

**REFORM OF THE UNITED STATES INTELLIGENCE
COMMUNITY**

HEARINGS

BEFORE THE

**SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE**

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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AUGUST 18 2004 AND SEPTEMBER 7, 2004
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REFORM OF THE UNITED STATES INTELLIGENCE COMMUNITY

DAY ONE

WEDNESDAY, AUGUST 18, 2004

UNITED STATES SENATE,
SENATE SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Committee met, pursuant to notice, at 2:41 p.m., in room SH-216, Hart Senate Office Building, Hon. Pat Roberts (Chairman of the Committee) presiding.

Committee Members Present: Senators Roberts, Hatch, DeWine, Bond, Snowe, Hagel, Chambliss, Rockefeller, Levin and Mikulski.

OPENING STATEMENT OF HON. PAT ROBERTS

Chairman ROBERTS. The Committee will come to order.

Today the Senate Select Committee on Intelligence meets in open session to continue our examination of intelligence reform issues. Since the Congress adjourned on July 22, 11 committees have held or intend to hold a total of 21 hearings on the topic on intelligence reform. I welcome my colleagues on other committees as they begin to examine the issues with which this Committee has wrestled for over 27 years.

As anyone who is familiar with the intelligence community well knows, it reaches across many government agencies and disciplines. So it is appropriate that other committees within the Senate and House take an interest in the facets that touch upon their respective areas of responsibility. We agree with that.

There is, however, one committee whose jurisdiction and mandate encompasses every facet of this topic, and that is the Senate Intelligence Committee. It is this Committee that must weigh not only the interests of the national users of intelligence, but also the military users. We must, by necessity, balance the needs of each without presuming the primacy of either.

As this Committee has attempted reforms over the years, many of which were intended to accomplish the same goals that we are discussing today, we have found that other committees of jurisdiction often hold the keys to success. It is with that in mind that we intend to work very closely with our counterparts on the other committees to ensure that they have the full benefit of this Committee's long history and experience and also professional staff expertise.

As I stated publicly on Monday before the Government Affairs Committee, we are working to draft legislation that we will share

with the appropriate committees when we have reached general agreement among our own ranks. I believe we can accomplish that within a relatively short, short period of time.

Our goal is to address the major concerns outlined by the 9/11 Commission to implement their goals as well as those of the joint and Senate-House inquiry into 9/11, and our report on prewar intelligence on Iraq and this Committee's experience over the past two decades. Translating those important ideas, some of which are long overdue, into legislative language is very complicated, however. As they say, the devil is in the details.

As members of this Committee well know, the missions of the intelligence community are as diverse as the 15 intelligence community members themselves. While counterterrorism rightly stands foremost among our concerns, we must not legislate reform that hardwires an intelligence community to fight a single threat, as we did with the cold war.

Terrorism will not be the last threat that this Nation faces. Therefore, we must provide a legal framework and provide ample resources to allow the executive branch the flexibility required of the demanding and changing threats. Congress should then be prepared to provide its required oversight. Our ability to do so effectively should also be examined closely, as recommended by the Commission.

In this discourse on reform, many of the terms used to craft the "lanes in the road" and justify the missions of any particular agency are ambiguous, even to the experts, and some may even be obsolete. I would challenge anyone to clearly define the boundary between national intelligence and military intelligence or where the strategic intelligence ends and the tactical intelligence actually begins.

The light infantry forces fighting us in Vietnam were a tactical concern. The light infantry forces fighting us in Tora Bora in Afghanistan are of national interest in our global war on terrorism. The small boat that killed 18 of our sailors on the USS COLE may have been a tactical concern to the commander but it was of great strategic concern to our national policymakers. How we consider tactical elements both as consumers and collectors of intelligence, and vice versa, for national entities is central to much of this debate.

We must also seriously discuss whether the constructs of the past have any meaning for the future. By this, I am referring to the primacy of the Department of Defense vis-à-vis the defense agencies, such as the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the Defense Intelligence Agency.

Why would a national intelligence director with actual budget and line authority over these agencies be any less responsive to the needs of the Department of the Defense than the Secretary of Defense? They both must answer to the same President and achieve jointly the same goals. I suspect the answer lies in realizing that easy separations are no longer feasible. This will provide even further impetus to breaking down institutional structures, biases, and cultures. We often refer to those as stovepipes.

These divisions exist not only between agencies, but between the concepts of strategic versus tactical and national versus military. Reflecting these ambiguities and divisions are intelligence budgets which are often similarly very vague. The National Foreign Intelligence Program, or NFIP, funds all non-DOD intelligence activities as well as four national entities that reside within the Department of Defense.

The Joint Military Intelligence Program, or JMIP, funds the DOD-level activities of interest to more than one service or the unified commands. The military services Tactical Intelligence and Related Activities, or TIARA, fund their individual intelligence activities. Yet JMIP and TIARA monies also help fund national agencies. Budget lines are often as fuzzy as functional lines.

As we deliberate granting further NFIP budget authorities to a national intelligence director, we must be certain to understand the often-nuanced ramifications to the Department of Defense's other intelligence budgets, the JMIP and also TIARA. We must also clearly understand what budget authority means and how we intend to distinguish it from the authorities already granted the Director of Central Intelligence in the National Security Act of 1947. I would repeat that: already granted the Director of the Central Intelligence in the National Security Act of 1947.

Underlying actual statutory authorities is a bureaucratic and political dynamic and, as General Myers said yesterday before the Armed Services Committee, a corporate culture that I believe we will never be able to legislate away. In other words, we should be realistic in what we can expect even if we make significant changes and how long it will take for those changes to work their way down to the working level, i.e., to the warfighter or that intelligence agent or that intelligence analyst.

The fact that such changes will take time to effect is, however, only more reason for Congress to act quickly. One thing is certain: We are in a window of opportunity that should not be squandered. Rarely does the President and the entire Congress focus on a single issue with such intensity.

If the elected officials of the executive and legislative branches of government are once again unable to change the bureaucracies that they manage and oversee, respectively, we have done a grave disservice to the people who bestowed this high honor upon us. I hope that today's hearings will illustrate that necessity and provide further insights into these very difficult issues.

So today we welcome Dr. Amy Zegart, Dr. David Kay and General Charles Boyd. All have extensive backgrounds in national security and intelligence issues. All bring different experiences and views of these same issues. Because none are currently serving in the government, all are what we call disinterested parties with a great deal of expertise.

The members have full bios for each in their binders. Those are at tabs B, C and D, I would tell my colleagues.

Dr. Amy Zegart is currently an assistant professor at the UCLA School of Public Affairs and author of the book, "Flawed By Design: The Evolution of the CIA and the JCS and the NSC."

Dr. David Kay is a very well-known witness to this Committee, as an expert on counterproliferation issues, most recently as the

head of the Iraq Survey Group. I should mention that both Dr. Kay and Ms. Zegart were profiled by the National Journal as key experts in the ongoing debate for intelligence reform.

General Charles Boyd, United States Air Force, retired, brings his valuable experience as the executive director of the Hart-Rudman Commission, as well as hard-won experience from 35 years of active duty service, which included 2,488 days as a prisoner of war.

Let me say this on behalf of General Boyd. We've had the Bremer Commission, we've had the Gilmore Commission, we've had the CSIS study, we've had the Aspin-Brown Commission and we have had the Hart-Rudman Commission. General Boyd somehow—somehow—with a magical ability to bring people together, got Julian Bond, Newt Gingrich, Warren Rudman and Gary Hart all to work together. This is no small achievement.

We thank our witnesses for being here today. Before I turn to our witnesses for any opening statement they wish to make, I recognize my distinguished colleague and friend, Vice Chairman Rockefeller.

STATEMENT OF HON. JOHN D. ROCKEFELLER IV

Vice Chairman ROCKEFELLER. Thank you, Mr. Chairman. My remarks will be brief and deal more with process.

I also welcome our witnesses today, one of them back for the third or fourth time, and I honor their service and their experience. Dr. Zegart, you were on the National Security Council, weren't you?

Dr. ZEGART. Yes.

Vice Chairman ROCKEFELLER. See, that's not necessarily—if you're a UCLA law professor, people don't make the quick jump to NSC, but that becomes a very important part of your expertise, so there's some questions I want to ask you.

The Chairman I think has been very good in making sure that we get started on this. We got started on this actually before we went out of session, we had a hearing on reform. I think, like all of my colleagues, we have looked over the 9/11 Commission book, read it, looked at the reform proposals, and I think probably for the most part agree with many of them, making up our minds about some of them and listening to experts like yourselves to help us get closer to the rest.

We've also looked at proposals offered by Senator Feinstein, Senator Snowe, Representative Harman, and others both inside and outside the government. Our hearings and those held by other committees have been invaluable to looking at those relative merits in terms of the 9/11 recommendations.

So in terms of process, as the Chairman has indicated, over the days and weeks that are before us, I'll be working with the Chairman, also with members on both sides, committee members, to pull together what we achieved in our first report, which was a bipartisan consensus, which doesn't happen very often around here, but did happen on WMD, which was not necessarily an easy subject.

We had a 17-to-nothing vote because we just got together and decided we were going to put other interests above whatever small disagreements we might have.

We have to restructure. We have to strengthen our intelligence community. We know that.

