military or will this be the civilian official? Is it going to be shared in some way?

Senator COCHRAN. Thank you. Thanks, Mr. Chairman.

Chairman STEVENS. Thank you very much.

Senator Bond, we are just asking Judge Posner questions because he has to leave.

Senator BOND. I have got that, Mr. Chairman. Thank you very much.

I found the testimony of all three very interesting, also raising probably as many questions as they resolved. The more we get into this, the less clear it becomes. I think I would probably agree with you, Judge Posner, on not rearranging the deck chairs if the deck chairs did not make the Titanic sink.

But I have a problem in other areas that I have seen. Perhaps even now we have little fiefdoms that delight in controlling their own sources and their own intelligence and they share it with everybody up and down that stove pipe, but when it comes to sharing it with somebody in another agency where they may be trying to focus on the same potential actors or potential act, they do not want to give them their sources, their information. They are very reluctant to share that information. I agree with you that information sharing is a problem within agencies and across agencies.

I understood, before I got into this thing, that we had a Director of Central Intelligence who was supposed to ensure that intelligence flowed easily and quickly among all agencies, my assump-

tion was, on a need-to-know basis. That is not happening. It did not happen and it still is not happening.

Now, if we do not rearrange the deck chairs, if we do not put somebody in a position to say that if you want to keep your job, if you want to be promoted, you in *A* agency are going to talk to *B* agency and *C* agency, you are going to use red teams from *D* agency to challenge the assumptions you come up with, then how do we overcome those bureaucratic walls that unfortunately, in my humble opinion, still exist?

Judge POSNER. I think it is extremely difficult for two reasons, one that Mr. Watson mentioned. If information is shared, the likelihood of leaks is increased, and it is not just leaks that we have to worry about. Of course, you have to worry about moles. So there is a natural tendency to hoard intelligence in order to prevent it from getting into the wrong hands. That is very important. But what reinforces it is that, you know, knowledge is power. When you share your knowledge, you give up your power. If you give information to another agency which enables that other agency to score some intelligence coup, they are going to take the credit. This turf warfare in Government is very, very serious. I do not know that it can be solved by an organizational change.

The problem is the remoteness of top officials from operating people. The National Intelligence Director, like a Cabinet member, whether he has a term of years or serves at the pleasure of the President, is likely to be a bird of passage. That is the fundamental problem in Government. The people at the top are people who are from other walks of life and they spend a few years in Government and they go back. Underneath are these career people who have the knowledge and have real career stakes in what they are doing. They often do not cooperate very well with the people at the top. This seems to me to be built into the structure of our Government where our top officials are not career people but very often come from completely unrelated walks of life. I do not know what the solution is. It may well be that there are organizational changes that would improve the situation.

My basic concern is that the commission did not adequately analyze the problems, including the problem that you have just flagged.

Senator BOND. Well, that is a real challenge. It seems to me that a lot of leaks come out of this place when too much information comes to Congress, too much information is too far up the line. It seems to me that sources and sometimes even methods ought to be kept very closely at the operating, collection and analysis level. The analysts need to know how they came up with the information. But I personally do not need to know or want to know the names of the agents or their inside contacts. You would get a rush if you learned somebody's name, but that is not information that really is helpful to us. We need to be looking at the analysis.

Somehow we have got to overcome this bureaucratic jealousy and make them feel that they are all playing on the same team and that the team, if it is INR in the State Department, CIA, and DIA that come together and come up with a major solution, the recognition ought to go to that operating team. I believe that the Iraqi survey group worked in that manner in Iraq and found that the cross-

agency collaboration at the operating level was very effective. I think we ought to find some way to get at that.

But I would leave one other thought. When you are saying that the FBI should just be prosecuting crimes, as I recall, one of the big problems that we had prior to 9/11 was the artificial wall that was built up between criminal prosecution and investigation. Now, I do not think that even had that wall not been there, there would have been enough information to build the case to find the 19 hijackers, but certainly that artificial wall did keep FBI prosecutors from sharing information with counterterrorism investigators and with others. I think Mr. Watson is right. The criminal prosecutions sometimes can be very helpful in developing a broader intelligence picture. If you have any comments on my idea, I would welcome them.

Judge POSNER. That is certainly true. For one thing, some terrorists, of course, you would want to prosecute. You do not want to just spend your time watching them or harassing them or something like that. So there is always going to be a question of how a domestic intelligence function relates to the prosecutorial function. So in the United Kingdom, there is this MI5 domestic intelligence service, but it works with a special branch of Scotland Yard in prosecution of those terrorists whom they want to prosecute.

