

Statement of Frederick P. Hitz, Lecturer of Public and International Affairs, Woodrow Wilson School, Princeton University, before the Joint Intelligence Committee of the U.S. Senate and U.S. House of Representatives investigating the events leading to the attacks of September 11, 2001.

Thank you for inviting me to appear today. I want to talk about three disparate but connected subjects related to the way the U.S. Government goes about collecting and processing intelligence information about terrorism and terrorists. The first deals with the increasing overlap in missions between the CIA and the FBI in pursuit of the terrorist threat. The second points to several obvious ways in which statutory authority underlying the charter of the intelligence agencies to operate in this sphere must be changed to reflect the new reality. Finally, I should like to comment as a university lecturer on the appeal or lack thereof of government service to the current generation of university graduates, and what we might do about that. We all agree that terrorism will challenge the United States in some fundamentally different ways from national security threats in the past and we want our best and brightest to be drawn into this effort.

First, some scene-setting. In this short review, I am indebted to my colleague, Greg Treverton of RAND, who made remarks on this subject recently at the annual conference of the Canadian Association for Security and Intelligence Studies in Ottawa. Mr. Treverton pointed out that in the struggle against terrorism, old-fashioned distinctions between the roles of intelligence agencies such as CIA, and law enforcement such as the FBI, simply do not work. The notions that intelligence work in this area means secret, overseas and designed for the edification of policymakers exclusively no longer obtains. On the contrary, in counter terrorism operations, the CIA may be held to the evidentiary standards of the court room in terms of the

quality of its reporting. The FBI is increasingly being tasked to obtain intelligence information before the perpetration of a terrorist act, rather than merely piece together what happened and who did it after the fact. Finally, law enforcement is being challenged to meet the intelligence needs of policymakers, as well as prosecutors and the courts, and do it over the broad range of challenges that a war on terrorism entails rather than on a case-oriented basis which has been their method of operation heretofore.

This is a tall order of change for the CIA and FBI and in many ways represents the reworking of a lifetime of habits which will not happen overnight. Little wonder there has been so much talk of “connecting the dots”. Considering the traditional core missions of CIA and the FBI, there have heretofore been strong reasons in both agencies never to connect the dots between them. Grand jury secrecy and prosecutorial fiat limited what FBI agents could say to others about current cases; and “need to know” and the principle of compartmentation inhibited the intelligence agencies. In addition, the National Security Act of 1947 specifically prohibited CIA from exercising “domestic law enforcement powers”. Finally, the FBI and CIA have a fifty-five year history of intense rivalry and suspicion to overcome. J. Edgar Hoover sought to strangle the fledgling CIA in its crib in 1947, seeking initially to retain his overseas deployments in Latin America, and to tightly constrain CIA collection and counterintelligence activities in the U.S. even when there was a foreign nexus. As a junior clandestine services officer at CIA in the 1960s, I remember having to go through a single focal point at the FBI to obtain information: S.J. Papich. I’ll never forget the name and will always wonder if there ever was such a creature. In those early days there was little chance of developing personal professional relationships and many opportunities for misunderstanding.

So I applaud the steps CIA Director George Tenet and FBI Director Robert Mueller have taken to further break down cultural barriers between the two agencies by exchanging personnel between them to work on counter terrorism. It only remains for this committee to suggest ways to streamline and rationalize the current overlap of responsibilities between the intelligence and law enforcement communities on counter terrorist matters to minimize needless rivalry and duplication of effort. I note the Attorney General has just issued guidelines governing the way grand jury testimony is to be shared with the intelligence agencies in terrorist cases under the USA PATRIOT Act. Rules of the road will have to be established in other areas affected by the Act as well. Perhaps something along those lines will be forthcoming in the surveillance area, emanating from the current appeal of the FISA Court decision to constrain the permitted use of FISA permissions in terrorist cases. Do we currently have a clear notion of how the newly expanded network of legal attaché offices abroad works with CIA Stations in the field on counter terrorist cases? These and other areas of overlapping responsibility need to be rationalized, while CIA case officers continue to learn the heightened requirements of supplying intelligence to evidentiary standards while still following unsubstantiated hunches when their gut-knowledge of the culture dictates it. Likewise, FBI agents must appreciate the value of target analysis for pre-emption purposes as well as the need to build a probative case for apprehension of the bad guys and eventual trial.