I've already shared with the Chairman, for my part, my views—written views—as well as my colleagues on the democratic side—my views on what the 9/11 Commission's are like: Do I say, “yes”, “no”, “maybe”; yes, but modified; no, but modified, to list those out, to give a sense of at least how I come down on some of them so far.

I know that the Chairman also is in the process of writing or has written either a bill or a list of principles and recommendations. I look forward to getting those soon so that I can see where our views are common and we can continue our discussion.

But it's not just a discussion between the Chairman and the Vice Chairman. It's a question in that the Intelligence Committee has general responsibility for oversight. It's what do all of our colleagues think. This is a process that clearly, in order to achieve a bipartisan consensus, we have to go through and take very seriously. The Chairman and Vice Chairman have certain things they can do, but one of the things that we cannot do is make decisions on behalf of our colleagues, and we don't wish to because we want to have a bipartisan consensus on this.

So we have to bring our collective expertise and judgment to the ongoing reform debate in the Senate and to the Congress as a whole.

The Senate leadership, as the Chairman pointed out, asked the Government Affairs Committee to take the lead in drafting reform legislation. I've talked with both Susan Collins and Joe Lieberman, and pledged to them—twice, actually, now—and pledged to them our assistance as this legislative process moves forward, because we want to be helpful. We want to help shape the debate. We are a part of the debate formally by resolution and also, obviously, by the expertise of the Committee. Both agreed that our Committee has a very strong place at the table during these discussions.

I'm hopeful, and I believe that the Chairman shares my hope, that our Committee will be in a position to share with the Government Affairs Committee the fruits of what we collectively, as a committee, think when the Senate reconvenes next month, or shortly thereafter. That's easier said than done. There's a convention coming up. People are still away in some cases. So there's a lot of pressure on us to bring ourselves together.

I think it's not going to be actually as difficult a process as I would have expected. The Chairman and I agree on a great deal. We've already found that out. I think that there will be a lot of agreement, and then there will be some argument.

But the bipartisan consensus is very, very important to both the Chairman and myself. It's what allows things to stand out around here. And tasking ourselves, you know, if the Congress and the President can't reach agreement on meaningful reform, then what are we here for?

Some people say, “Well, we're trying to make a show of it in August.” Yes, we're making a show of it in August. But it's more than a show; it's laying a predicate. When you take actions by holding committee hearings, by inconveniencing folks like yourself to come

and testify before us, we prepare ourselves for this, we do our commission homework, which is basically what we've been doing.

I didn't even go to our national convention, but just stayed home and worked on the 9/11 Commission, because I thought it was—not more important, I guess—but yes, more important, maybe, in that the outcome in one is fairly certain and the outcome in the other is relatively uncertain.

So we have to do our job or we will have failed the American people. That is not something that Chairman Roberts and I choose to do.

I thank the Chairman.

Chairman ROBERTS. Let me just say that I want to thank my colleague. I think we burned the phone lines down in the last 2 weeks and we've met individually. I appreciate his summary in regards to what the 9/11 Commission has suggested and polling his membership. I've shared that with our side.

I might add that we are also working with the administration, and that is a work in progress. Our national security director, Ms. Rice, has indicated there will be mechanisms that will be made public, and we've urged her to do that. We have shared sort of an idea, in regards to what we both believe, with the administration. We have done that with the leadership. As the Vice Chairman has pointed out, we have done that with Senator Lieberman and Senator Collins and the Government Affairs members.

We're also doing that in reaching out to the staff members of the 9/11 Commission and that of the families. While there are a lot of, I guess I would say, players or moving parts here that have to come together to fit what we hope is realistic and credible and practical intelligence reform, we are reaching out as best we can.

We're doing so because we know we have 22 excellent professional staffers and we have a history in regards to the prewar intelligence report on a 17–0 vote. We think we can get this job done, and we think we can be a positive influence in this business.

With that, we would like to recognize first Dr. Zegart and then Dr. Kay and then General Boyd.

Dr. Zegart, welcome to the Committee.

**STATEMENT OF AMY B. ZEGART, ASSISTANT PROFESSOR,
DEPARTMENT OF PUBLIC POLICY, SCHOOL OF PUBLIC
AFFAIRS, UNIVERSITY OF CALIFORNIA, LOS ANGELES**

Dr. ZEGART. Thank you, Mr. Chairman, Senator Rockefeller, distinguished members of the Committee. It is an honor to be here today. This Committee has done extraordinary work in highlighting critical problems in the intelligence community and in leading the path toward reform.

I am an assistant professor at UCLA. I have been researching and writing about the intelligence community for a decade now. I have written one book on organizational problems in the CIA and I am currently writing a book about why the intelligence community adapted poorly to the rise of terrorism after the cold war. As Senator Rockefeller mentioned, I worked on the National Security Council staff as a consumer of intelligence.

Mr. Chairman, I have submitted more extensive written remarks. Today I would like to briefly touch on three main points.

The first is, as you mentioned, the fleeting opportunities for reform, the second is the need for structural overhaul, and the third is the critical importance of cultural change. The bottom line is that structural reform of the intelligence community is crucial, long overdue and not enough.

Mr. Chairman, as you so astutely mentioned in your opening remarks, major overhauls to our national security apparatus are extremely difficult and rare. The National Security Act of 1947 took 4 years to pass and succeeded against overwhelming opposition and great odds. The New York Times called it a brass-knuckle fight to the finish.

Reforming the Pentagon, as you know, took nearly 40 more years, despite the grave stakes we faced during the cold war and the fact that critical organizations were well known. As Secretary Powell once put it when I spoke to him, the performance of the JCS before its reform in 1986 could only be described, and I quote, "as barely adequate."

As you know, in the past 57 years, despite the great efforts of this Committee and more than 40 different studies of the intelligence community recommending reform, no President and no Congress has succeeded in overhauling our intelligence system.

History's lesson is to make the most of reform opportunities when they arise because they do not arise often and they do not last long. We have one of those rare windows of opportunity now. If the past is any guide, there will not be another chance for a generation. These realities mean that reforms should be sweeping, because they will be lasting. The choices you make will be with us all for decades to come.

Mr. Chairman, let me turn briefly to structure. Stacks of intelligence studies over the past 50 years have examined a number of diverse issues but have reached stunning consensus on one point: The director of central intelligence needs help.

The National Security Act of 1947 gave the DCI two jobs, as we know—running the CIA on the one hand and managing the entire community on the other. But it did not give him the power to do both of these jobs effectively. Now there has been great debate about whether fixing this problem is best done by allowing the DCI to keep his two hats and bolstering his power or by creating a new director of national intelligence, separate from the CIA.

Let me put three thoughts on the table.

First, Mr. Chairman, as you mentioned, the devil lies in the details. For either approach, success hinges on giving either an empowered DCI or a new director of national intelligence much greater budgetary authority, greater personnel authority and the staff and systems capabilities to make use of these legal authorities. These are must-haves for reform.

Second, no organizational structure is perfect. Grappling with the weaknesses inherent in each approach is crucial, not only for selecting a new intelligence structure but for maximizing its effectiveness as well. Anticipating problems is one of the best ways of avoiding them. Knowing that your car tends to veer off course helps you keep it on the road.

In particular, I believe that separating the community head from the CIA has drawbacks that may be less obvious than the benefits.

One concern is that a director of national intelligence who is not tied to the CIA will be more likely to view intelligence needs and assets through tactical lenses.

Now let me be clear. Tactical intelligence that supports the warfighter should always be a priority; I think everyone can agree about that. The question is, how much of a priority? Our system has a natural gravitational pull toward providing tactical intelligence, a pull that has only grown stronger in recent years with the marriage of intelligence and precision-guided weaponry as we've seen in Iraq and Afghanistan.

But in light of our strategic intelligence failures related to 9/11 and Iraq, we need to consider seriously whether a DNI, a director of national intelligence, will be able to strike the right balance between national intelligence and military intelligence.

A third consideration, and I believe this is an important one, is that both of these solutions offer a vast improvement to keeping the current flawed structure intact.

Let me turn briefly to culture. Organizational culture is the silent killer of innovation. Building new organizational arrangements with more people and more power will not make us safer if intelligence officials still view the world through old lenses and hoard information in old stove pipes. Fixing the cultural pathologies that have crippled our system is hard, but it is not impossible. Legislation can help.

Two good first steps would be to change training and career incentives. The FBI faces a daunting cultural challenge: transforming its crime-fighting culture into an intelligence one. Our nation's best-known law enforcement agency must somehow teach itself not to think like one. Training programs are crucial in this effort. Today, however, counterterrorism training constitutes only 2 weeks out of the 17-week new agent course at Quantico. Now, that's more than it used to be, but it is still less time than new agents get for vacation in their first year.

Then there is the unspoken 11th commandment of intelligence: Thou shalt not share. Here, too, a large part of the problem is cultural. As this Committee knows well from its investigation of our analysis in Iraq, reluctance to pass information across agency lines is deeply ingrained, based more on habit and values than policy or organization charts. Here, too, training is key. Creating a one-team approach to intelligence requires developing trust and building informal networks between officials in different agencies.