Let me just go back to your point about the sharing. One of the points that Dr. Hamre made is that the commission seems to envisage a system in which most people in intelligence would actually be reporting to two masters. They would be under some kind of control of the National Intelligence Director, but they would also have their own agency bosses to report to. It seems to me that that is a very awkward situation in terms of encouraging sharing where, on the one hand, you are being tugged in one direction by the National Intelligence Director, but you may be tugged in an opposite direction because of the imperatives of the mission of the organization that actually employs you.

Senator BOND. Thank you, Mr. Chairman.

Chairman STEVENS. Thank you very much, Judge Posner. We appreciate your coming in, as I said, that we will see to it you get a copy of all of our hearings.

I note your recommendation to assign the war on drugs personnel to the war on terrorism. Since they have not won that war, I am not sure we want them to join another one. But there is merit in trying to at least take those who have been active against those terrorists who are involved in drugs to create a cash flow. We will look at that and see if something could be done along that line.

We thank you very much for coming.

Judge POSNER. Well, thank you very much for very challenging questions.

Chairman STEVENS. We look forward to seeing you again sometime, sir. I hope. We appreciate very much your contribution.

Judge POSNER. Thank you very much, Senator.

Chairman STEVENS. My people have a question to ask you as you go out, Judge. It is just a simple, little question. It is a personal question. One of my people will ask you a question.

John, as I look at you, I think back to the 1990's and I think about the times when there were reductions in the defense budget,

and that invariably really reduced the manpower that we thought was excess to the Department of Defense. They did not cut back too much on troop strength, but they cut back on human intelligence. We had years there where we were not reaching out to develop human intelligence.

I was thinking about that and realized when Senator Feinstein made her comment about the amount of money that goes to the intelligence community from the Department of Defense. About half of that is payroll and an additional part of it is in classified equipment that goes throughout the whole system. You know where it is. We know where it is. Some people want us to disclose it all, but if we did, we would be disclosing things that are in their infancy.

I go back to the trips that Senator Inouye and I made when we, along with Senator Jackson, viewed the first concepts of stealth. At that time, it was even classified as to where we were. We had to go through different areas to get there. We were exposed to the 117, the B-2, so many things while they were in their infancy. A couple of things we were exposed to, even the Department wanted to shut them down and we said, no, we want them, the tilt rotor, the C-17.

This concept of oversight by those people who are involved in the appropriations process who have to make the decisions in terms of what are the line items we approve and what do we cut back is something I think I recall Senator Stennis did before us. And his colleague was Milt Young for years. They built up an expertise in defense and intelligence that was unheralded at the time. Actually, like it or not, our longevity succeeds several Secretaries of Defense, several CIA Directors.

And now the recommendation is that the appropriators be taken out of this process and that there be complete control in one committee of all of the processes, legislative, budget, and appropriations, and there at the same time be a czar of intelligence who would have control over the defense budget, as well as over all the budgets of any department or agency that has intelligence operations.

Now, that staggers me, and I would like to have you say how it impacts you. You have probably as much experience in this town as anyone else from the executive side. You do not have our longevity, but you should be happy about that.

Dr. HAMRE. If I am lucky.

Chairman STEVENS. It strikes me that the people who are suggesting this really do not have enough experience to make those suggestions. What do you think?

Dr. HAMRE. Sir, from a starting point, our greatest problem when you are in senior levels in Government is getting too narrow a basis to make a decision. So we have to find ways to broaden our base of making decisions. I personally think you need to have multiple channels of perspective when the President makes a decision, and the way in which you ensure objectivity is that these different departments have to come up here and report to different committees in the Congress. There is a down side to it, of course, but it is overwhelmingly positive to have different perspectives that you are accountable to up here in Congress. So the notion that we are

going to be better by getting a very narrow base of oversight is wrong in my view.

I think oversight on Capitol Hill, frankly, is weak when it comes to a lot of these issues. It was weak when I was here. So I am not excusing myself. But I do not believe that the solution to it is again a structural solution, combining the authorization and appropriation process. I actually think there is strength if these two different processes work the way that they were intended to work.

Now, my complaint is that over the last 20–25 years, all the authorizing committees feel that they are only powerful if they try to do what you do, and they have neglected what I think is the real base of their power and authority, which is to conduct policy oversight, the big picture, not the little pieces of the budget. Too much emphasis on oversight has drifted to budget detail. We need to have budget oversight. Do not get me wrong. That is what you do, what this committee does. But the other committees need to focus on the big picture, and they are not doing that. That is one problem. I do not think we solve our congressional oversight by combining authorization and appropriations processes.