I strongly believe and have advocated in an article in the 25<sup>th</sup> anniversary issue of the Harvard Journal of Law and Public Policy last spring, that certain changes and clarifications must be sought in the laws and practices surrounding intelligence community involvement in domestic law enforcement activity as concerns counter terrorism. The most important

remaining issue, in my judgment, now that there appears to be some movement in clarifying some of the provisions of the USA PATRIOT Act on sharing grand jury testimony and FISA permissions is to amend or delete the prohibition on CIA involvement in domestic law enforcement activities contained in the 1947 National Security Act establishing the CIA. It is clear to me that with passage of the USA PATRIOT Act, if it was not manifest before, that in counter terrorism operations, CIA is sitting at the elbow of domestic law enforcement and supplying intelligence information, assistance and expertise relating to the foreign provenance of terrorist planning and implementation, as it should do if we are to be successful in preventing future 9/11 attacks. The problem is this is domestic law enforcement activity if it is intended to build a case for eventual trial in U.S. courts and is currently not permitted under the 1947 Act.

Finally, I want to say a few words touching on my current responsibilities. Each of you should be proud of the response to the events of 9/11 on the university campuses at which I teach, Princeton and the University of Virginia. I have students visiting me every day seeking help in getting their resumes to the intelligence community, law enforcement and the armed services for summer jobs, internships and permanent employment. I am supervising five undergraduate theses this year on subjects relating to the war on terrorism, historical or prospective, and have had to turn down others. Several of my students have begun the study of Arabic over the summer and are continuing it during this academic year. What concerns me is that the U.S. Government in the past has been notoriously poor in capitalizing on this outburst of patriotic enthusiasm. I read the statistics of government being overwhelmed by the growth in interest and applications for employment post 9/11 in the national security area. I can understand and

sympathize with the difficulty of dealing with the numbers. To me, however, it is so important that we capitalize on this renewed interest in public service among American students. Every person on this committee is aware of the frightening statistics reflecting the eligibility for retirement of large numbers of current federal civil servants over the next five years, with no identifiable replacement cadre in the wings. I believe Washington should respond to this quiet crisis in three dramatic ways to take advantage of the 9/11- induced interest in federal service that I see among my students:

1. Radically increase the number of summer internships that are available for qualified students in the intelligence/law enforcement arena. Students are leery about the heavy hand of bureaucracy, although they are fundamentally interested in public service. Internships allow government to look over potential new recruits without a final commitment, and more importantly, students can see how government works and get hooked on the business under the same conditions.
2. Increase federal pay. Although pay won't be the deal-breaker in most instances that keeps a student from coming to work for the feds, government salaries have slipped far below private sector salaries for the best students. Moreover, many of our ablest graduates have substantial student loans which they need to pay off, and it is clearly a factor in their decision-making, if there are other offers and the government opportunity isn't clearly overwhelming.
3. Halt the derogation of government service. For nearly a generation now, it has been a tactic common to both Republican and Democratic candidates for the highest office

in the land that Washington DC and the federal civil service have become the enemy. That view has made skeptics of my students. It is demonstrated yearly in the stats which reflect the job choices of Princeton Masters of Public Administration graduates who in significant numbers are choosing work with Non-Governmental Organizations, NGOs, or international organizations such as the World Bank, over the U.S. Government! They want to work in the public sector but are afraid of what they believe the Washington bureaucracy has become. This misapprehension must be corrected and the patriotic climate created in the aftermath of 9/11 is the perfect time in which to attempt it.

Thank you for allowing me to express my views.