Now, this is best done by cross-agency training programs early in officials' careers, before they become good and indoctrinated into the stovepipes. By current policies, however, most intelligence professionals can spend 20 years or more without ever experiencing a community-wide training program. Institutional bridges will always be hard to build and information always hard to share when one side does not trust or understand the other.

Now, several past reform studies have recommended improving information sharing by requiring the rotation of personnel across intelligence agencies. This has not happened. Several years ago, DCI Tenet issued a directive requiring that officials do a rotational tour in another intelligence agency to get promoted. According to

senior intelligence officials, every single agency in the community, including the CIA, ignored that directive.

Taking temporary assignment in another agency is still viewed as a career-limiting move. Here's what one senior intelligence official told me: "I often think of writing a vacancy notice for temporary detailees to the agency that says only stupid people doing unimportant work need apply."

Now, the 9/11 Commission has recognized the seriousness of these problems, but has recommended a solution that I believe will not solve them. It has proposed that the new director of national intelligence set policies for education and training and facilitate assignments across agency lines. Now this is good in theory. In practice, however, it leaves too much work for a new official whose other job responsibilities include advising the President, managing the entire community, creating a unified intelligence budget and overseeing new national intelligence centers. It does not take much to see which duties will come first.

Instead, intelligence reform legislation should explicitly require the establishment of community-wide training programs early in officials' careers and legislation also should make rotational assignments to other intelligence agencies a requirement for promotion.

I cannot stress this enough. As the 9/11 Commission and so many others have concluded, a similar provision in the Goldwater-Nichols Act transformed the culture of the Defense Department from a service-first attitude to a truly joint outlook.

Mr. Chairman, successful intelligence reform must change more than the organization's structure. It has to change the minds of those who work inside it.

Thank you.

[The prepared statement of Dr. Zegart follows:]

PREPARED STATEMENT OF DR. AMY B. ZEGART

Mr. Chairman, Senator Rockefeller, distinguished Members of the Committee, it is an honor to be here today to discuss reform of our nation's intelligence system.

My name is Amy Zegart. I am an Assistant Professor in the School of Public Affairs at the University of California, Los Angeles (UCLA). For the past decade, I have been researching and writing about the Intelligence Community. I have written a book about organizational problems in the CIA and other agencies called *Flawed by Design: The Evolution of the CIA, JCS, and NSC* (Stanford University Press, 1999). I have worked as a consumer of intelligence on the National Security Council staff. And I am currently writing a book about why the Intelligence Community adapted poorly to the rise of terrorism after the Cold War ended.

Mr. Chairman, my remarks cover three main points:

- The fleeting opportunities for reform;
- The need for structural overhaul; and
- The importance of cultural change.

The bottom line is that structural reforms are crucial, long overdue, and insufficient.

INTELLIGENCE REFORM OPPORTUNITIES ARE FEW AND FLEETING

Major overhauls of national security agencies are difficult and rare. The National Security Act of 1947, which created the CIA, National Security Council, and unified the military services under a single Department of Defense and Joint Chiefs of Staff, took 4 years to pass and succeeded against great opposition and long odds; *The New York Times* called the political battles between the military services a "brass knuckle fight to the finish."

Completing the job at the Pentagon took nearly 40 more years, despite the grave stakes we faced during the Cold War and the fact that critical organizational problems were well known. Although Democrats and Republicans alike issued major

studies and repeated calls for reform, it took four decades of pressure and the convergence of a number of extraordinary circumstances—including a string of rapid-fire operational problems in Iran, Beirut, and Grenada; the unprecedented push for reform by two sitting JCS members; and a determined campaign by key Congressional champions—to win passage of the landmark Goldwater-Nichols Defense Reorganization Act of 1986.

As you know, in the past 57 years no President and no Congress, despite the great efforts of this Committee and more than 40 studies recommending reform, has succeeded in overhauling our intelligence system.

This is no accident. Problems in national security agencies are extremely hard to fix, even when they are clear, stakes are high, and danger is imminent. Three reasons explain why.

(1) *No Organization Changes Easily On Its Own*

Even businesses, which are blessed with few management constraints and the knowledge that they must adapt or die, fail to respond to shifting environmental demands at surprising rates. Nearly a third of the 5.5 million businesses tracked by the U.S. Census over a 4-year period in the 1990's did not survive.¹ In the past 3 years, more than 200 major corporations have declared bankruptcy, including United Airlines, K-Mart, Global Crossing, and Bethlehem Steel.

Government agencies are even less able to make internal changes. The Army kept a horse cavalry until World War II. Compared to firms, government agencies have more limited resources, less managerial discretion, and are hardwired to perform routine tasks in standard ways rather than nimbly responding to changing demands.² For example, this Committee's Joint Inquiry learned that the CIA failed to watchlist Khalid al-Mihdhar, one of the September 11th hijackers, for 18 months before the attacks, even though the agency suspected al-Mihdhar was an Al Qaeda terrorist and knew he held a multiple entry visa to the United States.³ The simplest explanation for this failure is that the CIA was not in the habit of watchlisting terrorists. For 50 years, Cold War priorities, thinking, and procedures were not geared to keeping foreign terrorists out of the country. When the principal threat to American national security changed, the Intelligence Community was naturally slow to change with it.

(2) *Rational Political Interests Do Not Favor Reform*

By rational political interests I do not mean coldhearted calculations or selfish intentions. Rather, the idea is that sober-eyed elected officials who want to maximize the benefits they provide to their constituents do not have strong incentives to expend the enormous amount of time, energy and political capital that intelligence reform requires.

Presidents have good reason to consider the effectiveness of the Intelligence Community. The problem is that Presidents are short on time, have only so much political capital, few formal powers, and long agendas. In fact, no President since Truman has tackled major intelligence reform and only one, Eisenhower, ever took the lead in seeking a major restructuring of the Pentagon. Instead, Presidents have tried to mitigate the worst organizational problems they face in lower-cost ways, by creating new agencies through unilateral Executive action. The National Security Agency, and more recently the Terrorist Threat Integration Center, both were created in this fashion. Unfortunately, this approach may only make coordination problems worse. As Nobel laureate Herbert Simon noted, the more organizations there are on the scene, the harder it is for the entire system to change. Tight coupling between government agencies means that changes must occur in multiple places at once to produce results.⁴

As you know far better than I do, legislators do not win landslide elections by delving into the arcane details of intelligence agency design. Intelligence reform is a burning issue for a dedicated few like yourselves. But the fact is, intelligence reform is not usually a burning issue for Congress as a whole. And in the past, it has been stymied by opposition from members of the Armed Services Committees who

¹ Howard Aldrich, *Organizations Evolving* (London: Sage Publications, 1999), p.262.

² See in particular Joel Aberbach and Bert Rockmart, *In the Web of Politics: Three Decades of the U.S. Federal Executive* (Washington, D.C.: Brookings, 2000); James Q. Wilson, *Bureaucracy: What Government Agencies Do and Why They Do It* (New York: Basic Books, 2000).

³ Eleanor Hill, "The Intelligence Community's Knowledge of the September 11 Hijackers Prior to September 11, 2001," testimony to the Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence, September 20, 2002, p.6.

⁴ Herbert Simon, "Public Administration in Today's World of Organizations and Markets," John Gaus Lecture, American Political Science Association Annual Meetings, September 1, 2000, reprinted in *PS: Political Science and Politics*, Vol. 33, No. 4 (December 2000), p. 753.

seek to defend their Committees' jurisdictions and the autonomy and power of the agencies they oversee.

Bureaucrats, finally, fight against changes even to agencies outside their own because they see reform as a zero-sum game for agency autonomy and power. There is nothing quite like intelligence reform to trigger the antibodies of affected agencies.

(3) The Fragmented Federal Government Makes Reform Difficult

Ironically, some of the most cherished features of American democracy, such as separation of powers, work against agency effectiveness. This is because the political process requires compromise for legislation to pass, and compromise allows opponents to weaken agency design at the outset. These same features of the political process make subsequent legislative fixes an uphill battle.

History's lesson is to make the most of reform opportunities when they arise, because they do not arise often and they do not last long. We have one of those rare opportunities now. If the past is any guide, there will not be another chance for a generation. These realities mean that reforms must be sweeping because they will be lasting; the choices you make today will be with us for decades to come.

STRUCTURAL OVERHAUL: THE DCI NEEDS HELP

Stacks of intelligence studies over the past 50 years have examined a number of diverse issues but have reached a stunning degree of consensus about one thing: the Director of Central Intelligence (DCI) needs help. The National Security Act of 1947 gave the DCI two jobs—running the CIA and managing the rest of the Intelligence Community—but did not give him the power to do both jobs effectively. This is no accident. The historical record shows quite clearly that when the CIA was created, it was deliberately hobbled by existing intelligence agencies in the Departments of State, Defense and Justice, which sought to maintain their own autonomy and power. Together, these agencies worked diligently to strip the National Security Act of provisions that would have created a truly centralized Central Intelligence Agency. The most lasting legacy of this design is the yawning gap between the DCI's wide-ranging responsibilities and his circumscribed power. The proposed remedies to this problem have varied, but the diagnosis has not.