I think these committees up here now are getting too big, and since I am a wise and discreet individual, I will only talk about the House.

There are 54 members on the House Armed Services Committee. All of the energy of the leadership is devoted to running the committee. You cannot do deliberation with a committee of 50. Have you ever testified over there in front of them? By the time you get through the second row, boy, you have run out of good questions, but you have not run out of questions.

I say this and I am going to alienate all my friends. I have got a lot of friends still sitting behind all of you on the staff, and I used to be staff and I loved my time up here working. But the committee staffs are too big. I have said publicly cut the size of the staff in half and pay all of your staff twice as much. That would be good. That would get us to focus on big issues, and I think that is what Congress is supposed to be asking.

Chairman STEVENS. Senator Byrd has left, so I am going to ask the questions that he had intended to ask. It sort of touches the same area. He wanted to ask this question. He says—and I am quoting his statement now.

“I share your concerns about consolidating authorization and appropriations powers into a single committee. I sit on both the Appropriations and the Armed Services Committee, and the functions of each committee are necessary for stronger oversight. Could you elaborate on your opening statement, what are the dangers of consolidating authorizing and appropriations powers?”

“There recently have been some discussions of creating a strong intelligence authorizing committee, along with a new intelligence appropriations subcommittee. What are the advantages and disadvantages to that?”

That is his quote. I would add to it that yesterday it was suggested to me that perhaps there should be a separate committee for Homeland Security. If intelligence is going to have these kinds of powers, then the Homeland Security people want a separate com-

mittee for legislative and budget powers and a separate subcommittee for Homeland Security. What do you think about that?

Dr. HAMRE. A number of questions you posed, sir. Let me start in reverse order. The oversight structure for the Department of Homeland Security is a mess. The Department has to come up here and report to 88 different committees and subcommittees. It will never become a Department when it has to come up to so many different places.

Now, the Appropriations Committee has done it the right way. You have designated subcommittees to handle it. I think that is exactly the right thing to do.

I think there ought to be streamlining on the authorization side, and frankly, that has not occurred and I think the effort ought to be on trying to get a cleaner structure of the authorization oversight for the Department of Homeland Security. I think there are three logical categories. I think there are border issues. There are law enforcement issues, and there are intelligence issues. Let us start with the idea that we have got three different committees of oversight and then find out if we have to go beyond that. But we definitely need to change the oversight.

I do not think that you would solve the problem that Homeland Security has by again creating a single omnibus committee that appropriates and authorizes. You ask, what is the risk if that were to happen? The risk is that we are not going to be doing both sides of the oversight function. We do need to oversee the spending of the Federal Government, but we also need to oversee the policies of the Federal Government. Right now, we are spending far too much time simply overseeing the budget. There needs to be more effort looking at the policies, the goals, the directions. How successful were you? We have given you x billions of dollars. What did we get out of it? How much safer are we? We spend far too much time every year looking at the little pieces of the inputs going into something, not the outcomes. And I think that that would be the great casualty if we were to do it.

And then I frankly worry that we narrow the base of accountability to the public when we have smaller numbers of committees that oversee the function of the executive branch. Your duty, on behalf of me and every other American, is to ask all the hard questions and ensure they are out in the public. It is harder in the intelligence process, of course. We cannot afford to have a narrower base of perspective coming to oversight. I think we need a broader base of perspective. That is what I would worry about, sir.

Chairman STEVENS. Mr. Watson, we both have questions of you. One of the proposals that is coming forth now is the new director of intelligence, the NID, who would have operational control over those elements of the FBI that are involved in counterterrorism and counterintelligence. That would mean that the same people would be taking orders from the NID who are also subject to the control of the FBI Director.

You have been involved in some of these things before. Do you believe the NID should be allowed to directly task FBI operational components, or should he ask the Director of the FBI to include specific assignments as he directs those components?

Mr. WATSON. Senator Stevens, the answer to that question is that in no way should the NID have operational control over any aspect of the FBI. Where I come out on this is that the NID should figure out the priorities for the counterterrorism program inside and outside the United States and task the agencies to identify the gaps and work on the priorities. That would be passed back to the operational entities within the Government. So if the NID wanted to know what is Hizbollah or Hamas doing in the United States, that task should be asked of the FBI, and the FBI should direct the right, appropriate resources to carry out that function and report back the results of that.