There has been great debate over the years about whether fixing this problem is best done by allowing the DCI to keep his two hats and bolstering his power, or by creating a separate Director of National Intelligence to oversee the entire Community. Let me put three thoughts on the table:

- First, the devil lies in the details. For either approach, success hinges on giving an empowered DCI or a new Director of National Intelligence much greater budgetary authority, stronger personnel authority, and the systems and staff capabilities to use such authorities effectively. These are must-haves.
- Second, no organizational structure is perfect. Grappling with the weaknesses of both approaches is crucial—not only for choosing a new intelligence structure, but for maximizing its effectiveness as well. Anticipating problems is one of the best ways to avoid them. Knowing that your car tends to veer helps you keep it on the road.

In particular, I believe that separating the Community head from the CIA has drawbacks that may be less obvious than the benefits. One concern is that a Director of National Intelligence who is not tied to the CIA will be more likely to view intelligence needs and assets through tactical lenses. Let me be clear. Tactical intelligence that supports the warfighter should always take priority. The question is how much of a priority. Our system has a natural gravitational pull toward tactical intelligence, a pull that has only grown stronger with the successful marriage of intelligence and precision weapons in Afghanistan and Iraq. But especially in light of our strategic intelligence failings related to 9/11 and Iraq, we need to consider whether a DNI will be able to strike the right balance, whether a level playing field among the 15 intelligence agencies would create a level approach to intelligence.

- Third, both of these solutions offer a vast improvement to keeping the current flawed structure intact.

Good structure is not a cure-all, but bad structure can have debilitating effects on organizational performance. Structure is not about boxes. It is about power. Structure determines who answers to whom, whose memo goes on top, and what formal powers organizational leaders have.

CULTURE: THE SILENT KILLER OF INNOVATION

Although any meaningful reform must start with structure, structural changes alone will not be enough. Building new organizational arrangements with more peo-

ple and more power will not make us safer if intelligence officials still view the world through the same old lenses and hoard information in the same old stovepipes. Organizational culture is a silent but deadly innovation killer.

Fixing the cultural pathologies that have crippled our intelligence system is hard but not impossible. Two good first steps would be to change training and career incentives.

The FBI faces a daunting cultural challenge: transforming a crime-fighting culture that prizes slow and careful evidence gathering after-the-fact and works each case separately into an intelligence culture that takes fast action and follows leads across cases to prevent future tragedies. The nation's best-known law enforcement agency somehow must teach itself not to think like one. Training programs are crucial to this effort. Today, however, counter-terrorism and counter-intelligence training constitute only 2 weeks out of the 17-week required course for all new agents. That is more than it used to be, but still less time than new agents get for vacation.

Then there is the unspoken 11th Commandment of intelligence: Thou Shalt Not Share. Here, too, a large part of the problem is cultural. As this Committee knows, the reluctance to pass information across agency lines is deeply engrained, based more on habit and values than policy or official organization charts. And here, too, training is key. Creating a "one team" approach to intelligence requires developing trust and building informal networks between officials in different agencies. This is best done by cross-agency training programs early in officials' careers, before they become indoctrinated in the stovepipes. By current policies, however, most intelligence agency professionals can spend 20 years or more without a single Community-wide training experience. Institutional bridges will always be hard to build and information hard to share when one side does not trust or understand the other.

Several past reform studies have recommended improving information sharing by requiring the rotation of personnel across intelligence agencies. This has not happened. Several years ago DCI Tenet issued a directive requiring that officials do a rotational tour in another intelligence agency to get promoted to senior ranks. According to senior intelligence officials, every intelligence agency including the CIA ignored him. Taking a temporary assignment in an agency outside one's home is still viewed as a career-limiting move. Instead of encouraging the best and brightest within each agency to venture out and build institutional bridges, career incentives encourage them to stay right where they are. The result is that while agencies post openings for temporary detailees, these positions all too often get filled by weak performers. As one senior intelligence official lamented, "I often think of writing a vacancy notice [for temporary detailees to the agency] that says, 'only stupid people doing unimportant work need apply.'"

The 9/11 Commission recognized the seriousness of these problems, but has recommended a solution that will not solve them: it has suggested that the proposed new Director of National Intelligence set policies for education and training and facilitate assignments across agency lines. This is good in theory. But in practice, it leaves too much work for a new official whose other job responsibilities include advising the President, managing the entire Intelligence Community, creating a unified intelligence budget, and overseeing new national intelligence centers. It does not take much to see which duties will come first.

Instead, intelligence reform legislation should explicitly require the establishment of Community-wide training programs early in officials' careers. Legislation also should make rotational assignments to other intelligence agencies a requirement for promotion. I cannot stress this enough. As the 9/11 Commission and many others have noted, a similar provision in the Goldwater-Nichols Act transformed the culture of the Defense Department from a "service first" attitude to a truly joint outlook.

Mr. Chairman, successful intelligence reform must change more than the organization chart. It must change the minds of those who work inside it.

Thank you.

Chairman ROBERTS. Dr. Zegart, thank you very much. Your full statement will be made part of the record.

We welcome now Dr. Kay.

**STATEMENT OF DR. DAVID KAY, SENIOR RESEARCH FELLOW,
THE POTOMAC INSTITUTE FOR POLICY STUDIES**

Dr. KAY. Thank you very much, Mr. Chairman.

I have submitted for the record a full statement. I will try to briefly summarize what I think are the key points. I certainly

thank you and the Committee for the opportunity to appear before you and to address the important issues of the future organization, shape and role of the intelligence community.

I think I agree very strongly with Amy. This is a chance that comes along largely once a generation. If you don't get it right now, we will live with the consequences until the next disaster.

I also understand that in the minds of many outside this room, the subject boils down to creating a national intelligence director. Maybe the only open question is what powers that person should have. There have been at least 20 that I know of commissions, panels, studies in the last 20 years of the intelligence community. They have almost all been uniform in their conclusion of the necessity of reform, of the shortcomings and the failures. Yet, by and large, nothing has happened.

Indeed, as Chairman Porter Goss, before his nomination for CIA director, said, "Nobody in their right mind would create the architecture we have in our intelligence community today. It's a dysfunctional community."

Therefore, there is little wonder that many would say it's time for a czar, or more, in my Texas dialect, off with the heads, in the face of such inaction over the years.

This may be the right answer, although, if so, it would be the first time in the history of the U.S. Government that the creation of a czar to deal with organizational failures and inadequacies has been successful. This is a record that is very much without sustained success.

I therefore remain agnostic on the wisdom of creating a national intelligence director in the absence of knowing five things. First, do we agree on the failures and shortcomings that the post should address; the power of the post itself, and power in considerable detail that is to have the wider executive branch national security structure within which that post is to operate; the legislative oversight, authorization and budgeting appropriation structure that will vitally determine whether such an individual actually has the authorities and endurance to be successful; and finally, I would really say most importantly, a demonstrated willingness by both the Congress and the executive branch to hold people and organizations responsible when they massively fail to live up to their responsibilities. I think that is the single greatest failing that sustains the inadequacy of the system today.

I should add that my agnosticism does not reflect in any way a lack of the enduring grief that I know the families of 9/11 and the Nation feels for the failures to prevent 9/11 from occurring. It certainly doesn't reflect any lack of appreciation that I have for the outstanding work of the 9/11 Commission.

I am concerned, however, that simply creating a national intelligence director, even one that seems to have and we think has real powers, realizing that in Washington we exist somewhere between 10,000 and 100,000 feet in looking inside bureaucracies and we think budget and personnel authority is real power, we will not end up addressing the real problems that led to the long string of failures that conclude with 9/11 and the WMD findings in Iraq. I think this is particularly true if we continue to say everyone is at fault and therefore no one is at fault.

Let me turn to what I know best, although I must say I know this Committee knows probably better than I do the reasons we failed to adequately assess the actual State of Iraq's WMD program. Let me do it very quickly, just in headline form. I think there were nine principal failings here.

There was a broken culture and management within the CIA.

There was a breakdown in CIA analytical tradecraft;

The lack of any U.S. human clandestine collection after 1998—and damn little before 1998;

A failure to seriously examine and question non-American-controlled sources of information on WMD, which we came to rely on;

Abuse of the control over information to prevent others even in the CIA, and certainly many outside the CIA from seeing the real problems with the available data concerning conclusions the CIA reached and assertions as to the current status of Iraq's WMD program;

A real absence of scientific, analytical capability within the Directorate of Intelligence, and a refusal to even use the scientific excellence that existed in other parts of the CIA and certainly that existed in other parts of the U.S. Government to understand the existing status of Iraq's WMD program;

Multiple security systems and information systems that both within the CIA restricted access to vital elements of information, and certainly outside the CIA did this;

A complete lack of competitive analysis that led to stale data and findings being passed completely unchallenged to policymakers, to you in the Congress and ultimately to the American people as being the product of current, up-to-date collection and knowledge;

And, finally, a national intelligence collection process that was unproductive of real assessments and had, quite frankly, misled rather than informed, and misled the executive branch, the Congress and the American people.

The remarkable thing, as I examine this record and read the outstanding 500-plus pages of this Committee's report on Iraq, is that the origin of most of these factors lies within the CIA itself. Iraq was an overwhelming, systemic failure of the Central Intelligence Agency. Until this is taken onboard and people and organizations are held responsible for this failure, I have real difficulty seeing how a national intelligence director can correct these failings.