Chairman STEVENS. But under this proposal, NID has control of the money and he would give the money to that portion of the FBI that he controlled. It would be under the NID's control not under the FBI's control.

Mr. WATSON. I think it would be wise—and Dr. Hamre is a lot more familiar with the budget process than I am—for them to coordinate and unify the budget request but, at the same time, have no direct control over what monies or how they are spent.

That brings up an interesting question about reprogramming that has not been addressed or looked at, but that was a very difficult process for us in the FBI. We really wanted to get more analysts to work counterterrorism, but they were appropriated under the drug program. Trying to reprogram those individuals out of drugs back into counterterrorism or into counterintelligence was a difficult process.

But to answer your question, operational control should rest with the CIA. It should rest with FBI or any organization that has that mission and function on the broad base of things. Tasking, though, being able to request or order the FBI to gather taskings on identified priorities, I see nothing wrong with that. Control of the budget, though, certainly that gets into a fuzzy math area again about what is counterterrorism money as opposed to what the FBI does in Indian territory investigative matters or guards around the building at DOD. Are those counterterrorism funds or are they general funds for DOD?

So those are my answers to those questions. No NID operational control and the money should be retained but certainly coordinated with the NID.

Chairman STEVENS. Well, I have expressed the worry that those who are assigned to the functions that would be under the control of the NID would have less success in terms of upward mobility within the FBI itself, that they would not be part of the varied assignments that FBI people now get in various portions of the FBI. If they are assigned to counterterrorism and counterintelligence, that would limit their career progression. For the rest of the FBI, in terms of law enforcement and all the things we do in terms of overseas activities, the FBI would not be subject to this control. So it puts a portion of the FBI under the direct control of another entity in terms of both money and personnel and total assignments, and yet, they are still FBI. I think that is limiting as far as those people who end up in that section.

Do you agree with that?

Mr. WATSON. I think if you go back and look at the history of FBI agents being detailed to other agencies around this town in Government, that was always a career-killer in the past. If you pulled a detailed assignment somewhere else, that was viewed by your home organization basically as, well, you are out of mind, out of sight, and we are going to promote people that are here.

That started to change with Bear Bryant back in 1996 when I was tasked and I fought tooth and nail not to go over to the agency at CTC as the deputy operational chief because of that main concern. I think that is changing, and I think that continues to change. I think what the Director and Mobaganski and John Pistole are trying to do at this point in time is to make that a career-enhancing move. I do not see how the head of the FBI's Counterterrorism Division in the future or the Executive Assistant Director for Counterterrorism and Counterintelligence could really perform that function without a detailed assignment either to the agency to some other organization outside the FBI, because it gives you a perspective that you will never get anywhere else.

Chairman STEVENS. Senator Inouye.

Senator INOUE. Dr. Hamre, the commission recommends creating a National Intelligence Director and either a joint committee or committees with both authorizing and appropriating powers. For some reason, the senior members of the Appropriations Committee in the Senate—I cannot speak for the House—were never contacted by any member of the commission. And on that commission, there are two former very senior Members of the United States Senate who are rather knowledgeable about the process. They should have known, for example, that the Select Committee on Intelligence maintains a separate secure tank, in addition to 407. We are constantly involved in overseeing activities.

Doctor, Judge Posner has suggested that with the commission's recommendation, you may have an "over-concentration of the risk", citing for example that at the present time the concentration is on Islamic terrorism. Is that a valid concern?

Dr. HAMRE. I think very much so. I think people say we are at war with terrorism. Well, we are, but we have got a lot of wars going on. We are not free from the classic security challenges across the Taiwan Straits. We have got a serious proliferation problem in North Korea. We have got a marrying up of basic criminality and terrorists in the Balkans. We have got serious proliferation of chemical and biological technology around. We have got lots of problems, and to take and orient the entire intelligence community around one of them is, I think, a mistake because then somebody is going to point a finger if we drop the ball and get too preoccupied.

And we got too preoccupied in the cold war. Let us face it. The problem was the cold war ended 15 years ago, and we did not change adequately and quickly enough to look at a broader range of things. Our satellites were oriented around it. Our listening posts were oriented around it, et cetera. We have got to be far more dynamic and flexible, but we certainly should not be organizing the entire community around one of the wars that we have to fight.

Senator INOUE. Mr. Watson, do you agree with that?

Mr. WATSON. Yes, sir, I sure do. I totally agree. I think that the focus now is on counterterrorism, but as I said in the statement, Senator, I think if we can get this right, certainly we can focus at the same time with WMD. I think that is the threat of the future, the proliferation issue and the WMD issue. As we worry about attacks in CT, sometimes I get a feeling we are kind of overlooking that. So I agree with Dr. Hamre.

Senator INOUE. If my recollection is correct, the NID has the authority to set the budget but also to hire and fire. Is that correct?

Dr. HAMRE. Hiring and firing of senior people. It is not clear how far down that hire/fire authority would go, but it certainly would be to the senior people in the departments.

Senator INOUE. Should that extend to the military also?

Dr. HAMRE. Well, I do not think that is a good idea, period. I mean, if I were the Secretary of Defense and I had a combat support agency and I knew that the leadership of that agency was controlled by somebody outside of the Department, I do not think that is a good formula. I think that is a bad idea.

Certainly these are combat support agencies and they do involve military personnel. We do assign military personnel to work in non-DOD agencies and the evaluation of their performance goes to that agency. But we do not alienate our control over those individuals, and I do not think we should. We are going to have to continue to have an intelligence community that has very strong interconnections between the military and the civilian operations, day in and day out.

Chairman STEVENS. Would you yield there? I am informed that 40 percent of the money spent on intelligence is for that purpose, for the uniformed personnel who are designated and assigned throughout the other agencies, but they are still military personnel and their future is in the Department of Defense, not in the agency that they are temporarily assigned to.

Dr. HAMRE. I do not know the precise percent, but it does not surprise me. That sounds logical.

And you do not want to change that. We cannot afford to reproduce the intelligence capabilities in these national agencies and just bring them into DOD again. We cannot afford to do it twice. We ought to have them integrated. But that means then you just cannot take DOD out of the picture either.

Senator INOUE. Mr. Watson, one of the recommendations called for the establishment of national intelligence centers. I have done some research, and I find that at the present time we have a whole bunch of these national centers: Weapons Intelligence and Non-proliferation and Arms Control Center, a Counterterrorist Center, the Crime and Narcotics Center, an Infrastructure Protection Center, the National Drug Intelligence Center, the El Paso Intelligence Center, Directorate of MASINT and Technical Collection, the Terrorist Threat Integration Center, a Terrorist Screening Center, and the National Virtual Translation Center.

Are these current national centers not sufficiently empowered to carry out their mission or are they underutilized?

Mr. WATSON. I think the list that you read off are centers that were specifically designed for a specific project or tasking. TTIC, obviously, was one that you listed. I think the National

Counterterrorism Center would be a function very similar to TTIC. The National Infrastructure Protection Center was a center set up to try to focus the efforts on infrastructure protection, as well as cyber. They all work, some better than others, and that is a tendency in this town to, if you really do not quite understand all the issues or a problem, that you form up a center. It is almost like appointing a committee to study a problem. You are really admitting that you do not know what in the world to do. That is usually good for 6 to 9 months of time, and you come up here to the Hill and you say, yes, we have a committee looking into that.

Those centers function. I think they have some value added, but if we are looking at the national intelligence, the NID, and a National Center for Counterterrorism, I think you need that sort of focus and if you need to task back, you would task these centers.

Dr. HAMRE. May I comment on that, Senator?

Chairman STEVENS. May I interrupt, Senator? I unfortunately have to go. You were in attendance at the dedication of the museum yesterday. I did not get a chance to meet my people who were with you because we had hearings.

Senator INOUE. There were a whole bunch of them.

Chairman STEVENS. So I will have to leave, but I think Senator Cochran and Senator Bennett would like to ask some questions as soon as you are finished, if you would. Will you just make that statement when we finish, please? Thank you very much.

Dr. HAMRE. Senator, just to say, in the DOD world, the analog to these centers are joint task forces. We set up joint task forces in DOD all the time, and they are very useful organizational structures because they are able to reach into the military departments, pull together a tailored set of capabilities, and use them for a particular assignment or a particular need.

I think what they are recommending is an analogous situation in the intelligence community. I think that is probably a good idea. These centers are useful only really to the extent that they can draw on the depth and the breadth of the underlying institutions. So the centers are not a substitute for competence in the underlying institutions, but they can be a very powerful tool for bringing the best out of them for special projects or special needs.

So I actually think this was a dimension to the 9/11 recommendation. It is not a bad one. I think this idea is probably good. You just have to keep them from becoming artificial.