Indeed, I would argue that, unless the newly appointed director of central intelligence takes on as his first responsibility correcting the obvious failures that you have so thoroughly documented, that the national intelligence director has no hope of success.

If you will indulge me in something that is not in my statement—I've spent a lot of time before this Committee—there have been a lot of pointed questions. But there's one question that no one ever asked me, and that is what was my most frustrating moment in Iraq. If you don't mind, Mr. Chairman, I'd like to share that with you.

There was a period after I was here in October and testified before you and I went back. I had been back about a week and I had one of the CIA lead analysts come into me and say, "David, the analysts are really unhappy and some are thinking of going home."

Of course, the thought crossed my mind, what have I now done to destroy morale.

She quickly said, “No, no, it’s not anything you’ve done. We’ve just learned that the performance bonuses given for the analytical work done in the CIA before, in the lead-up to the war, have given way more money to the nuclear team than it has to the chem-bio analysts.”

At that point, I was glad my Glock was unloaded, because let me tell you, we had discovered that the nuclear team, as you have documented more thoroughly than has been done any place else on the public record, that is a record of abuse of authority, a failure to use expertise. There is nothing in that record that deserves a performance bonus. Nor in fact, quite frankly, was there much to deserve a performance bonus in the chemical and biological area.

Instead of holding people responsible, we reward them for failure. Unless you change that part of the culture, organizational shuffling of deck chairs has no hope of being successful.

Mr. Chairman, having started out declaring my agnosticism, I would like to conclude by sharing with you what I believe, if you go ahead with the creation of a national intelligence director, are the essential 10 elements that must be included in the powers and related to that authority if there is to be any hope of success.

First of all, I think you explicitly have to place all 15 of the intelligence organizations under the authority of a national intelligence director. You have to define that authority to include the design and monitoring of national intelligence strategies, responsibility for the execution of those strategies and all other powers deemed necessary to carry out and ensure the effectiveness of U.S. intelligence activities.

Secondly, giving the director of national intelligence not just budget approval authority, which is largely meaningless, but the real budget power, which is detailed budget formulation, approval, release and reprogramming authority for each of the 15 agencies. Without that, saying that I have or anyone has the right to approve the final budget at a final day is saying I have no power. If you look at the history of past czars, you’ll see that it’s uniform across those.

Thirdly, giving the national intelligence director not just the responsibility for approving the heads of the 15 intelligence agencies—this is largely a meaningless power—but the responsibility for ensuring that the personnel policies and practices, some of which Amy, I think, has ably, both in her testimony here and in her other writings pointed to, ensuring that these practices across all the intelligence agencies operate in a manner that support the effective execution of the national intelligence strategies and the responsibility and power to remove personnel at all levels who do not adequately perform.

Fourthly, I think the National Intelligence Council must be moved from the authority of the DCI to the national intelligence director and charged with ensuring that all the resources of the intelligence agencies are brought to bear in a way that provides the Nation with the best possible analytical products.

I also think the responsibility for what is now called the PDBs, the Presidential daily briefings, should be moved to this reformed

National Intelligence Council operating under the national intelligence director, and it should have the responsibility and access to all the collection and analytical assets of the community in briefing the President.

It is vital to this Nation that we ensure that diverse analytical views within the intelligence community are allowed to contend on a level playing field, and that policymakers understand the differences in conclusions and views of various agencies.

The national intelligence director, and particularly a reformed National Intelligence Council, has that responsibility and must be held to task for that responsibility, ensuring that diversity of views are encouraged and that the diverse views that occur are in fact brought to the attention of the Congress and of policymakers.

Now, while diversity in analysis—and I would say not just diversity. I revel in contention when analysts disagree. We need to encourage that and create an atmosphere where that occurs. But I think we need much more than we have had in the past, and certainly than we have now, common, shared and more efficient collection agencies.

Collection, after all, data is what is the feedstock of analysis, even when the analysts may reach different conclusions. I think you need to place the national intelligence director in charge, charged by you, Congress, with ensuring that all of the collection assets of this government work to support the national intelligence strategies and priorities.

A post that allowed in the past individual collection agencies to identify their own customers and ignore directives of the DCI—and this is, I think, well documented in the 9/11 Commission report, as well as those of us who have spent any time in the system have seen at first hand—must be stopped.

I would say also, by the same token—and I think this is something that the oversight powers of Congress have spent less time on than they should have—we've allowed the national collection agencies in their various forms to set their own technological acquisition agenda without any relation to a common strategy.

The result has been that we have acquired technologies that are not always relevant to agreed strategies and goals and problems we face as a nation. That must stop. There's not enough money and, more importantly, we will not get the collection we need if we allow that to continue.

Let me say, seventhly, even if perfect collection, and that's a goal that I've never seen achieved, it may have and someone may know of it, an excellent analysis is worthless unless it is effectively disseminated, both within the communities and between the agencies. The 9/11 Commission has adequately documented, as has your own report, the failure to do this, including abuse of authority in the nuclear area, certainly. You know, we have called attention at least since 1992, with the Aspin-Brown panel, called attention to this glaring weakness. Yet, nothing has been done.

The national intelligence director must be given the authority, the responsibility and held accountable for ensuring that this chaos ends. We need to ensure that the ultimate responsibility, particularly for security systems, e-mail, data base, the whole schmear, operates in a way that supports collaboration across everyone in-

volved in intelligence and the customers that intelligence is designed to serve.

Eighthly, we must charge the national intelligence director with providing the President and Congress, I think, within 12 months of its creation, and every 3 years after that, with analysis and recommendations of the adequacy of the organizational structure and the resources necessary to support national intelligence needs.

Let me say, I believe 15 agencies are way too many. It's a product of the cold war, a different environment. But as you are probably more aware of than I am, the difficulty of getting rid of agencies once created is far greater than the problem of even creating new agencies. That needs to be addressed. It is a flaw in the system that daily impedes effective collection and analysis across the system.

Ninthly, you've got to recognize that unless Congress puts its own house on a footing to support and provide the essential oversight of the performance of the intelligence community, the powers of the national intelligence director will ultimately be carved up. The Senate and the House must find ways that do not allow diverse authorizers and appropriators to carve up and undermine this authority.

I hope you can come up with that scheme. I confess—and it's probably a product of my age—I continue to be drawn back to the early days of the Joint Atomic Energy Commission, which in fact was responsible for creating, when we did create, the essential undergirding of our deterrent strategy in the nuclear area and performed, I think, outstandingly, certainly in its early years.

Finally, and probably most contentious of all, or at least will get me in greatest trouble, let me say, just as I believe Congress needs to reshape its oversight structure if a new national intelligence director is to have any chance of success, so must the President with regard to his own national security structure.

The dog that did not bark in the case of Iraq's WMD program, quite frankly in my view, is the National Security Council. Where was the National Security Council when apparently the President expressed his own doubt about the adequacy of the case concerning Iraq's WMD weapons that were made before him?

Why was the Secretary of State sent out to the CIA to personally vet the data that he was to take to the Security Council in New York and ultimately left to hang in the wind for data that was at least misleading, and in some cases absolutely false and known by parts of the intelligence community to be false? Where was the NSC then?

Now, presidents over time have had various ways to run their truth tests. When I first came to Washington, which really is dating myself, the President tended to rely on informal consultations with Members of Congress, even Supreme Court judges, and probably worst of all, journalists and academics. Those times have gone. In more recent times, he's had to depend on the National Security Council. But the one thing I think you will all understand, the President must have the ability to run truth tests on information that is brought to the Oval Office, across all areas of the government.

This is true of welfare reform, agriculture, environmental policy, as it is true of foreign and domestic policy. I do not believe that it is appropriate that the national intelligence director be sucked into the political process of the White House. I think that would be a disaster.

But equally, it is true, we must recognize that the President needs his own ability both to express his requirements and his direction and his policy with regard to intelligence and broader national security policies and to run those truth tests. I think that is absent. I think we ignore that at our own risk.

Mr. Chairman, as I know you no doubt have concluded, that in view of my expressed agnosticism about the creation of a national intelligence director, it hasn't stopped me from sharing in some detail, and I suspect you are quietly now saying a Marine's prayer that you're glad that I wasn't enthusiastic about creating the national intelligence director, because I really would have gone on at great lengths.

But I share with many the views that the U.S. intelligence community is in a crisis. This crisis is so grave that it weakens an essential underpinning of both our diplomatic and our national military security capabilities and their ability to support U.S. national interest.

If this crisis is to be resolved, it will require an effort at least as great as that that went into creating the intelligence community in the most dire part of the cold war. Remedying this crisis cannot be simply achieved by naming a national intelligence director. What is necessary is vision and an unswerving commitment to serving the Nation beyond the political and policy interests of any one particular administration, an ability to listen, to communicate, to lead and to execute, and probably most importantly of all, an ethical center that recognizes and understands the values of truth and the values of speaking truth to power.

This task will be neither easy nor will it be quick. It's actually more of a journey, in my view, than a one-step solution. It will certainly not be, and we should not mislead anyone, a quick fix.

Let me conclude by this, because it actually is, I think, for me the most essential point. Intelligence reform without accountability will not achieve the objective we all share—that is, avoiding the clearly avoidable tragedies of 9/11 and the equally avoidable tragedies of a botched assessment of Iraq's WMD capabilities.

If you are to go ahead with the creation of a national intelligence director—and I believe you will—I think that you must ensure that such a structure is vested with all the powers necessary to be successful and that the Congress and the President have the organizational capabilities and acceptance of responsibility to ensure that, as new structure moves forward, accountability goes hand in hand with reform.

Mr. Chairman, I thank you and the Committee for letting me go on at the length about what to me is a very important topic.

[The prepared statement of Dr. Kay follows:]

PREPARED STATEMENT OF DAVID KAY¹

Mr. Chairman, I thank you and the Committee for the opportunity to address the important issues related to the future shape, organization and role of the U.S. intelligence system that you are focusing on in this series of hearings.

I understand that in the minds of many outside this room the subject boils down to creating a National Intelligence Director, and the only open question is what powers such an individual should have. At least 20 Commissions, panels and other bodies over the last 20 years have reviewed the intelligence system, documented serious shortcomings, called for reforms, examined intelligence failures and generally concluded, as Representative Porter Goss has recently said, *"Nobody in their right mind would create the architecture we have in our intelligence community today. It's a dysfunctional community."* After so many warnings and so little action it is little wonder that many would say it's time for a Czar, if not, "off with their heads".

This may be the right answer although, if so, it would be a first in the U.S. Government's many attempts to address organizational and performance failures by anointing czars endowed with symbolism and little real power and even less enduring executive or Congressional support. I remain agnostic on the wisdom of creating a National Intelligence Director in the absence of knowing:

- Whether we agree on the failures and shortcomings the post is to correct,
- The power of the post itself,
- The wider executive branch national security structure within which it is to fit,
- The legislative oversight, authorization and budgeting structure that will vitally determine its authorities and endurance, and
- Most importantly a demonstrated willingness by both the Congress and the President to hold people and organizations responsible when they massively fail to live up to their responsibilities. [The Committee might ask the Congressional Research Service to provide a report on the total number of officials ever "fired" by all the previous "Czars" that have been pushed forward to deal with other organizational failings in the U.S. Government.]

I should add that my agnosticism does not reflect in any way a lack of enduring grief for the shared tragedy of the families and the Nation that resulted from the failure of the U.S. intelligence and law enforcement system to prevent the disaster of 9/11. And it certainly does not reflect a lack of appreciation for the outstanding work of the 9/11 Commission.

I am concerned, however, that simply creating a National Intelligence Director, even one with what may seem like real powers—and we should all recall that at the 100,000 feet level that we generally address such questions in Washington this boils down to budgets and very senior personnel—will end up not addressing the real problems—particularly if we continue to say "everyone is at fault therefore no one can be held responsible"—that led to the long string of recent intelligence failures that concluded with 9/11 and the failure to find Iraqi WMD.

Let me turn to what I know best—although probably not as well as this Committee itself—the reasons we failed to adequately assess the actual State of Iraq's WMD program. In headline form, I would identify the major factors that contributed to this failure as:

1. A broken culture and poor management within the CIA;
2. A breakdown in CIA analytical tradecraft;
3. The lack of any U.S. clandestine human collection against the Iraq WMD target after 1998;
4. A failure to seriously examine and question the accuracy of data and reports that came from non-U.S. sources;
5. Abuse of control over information to prevent others in the CIA and other parts of the intelligence community from seeing the real problems with the available data concerning Iraq's WMD and consequently the CIA's assertions as to the status of Iraq's WMD program;
6. A real absence of scientific analytical capability within the CIA's Directorate of Intelligence and a failure to use even the scientific excellence that existed elsewhere in the CIA much less elsewhere in the U.S. Government to understand the current State of Iraq's WMD program;
7. Multiple security systems and information systems that both within the CIA and between the CIA and other parts of the intelligence system restricted access to vital elements of information necessary for accurately understanding Iraq's WMD program;

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8. A complete lack of competitive analysis that led to stale data and findings passing completely unchallenged and being offered up as if they were based on current collection and knowledge;

9. A National Intelligence Council process that was unproductive of real assessments and that misled, rather than informed, the policymakers, the Congress and, ultimately, the American public.

The remarkable thing to me as I re-examine my own experience and look at the excellent report of this Committee on Iraq's WMD is that the origin of these factors is almost entirely within the CIA. Iraq was an overwhelming systemic failure of the CIA and until this is taken on board and people and organizations are held responsible for this failure I have real difficulty seeing how more far reaching reforms have any chance of real success. It really should not take a National Intelligence Director to correct these failings. Indeed, I would argue that if the next DCI does not take on board as his first task the renovation of the CIA beginning with ensuring that these failings are finally effectively addressed then a National Intelligence Director has little hope of success.

Mr. Chairman, having started out by declaring my agnosticism on the creation of a National Intelligence Director let me conclude with what I feel are the essential powers and conditions that, at a minimum, must be given to a National Intelligence Director if this new "czar" were to have a decent chance of not sliding into the irrelevance of our other "czars". At a minimum these are:

1. Explicitly placing all 15 intelligence organization under the authority of the National Intelligence Director and defining that authority to include design and monitoring of intelligence strategies to support the national security of the United States, responsibility for the execution of that strategy and all other powers deemed necessary to ensure the effectiveness of all U.S. intelligence activities;

2. Giving the National Intelligence Director not just budget approval authority, but the real budget power which is detailed budget formulation, approval and release and reprogramming authority for each of the 15 intelligence agencies;

3. Giving the National Intelligence Director not just the responsibility for approving the heads of the 15 intelligence agencies—a largely meaningless power—but the responsibility for ensuring that the personnel policies and practices of all the intelligence agencies operate in a manner to support the effective execution of the national intelligence strategies and the responsibility to remove personnel at all levels who do not adequately perform.

4. Move the National Intelligence Council from the DCI to the National Intelligence Director with the charge of ensuring that all the resources of the intelligence agencies are brought to bear in providing the Nation with the best possible analytical products. Responsibility for production and briefing of the PDBs should be moved to this reformed National Intelligence Council, and it must have access to all the collection and analytical resources of the U.S. intelligence community.

5. It is vital to the Nation to ensure that diverse analytical views within the intelligence community are allowed to contend on a level playing field and that policymakers understand these differences. The National Intelligence Director, and particularly a reformed National Intelligence Council, must have this as one of its highest responsibilities.

6. While diversity and even contention is to be prized in analysis, a much more common, shared and more effective system is required in the collection of intelligence data—the common feedstock for even differing analytical views. The National Intelligence Director needs to be charged by Congress with ensuring that all of the collection resources of the U.S. intelligence community work to support the national intelligence strategies and priorities. A past that allowed individual collection agencies to ignore the priorities of the DCI and follow their own understanding of the priority needs of "their" customers must come to an end. By the same token the past practice of letting collection organizations establish their own technology requirements and investment plans independent of overall Nation intelligence strategies or requirements must end. The National Intelligence Director must assume the responsibility for ensuring that the various collection services meet the information needs of the intelligence community, and this means setting collection priorities and strategies and ensuring that investment resources are used wisely.

7. Even perfect collection—a goal almost never reached—and excellent analysis is worthless unless it is effectively disseminated, first within and among intelligence agencies but even more importantly to the ultimate users throughout the Government. Too many examples of failures in communication abound in the cases of 911, Iraq's WMD and almost every other of the multitude of recent intelligence failures. Incompatible e-mail systems and data bases within agencies and between agencies have been tolerated when almost every study since at least 1992 has called attention to this glaring weakness. The National Intelligence Director must be given the

authority and requirement to end this chaos. In the same token, the myriad security systems and authorities no longer add to security—in fact they detract from it—and serve more to protect turf and prevent determinations of accountability. The National Intelligence Director must be given by Congress the ultimate responsibility for security systems throughout the intelligence community and be held responsible for shaping a security system that truly protects what is vital while allowing information to be shared and accountability to be assessed.

8. Charge the National Intelligence Director with providing the President and the Congress within 12 months of its creation and every 3 years afterwards with analysis and recommendations on the organizational and resource requirements necessary to support the intelligence requirements to ensure U.S. national security. Fifteen intelligence organizations—and there are actually more—is surely the wrong number and reflect more the needs of the Cold War and the will documented difficulty of the Government to eliminate organizations after the requirements that led to their creation has passed.

9. Recognize that unless Congress puts its house on a footing to support and provide the essential oversight of the performance of the intelligence community and the National Intelligence Director this innovation is doomed to failure. The Senate and House must find a way that does not allow diverse authorizers and appropriators to carve up and undermine the authority of the National Intelligence Director.