Senator INOUE [presiding]. The final question. I think all agree that if the people who are working on certain missions are happy, enthusiastic, and committed, they will do a good job—in other words, if the morale is high. Will the organizational, structural reform have any impact upon the morale of the personnel now serving us?

Mr. WATSON. If you are speaking about the morale of FBI agents working in field offices and resident agencies, I think that will not change whether there is an NID or whether there is a National Counterterrorism Center. Men and women and the professional staff are extremely proud of what they do and how they do it and need very little look-back to Washington for their gratification to do that. So I think the morale will stay very high, and I do not think that is a real issue for the bureau.

Dr. HAMRE. I agree with that basic statement. I would say this, though, that organizations take on the chaos if the leadership is confused or diverted. There is going to be a great deal of leadership chaos that is going to come through a massive redesign. Look what we have had in Homeland Security. That has a debilitating quality down in the field. Most of these people go to work every day so glad they are not in Washington and they want to do their job and they are proud of what they are doing and they know it is important. They are committed to working with others. They are frustrated sometimes by the bureaucracy and the systems we give them, but they are working hard every day. But if we create a lot of chaos in the leadership ranks—and frankly, that is going to flow here from a major redesign—that is going to be problematic. That will have an indirect affect on morale.

Senator INOUE. Thank you very much.

Senator Cochran.

Senator COCHRAN. Thank you.

I am concerned that we may get so involved and wrapped up in the nuances of the recommendation for reorganizing that we forget that there are some other unmet needs out there that may be more important. I notice that Mr. Watson has in his background some overseas investigations, the *Cole* bombing, the Khobar Towers, other activities that were very complicated and needed staffing and resources to get to the bottom of what happened and who was responsible and what could we do to prevent events in the future and maybe even, hopefully, bring to justice those who were responsible.

Could you identify some of the highest priorities? I am assuming we are going to continue to appropriate dollars for most of these activities. I cannot imagine this committee being deprived of that responsibility. Now, I could be wrong and we may have to vote on it. Language competence, training in techniques and technologies, equipment that may be needed, what are the higher priorities, as you may see them, Mr. Watson, with respect to counterterrorism activity?

Mr. WATSON. Senator, I am not real comfortable commenting on what the priorities are today, but I think you have hit the main ones. I think the Trilogy, or the automation process, I know the bureau is working on that, and I think they continue to need support in that area. But it is a little bit outside of my expertise at this point.

I will tell you, though, that you raised a very good point, and in the rush to whatever we are going to do or whatever the country is going to do on the intelligence side, it is not a negative to talk about having a strong capability to react to something bad that happens. You need a corps of people that can go in and figure out who did this, how they did this, and why they did this. At the same time, you need a corps of people to try to figure out how can you be proactive to prevent the next one or look at those two different balancing acts.

I would be very cautious about in any way reducing that capability of being able to figure out who did what to us when, and the FBI does a tremendous job, along with other Government agencies, to try to resolve that. If you reflect back to the Pan Am 103 bombing, initially the rush was that there was somebody else that did

that, and through hard work and investigative efforts, it was very clearly pointed out that the people we first thought did it in fact had nothing to do with it. So you need that capability and you need to fund that capability and you need to support that capability, but that is not what they should be focused on. I mean, it should be in the proactive area. It is a very good question, Senator.

Senator COCHRAN. Dr. Hamre, what is your reaction to that?

Dr. HAMRE. Well, sir, I personally think the largest unmet need or problem that we have is the gap in our consciousness between foreign and domestic. We know we have got that problem here and we have got to work through that.

But frankly, we have got that problem overseas as well. We tend not to look at criminality overseas as a national security threat and an intelligence threat, and it is. We know the terrorists use criminal networks as their logistics backbone. They do it in South America. They do it in the Balkans. They do it in Afghanistan. They do it in Iraq. And yet, that falls in different categories within our own organizations here. I hate to say it but my dear friends in DOD do not tend to care much about criminality overseas even though it is the backbone that is carrying the very guys that are shooting at them. They default to the law enforcement community for that.

That is a big thing we need to start focusing on. We really do need to integrate our perspective on how these networks, especially in a transnational era like we have now, really support each other. I think that is a need. That has fallen through the cracks. I really would welcome your attention to something like that.

Senator COCHRAN. Thank you very much.

Senator INOUE. Thank you.

Senator Bennett.

Senator BENNETT. Thank you very much.

Dr. Hamre, it is good to see you, good to hear from you, and you know of my affection and respect for you.

The dilemma I find myself in—I serve on the Governmental Affairs Committee, so I should be at the markup today marking up the bill. But instead, I am here because here is the dilemma.

The current chairman of the Senate Intelligence Committee, Pat Roberts, for whom I have enormous respect, has made a very strong recommendation about the powers of the NID. And by the way, I think that is a terrible acronym. It sounds like Dr. Seuss.

The NID wants this and the NID wants that. I much would prefer that you use the DNI. It sounds much more dignified.

But anyway, Senator Roberts is very firm about authority for the DNI that he wants to expand, and he is supported in his position by the immediate predecessor in that position, Senator Graham, a Democrat, and his immediate predecessor in that position, Senator Shelby, and his immediate predecessor in that position, Senator Specter. For me, that is very powerful medicine to have all four of the chairmen of the Select Committee on Intelligence saying this is what we ought to do, and I so voted in that committee.

At the same time, Senator Stevens and you, for whom I have equal respect and affection, are saying it is a terrible idea and we should not possibly do it. The one thing that I come down on with you and Senator Stevens that puts me at odds with the President is that we probably ought not to be making this decision this fast

and in this atmosphere. There is political hay to be made by stepping forward and saying, I am the one championing the 9/11 recommendations and we must do these immediately and then the political reaction to that is, well, I will do it faster than you could do it and I will get the political benefit of saying we can do this immediately.

I am very nervous about doing this immediately. I would like to see Senators Roberts, Graham, Shelby, and Specter sit down in the same room with Senators Stevens, Inouye, Warner, and Levin and see if we can resolve this.

You make reference in your testimony to the fact that the Department of Homeland Security is a mess. Of course it is a mess. When I voted for it, I said this will not work for at least 5 years. I was present, if you will, at the creation of the Department of Transportation, which is a piece of cake compared to Homeland Security. I was in the Nixon administration and we took over after 18 months. It was created by Joe Califano in the Johnson administration. It was in total disarray, and I do not say that to criticize the Johnson administration. That is just the way it was. It was not working when I left 2 years later as well as it needed to. It was working substantially better, but that was 3½ years later.

It is basically the same thing with Homeland Security. We took the Coast Guard out of the Treasury, we took the FAA as an independent agency, we took highways out of Commerce, we took urban mass transit out of HUD, and we pasted them all together in a Department which on paper looked terrific. And the bureaucratic initiative, being what it is, it took them 3½ years and frankly superb leadership by John Volpe and Jim Beggs to make that thing begin to work. And Homeland Security was much more difficult than that, which is why I predicted it would take 5 years before it would begin to work.

The Department of Defense, created in 1947, was a sufficient challenge that the first Secretary of Defense committed suicide. Now, I do not think that is necessarily directly related—but obviously, the problems of bringing all of this together contributed to it.

So I am willing to break with the President and say let us not do this before the election. I know he wants a signing ceremony in the Rose Garden prior to the election, and I know that if he does not get it, Senator Kerry will attack him. But there are times when you have to do the right thing, and it seems to me to do the right thing is to go a little slow on this one.

All right. Having made that overall speech, let me go to your comment. In your statement, you say the 9/11 failure maybe was not as big a failure as the commission liked to make us think it was.

Dr. HAMRE. Intelligence failure.

Senator BENNETT. Intelligence failure. And you talk about the other challenges we face, Taiwan, Bosnia, North Korea, et cetera.

It seems to me the biggest challenge we face, however, stems from our unique position, unique to us, if it is not unique in history, as the world's only hyper-power and what we call the asymmetrical threat, or in more traditional terms, guerrilla war. We are very fortunate that the Soviet Union, when it collapsed, did not de-

cide to engage in guerrilla war, just as we are enormously fortunate that when the Civil War ended, Robert E. Lee said, no more war, and he had the stature to see to it that the Confederacy did not melt into the hills and conduct decades-long guerrilla war against the Union, which they probably could have sustained and which would have been disastrous for the Union and for, of course, the other side. The interesting and tragic thing about guerrilla war is that it hurts the guerrillas every bit as much as it hurts the power they are going after.

But the asymmetrical threat I think is just another way of talking about guerrilla war, and we are faced with it on an international scale to a degree that no civilized nation has ever been faced with it. It is primarily an intelligence war. It is one where the Defense Department, no matter how powerful, is more or less helpless.

Step back from your testimony here, step back from the controversy over the NID, and share with us your long-term, overall big-picture view as the President and CEO of one of the most respected outfits in town, the long-term prospects of fighting guerrilla war, basically an intelligence war, and how our overall intelligence capacity should be structured and directed.