10. Just as Congress needs to reshape its oversight structure if a new National Intelligence Director is to have any chance of success, so must the President's national security apparatus. The dog that did not bark in the case of Iraq's WMD is the NSC. When the President apparently expressed concern about the adequacy of the briefings he was receiving on WMD where was the NSC? Why was the Secretary of State left to spend several days reviewing CIA data of Iraq's WMD and ultimately left to twist in the wind when the data he went forward with to the U.N. Security Council proved false and misleading? Where was the NSC process that ensures that data being given the President and other senior decisionmakers represent what it is said to represent? The National Intelligence Director should not be in the Executive Office of the White House or in the Cabinet. Intelligence must serve the Nation and speak truth to power even if in some cases elected leaders chose, as is their right, to disagree with the intelligence with which they are presented. This means that intelligence should not be part of the political apparatus or process. On the other hand, no President can with regard to intelligence—or any other field of government—safely assume that everything that comes to the Oval Office is what it is said to represent. Presidents have developed various means, as befits their personalities and the times, to run their truth tests. When I first came to Washington, it was common for a President to check informally with Members of Congress, individual judges on the Supreme Court and, believe it or not, even journalists and academics on the views presented them by their own Cabinet officers. In more recent Administrations, the NSC assumed this role with regard to foreign affairs and defense policy. Regardless of how you do it, it should be clear that it must be done. The National Intelligence Director must not be sucked into the political apparatus of the White House, but on the other hand the President needs to have a mechanism for both conveying his priorities and concerns and for ensuring that he has confidence and an understanding of what the intelligence community is telling him. The NSC seems to be the most logical place to center this role.

Mr. Chairman, as you no doubt have concluded my agnosticism concerning the National Intelligence Director has not stopped me from sharing with you, in some detail, my views as to the shape such an office should take. I suspect that you are saying a Marine's silent prayer that I was not unreservedly enthusiastic as then my comments might *really* have been lengthy.

I share with many the view that the U.S. intelligence system is in crisis and that this crisis is so grave as to weaken an essential underpinning of both our diplomatic and military capabilities to support U.S. national interests. If this crisis is to be resolved, it will require an effort at least equal to the effort that led to the intelligence community's creation and rise to strength in the most dangerous phase of the Cold War. Remedying this crisis cannot simply be achieved by naming a National Intelligence Director. Vision; an unswerving commitment to serving the Nation beyond the political and policy interests of any one Administration; an ability to listen, communicate, lead and execute; and an ethical center all must be brought to bear. The task ahead will be neither easy or quick and will be more a journey than a one-step solution. It will certainly not be a quick fix.

I believe that intelligence reform without accountability will not achieve the objective we all share to avoid repeating the clearly avoidable tragedy of 911 and the equally avoidable failures in analysis that marked the Iraq WMD program. If you are to go ahead with the creation of a National Intelligence Director—and I believe

you will—I think that you must ensure that such a structure is vested with all the powers necessary to be successful and that the Congress and the President have the organization, capabilities and acceptance of the responsibility to ensure that, as this new structure moves forward, accountability goes hand-in-hand with reform.

Mr. Chairman, I thank you and the Committee for this opportunity to share my views with you.

Chairman ROBERTS. Dr. Kay, we thank you for a very comprehensive statement. It is somewhat unique, I think, to have an agnostic list 10 Commandments in behalf of a proposal that he is agnostic about.

[Laughter.]

Dr. KAY. Senator, we Baptists are all unusual in that regard.

Chairman ROBERTS. If we include the 10 Commandments, perhaps we can have you baptized, and you can see the light in behalf of the national intelligence director.

General Boyd.

**STATEMENT OF GENERAL CHARLES G. BOYD, USAF, RETIRED,
PRESIDENT AND CEO, BUSINESS EXECUTIVES FOR
NATIONAL SECURITY**

General BOYD. Sir. Senator Roberts, Senator Rockefeller, distinguished members, I will give you back some of the time that David took. I feel toward David like Frank Sinatra felt toward Sammy Davis, Jr. He said, “I’d hate to follow him on.”

I’ve been asked specifically to discuss with you the Hart-Rudman Commission, of which I was the executive director, in the context of intelligence reform. I will summarize briefly that effort, and then let your questions guide the discussion that follows. Nothing like as comprehensive a view as Dr. Kay has just given you, but there might be a gem in here somewhere.

By way of refresher, the Hart-Rudman Commission was chartered to try to determine what kind of a world we’re going to live in over the next quarter of a century; to devise a national security strategy appropriate to that world; and finally, to examine the structures and the processes by which the Nation formulates and executes its national security policies, and recommend adjustments and restructuring as appropriate.

Fourteen prominent Americans served as commissioners, with analytical, research and support staff numbering approximately 50 people. We devoted 2½ years to this effort. I believe there’s common agreement that it was the most comprehensive review of our Nation’s security apparatus to be conducted since 1947.

The Hart-Rudman Commission is primarily identified now in the aftermath of 9/11 for its specific work on homeland security, and in retrospect, it is the piece of work for which I am the most pleased. But for our purposes today I will ignore that, except where it relates to intelligence, as well as the 40 other major recommendations that dealt with other aspects of national security, and stick with the section that pleases me the least, that having to do with intelligence.

With our conviction that terrorism would be the method of choice for most of the early 21st century enemies came the dawning notion that the military component would decline in relative importance in the national security calculus; the economic, diplomatic and communication components would increase in relative value;

and some, though not all, concluded that ultimately this type of conflict could not be won with the Army, Navy, Air Force and Marine Corps. Although their role would be important, such conflict would be won with other components—with law enforcement and with, most of all, intelligence.

The debate about intelligence at this moment is about organization. But that was not the centerpiece of our work on this subject. Ours was on process and priorities.

We concluded then, as had others, that the intelligence community had lost its focus when the Berlin Wall came down. To that point, since the Nation had no effective systematic process for establishing new national security objectives and strategies and was floundering in its attempt at reorientation, it followed that the intelligence community had nothing solid on which to realign its own orientation and priorities.

The two had to be inseparable processes. So in some of the most important work we did, we developed models for both. I commend them to your attention.

The second major area we dealt with had to do with HUMINT, specifically the paucity of it. We put very strong emphasis on this capability, well before the bandwagon for it began to roll. We did take note of the role Congress had played in the dissolution of much of that capability and the restrictions on the kind of people that could be involved. But I think we're beyond that now, and I hope we stay beyond it.

Finally, we dealt with the issue of economic intelligence commensurate with the emphasis we had placed on economics as a component of our national security arsenal, along with science and technology, as a much higher priority focus area.

We had two dogs that didn't bark. I'll talk to those. If there's value here, here's where it'll be.

To the first: It's the powers of the DCI and the professionalization of the billet. In the first case, it's not that we didn't address it, only that in the end, we could not find agreeable common ground.

Since you invited me here today and not the rest of the commissioners, I'll tell you what my position was and is. If the DCI, or now the NID or the DNI or whatever we're going to call him, and if indeed that's our fate, to have one, if that person is truly to be the director of this Nation's intelligence apparatus, then he or she must be able to direct those elements on which the broad user community is dependent.

Here's where I would break with David. By the way, I think only broad user community. I'll talk to that a bit more. By direction, I mean, resource allocation, budgets, and, the way Dr. Kay defined them, manpower requirements.

At the time we struggled with this issue, the DCI, of course, already controlled the CIA. But our analytical team thought he needed more control over that portion of the budget that resided in DOD. Therein, of course, came the rub. The argument then was based on the notion that the non-DOD user community was increasing for some DOD products, especially those of NSA. In the world we saw coming, that fraction would only continue to increase.

The argument is even more obvious today. I would probably transfer control of NGA and the NRO, as well as NSA, to the NID. Purely departmental organizations, such as DIA, INR in State, and service intel organizations, et cetera, should stay right where they are.

These were the only organizational fixes we contemplated, and frankly I don't believe now that reorganization will by any means fix what's wrong with our intelligence community. I agree with Dr. Faulkenrath's comment recently, and echoed here by Dr. Kay, that our recent failures are due to performance, not organization.

My last issue is a tough one, and has not to my knowledge appeared in the current debate. In fact, I may be the only one who's worrying about it, though I think others may if they start to think about it. That is the professionalization of the President's principal intelligence adviser.

The President's chief military adviser is a military professional, standing at the very top of the entire profession of arms. We put only professionals in that position, and in fact our law requires that only one who has served as a service chief, vice chairman or commander of a unified or specified command can hold the position. Not so for the person who stands at the top of the intelligence profession and serves as the principal adviser to the President for intelligence.

After 1947—and Dr. Zegart can elaborate on this, I'm sure—as a professional intelligence service began to be developed, professionals were placed in charge. The first few were military professionals, since there were no intelligence professionals at the time.

When Eisenhower came to office, the first civilian was appointed, who, though not a professional, had senior leadership experience in a wartime ad hoc intelligence organization. In the years since, with an occasional exception, a trend of placing nonprofessionals in the position has evolved—lawyers, businessmen, academics, congressional staffers, politicians and the like.

Indeed, there is nothing in law that requires professionalism or even national security experience. The President can choose whomever he wants and, though your consent is required, I am not aware of any occasion when the Senate objected to a nominee on the basis of lack of professional credentials. But should you?

It is not just because the intelligence discipline, the science, the art, indeed the craft of it, are so specialized and complex that, like the military, begs for depth of particular knowledge in the one who is to lead. But it is also the special ethos of the professional that helps that person stand apart from the political considerations that inevitably surround every Presidential policy choice.

Those who serve at the pleasure of a President for an expected term limited to his, who comes to office precisely because of shared politics and political reliability, come, I should think, under enormous pressure or temptation to give the President what he wants rather than what he doesn't want, but needs. When that servant is responsible for selecting the intelligence analysis to give his President, I think I'd prefer a professional to a political appointee with as much independence and job security as possible.