Dr. HAMRE. Sir, these are the key questions, and I am grateful that you have raised them and frankly think that this ought to be the subject of extended discussion both in private sessions and in public sessions in the Congress. I hope you do that.

In my view, the great problem we faced at the end of World War II were two big challenges. It was the rise of international communism and the collapse of the old political order that all of a sudden put lots of countries out into the international system, the old colonies, and we wanted to make sure they did not fall under the sway of communism. So we designed a strategy to deal with that.

So if I step back and say what the truly great strategic challenges we face right now are, I think it is a combination of four things.

It is the residue of all the weapons of mass destruction and the knowledge about them that is left over from the cold war, the stocks of stuff, and nuclear is being neglected. Nuclear is still overwhelmingly the greatest problem.

Second, it is the rise of these transnational organizations like al Qaeda that are willing and capable of operating in ways that in the past just did not exist.

Third, it is the irresponsible or incompetent nations that will give harbor to these organizations.

And fourth, it is the nature of very transparent commerce and transportation of this age. Things move so quickly across borders.

It is those four things in combination.

Senator BENNETT. The fourth is the vulnerability.

Dr. HAMRE. It is the vulnerability of an open society and the way we have lowered the barriers to movement. You know, when you go across Europe, you do not stop at a border. SARS shows up in one hotel in Hong Kong, and in 3 days it is in 14 countries. This is the nature of today's society. It is those four things together that represent the central challenge.

The centerpiece of coping with that is not going to be the military. I agree with that. I think the centerpiece of dealing with this complex new strategic national problem is going to be in the intelligence community.

Second, it has to be an intelligence community that has close and constructive relations with other intelligence organizations around the world. And by the way, one of the neglected worries I have about this debate is the way all of the liaison intelligence organizations around the world are scared to death that we are going to botch this. They are used to having good, constructive ties with the intelligence community, and they are scared to death of the way we are going to reorganize here and undermine a lot of that. So just quietly ask a few of those questions while you are in this process, sir.

Third, in all honesty, we have got to strike a balance between shooting the bad guys now and draining the swamp to get rid of alligators in the long run. That means we have got to put just as much focus on trying to soak up all the loose nukes in the world as we do on interdicting the movement of them. Both of them are indispensable functions. Unfortunately, we have got some people that only want to do arms control treaties, and we have gone some people who only want to stop ships on the high sea. We have got to do them both if we are going to cope with this.

But it all comes down to how good your intelligence capabilities are and having constructive relationships with all the other intelligence and law enforcement organizations around the world that are willing to share our vision. This is our central shared problem. The Spanish have this problem. They had it in Madrid and in Europe. I cannot figure out why that did not transform European thinking about this problem. I think it was convenient to fall back and hide behind their hatred on our posture in Iraq as a substitute in the near term.

So we have to develop this global perception and we have to have highly effective coordination of very competent intelligence organizations to help us maximize how we are going to react and try to stay ahead of this very pernicious threat that moves all around us and can tap into these very dangerous weapons. That is the threat that is going to be with me for the rest of my life, I fear. We hope we can win like we did the cold war. We did not know we were going to win that in 50 years when we started. I do not know when we are going to win this war, but we sure cannot back away.

So this is why I am so worried about fracturing the system and introducing such chaos. You talked about 3½ years of organizing the Transportation Department. Of course, that is extremely important. But every day we are at war in the intelligence world. Every day. Introducing a lot of chaos right now is dangerous frankly. That is why I think I agree with you completely. We should take the time to make sure we all understand what is going on here and then make a wise choice, not rush into it in the white-hot politics of a close Presidential election. There is a lot of risk here, sir, and that is why I think your bottom line, let us take the time to get this right, is by far the most important caution for all of us.

Senator BENNETT. My only other question is if the NID is in fact created, would you be available?

You do not have to answer that. But that demonstrates my regard for you.

CONCLUSION OF HEARINGS

Senator INOUE. On behalf of the Chair and on behalf of the committee, I say that we heard some excellent testimony this morning on the matter of intelligence reform. We appreciate the witnesses appearing before this committee and we value your candor, your knowledge, and your insights on the important subject. My only regret is that all of our members were not here, but as you are aware, we have many other conflicting assignments. But we will print the transcript and it will be shared with all the members of the committee.

So once again, I thank you very much, and the hearing is recessed.

[Whereupon, at 12:13 p.m., Wednesday, September 22, the hearings were concluded, and the committee was recessed, to reconvene subject to the call of the Chair.]

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