It is without impugning anyone who has ever held the DCI billet or is about to that I advance this idea. I will develop it further in the question and answer period if you wish.

I'd be happy to take your questions.

[The prepared statement of General Boyd follows:]

PREPARED STATEMENT OF GENERAL CHARLES G. BOYD, USAF (RET.), PRESIDENT
AND CEO, BUSINESS EXECUTIVES FOR NATIONAL SECURITY

Senator Roberts, Senator Rockefeller, Distinguished Members of this Committee, it's always a special honor to be asked to participate in the important work of any congressional committee. My contributions, however modest, are offered with the highest sense of purpose.

I have been asked, specifically, to discuss with you the Hart-Rudman Commission—of which I was executive director—in the context of intelligence reform. I will summarize briefly that effort, and then let your questions guide the discussion that follows. I will also give you a couple of personal perspectives derived from decades spent as a user of intelligence in the hope they will be of some use. I will leave spaghetti charts and wiring diagrams to others with more current organizational familiarity.

By way of refresher, the Hart-Rudman Commission was chartered to try to determine what kind of world we are going to live in over the next quarter century, then develop a national security strategy relevant to that world, and finally to examine the structures and processes by which the Nation formulates and executes its national security policies, and recommend adjustments or restructuring as appropriate. Fourteen prominent Americans served as commissioners, with analytical, research, and support staff consisting of approximately 50 people. We devoted over 2½ years to what was the most comprehensive review of our Nation's security apparatus to be conducted since 1947.

The first phase of our work led us to a conclusion none held at the outset: that the security phenomenon our Nation would face in the early 21st century, and the one for which we were least prepared, would be terrorism—in a variety of forms—ranging from small scale disruption to—quite possibly—mass casualty catastrophe of a magnitude that could change the very nature of the way our society works and interacts with the rest of the world.

After that understanding had begun to settle into our consciousness, it affected, to a prevailing degree, how we would think about securing the base camp—our homeland—and then the effect that would have on all other aspects of national security, to include of course, intelligence.

Hart-Rudman Commission is primarily identified now, in the aftermath of 9/11, for its' specific work on homeland security, and in retrospect it is the piece of work with which I am the most pleased. For our purposes today, however, I will ignore that, except where it relates to intelligence, as well as the 40 other major recommendations that dealt with other aspects of national security, and stick with the section that pleases me the least—that having to do with intelligence.

With our conviction that terrorism would be the method of choice for most of our early 21st century enemies, came the dawning notion that the military component would decline in relative importance in the national security calculus. The economic, diplomatic and communication components would increase in relative value, and some—not all—concluded that, ultimately, this type of conflict could not be won with the army, navy, marine corps and air force. Although their role would be important, such conflict would be won with the other components, with law enforcement, and with the most important element of all—intelligence.

The debate about intelligence, at this moment, is about organization, but that was not the centerpiece of our work on the subject. It was on process and priorities. We concluded then, as had others, that the intelligence community lost its' focus when the Berlin Wall came down, and, to that point, since the nation had no effective, systematic process for establishing new national security objectives and strategies, and was floundering in its attempt at re-orientation, it followed that the intelligence community had nothing solid on which to realign its own orientation and priorities. The two had to be inseparable processes, so, in some of the most important work we did, we developed models for both. I commend them to your attention.

The second major area we dealt with had to do with humint, specifically the paucity of it. We put very strong emphasis on this capability, well before the bandwagon began to roll. I might add, much of the reason for the dissolution of that capability, and restrictions on what kind of people could be involved, came from the U.S. Congress. You've gotten over that now, I think, and I fervently hope you stay over it.

Finally, we dealt with the issue of economic intelligence commensurate with the emphasis we had placed on economics as a component of our national security arsenal, along with science and technology as a much higher priority focus area.

There were two dogs that didn't bark: the powers of the DCI, and professionalization of the billet.

To the first—it's not that we didn't address it, only that in the end we could not find agreeable, common ground. Since you invited me here today, and not the rest of the commissioners, I'll tell you what my position was—and is: if the DCI, or now the NID or the DNI, if that is to be our fate, is truly to be the director of this Nation's intelligence apparatus, then he/she must be able to direct those elements on which the broad user community is dependent. by direction, I mean: resource allocation—budgets—manpower—requirements.

At the time we struggled with this issue, the DCI of course already controlled CIA, but our analytical team thought he needed more control over that portion of the budget that resided in DOD. The argument then was based on the notion that the non-DOD user community was increasing for some DOD products, especially those of NSA, and in the world we saw coming that fraction would only continue to increase. The argument is even more obvious today, and I would probably transfer control of NGA and NRO, as well as NSA, to the NID. Purely departmental organizations such as dia, inr at state, service intell organizations, etc should stay right where they are.

My last issue is a tough one, and has not, to my knowledge, appeared in the current debate. In fact, I may be the only one who is worrying about it, though I think others may if they start thinking about it, and that is the professionalization of the President's principal intelligence advisor.

The President's Chief Military Advisor is a military professional, standing at the very top of the entire profession of arms. We put only professionals into that position, and in fact our law requires that only one who has served as a service chief, vice chairman, or commander of a unified or specified command can hold the position. Not so, for the person who stands at the top to the intelligence profession, and serves as the principal advisor to the President for intelligence.

After 1947, as a professional intelligence service began to be developed, professionals were placed in charge. The first few were military professionals since there were no intelligence professionals at the time. When Eisenhower came to office the first civilian was appointed who, though not a professional, had senior leadership experience in a wartime ad hoc intelligence organization.

In the years since, with occasional exception, a trend of placing non-professionals in the position has evolved: lawyers, businessmen, academics, congressional staffers, politicians, and the like, and indeed there is nothing in law that requires professionalism, or even national security experience. The President can choose whomever he wants, and though your consent is required, I am not aware of any occasion when the Senate objected to a nominee on the basis of lack of professional credentials. Should you?

It is not just because the intelligence discipline, the science, the art, indeed the craft of it are so specialized and complex that, like the military, begs for depth of knowledge in the one who is to lead, but it is also the special ethos of the professional that helps the person stand apart from the political considerations that inevitably surrounds every Presidential policy choice. Those who serve at the pleasure of a President, for an expected term limited to his, who come to office precisely because of shared politics and political reliability, come—I should think—under enormous pressure or temptation to give the President what he wants and not necessarily what he doesn't want but needs; and when that servant is responsible for selecting the intelligence analysis to give his President, I think I'd prefer a professional to a political appointee—with as much independence and job security as possible.

It is without impugning anyone who has ever held the DCI billet, or is about to, that I advance this idea. I will develop it further in the question and answer period if you wish.

I'll be happy to take your questions.

Chairman ROBERTS. General Boyd, we thank you very much for your statement.

Senator Rockefeller.

Vice Chairman ROCKEFELLER. Thank you all very much. I want to make a sort of a general observation as a way of using up my time, at which point I'll ask a question.

There is, I think, a tendency as I've been to hearings and I've listened to them on C-SPAN and read about them in the papers and talked with colleagues about them, to refer to the 30, 40, 50 attempts to reform the intelligence community over the years. Then, having done that, and since none of that was successful, then people say, "Well, there isn't the will to do it" or, "Dr. Zegart, you have this wonderful phrase, "There is nothing quite like intelligence reform to trigger the antibodies of affected agencies.'" I love that.

But we've never been in a situation like this. Intelligence was barely paid attention to for years, even during the cold war and the post-cold war period, except by those who needed to do it—certainly not the media or the public in general. You were probably thinking about it, you were all living it.

Because it hasn't worked before, it's considered to be sort of an undoable task. Because it's considered to be an undoable task, then if somebody suggests the idea of a national intelligence director, it's considered too simplistic, and it's sort of a way out, as opposed to something that might just possibly work, which is what I happen to believe, provided that that person has the budget authority and the powers and the tasking and all the rest, the follow-up that goes along with it.

I want to make that point, that I think there's a natural instinct for some people to say, "Well, it can't work because it hasn't worked before" and what you're suggesting is put one person in charge of everything, that's what everybody does when there's a crisis and you've got to get a quick answer.

Well, No. 1, we don't have to have a quick answer. We have to have a right answer. That will take the time that it takes. We're gathered here in August as sort of a statement of intensity, but probably not as a statement of refinement of position, because that will take debate, conferences back and forth between the executive and the legislative branch and the services, and all the rest of it. I just want to make that point.

Another shibboleth, from my point of view at least, is the fact that somehow—and it has been said by several recently, and accepted, therefore—that if you have intelligence reform—and it's called intelligence reform, just the word intelligence reform—that by some reason the interest of the warfighter is compromised. I want to go into that and ask each of you your views on that.

There's been a lot of discussion about whether the creation of the national intelligence director with unified budget authority, would have the unintended consequence of depriving the warfighter of tactical intelligence. Now, that's accepted by a lot of people, because it's said by the people who would be affected by it.

First off, it's important, I think, to remember that the 9/11 Commission recommends that the Secretary of Defense keep control, as Chairman Roberts has pointed out, of the military intelligence programs contained in the Joint Military Intelligence Program, or JMIP, which is substantial, and the tactical intelligence, the TIARA budgets, which is the service intelligence capacity, which is in and of itself.

So those immediately are not included in the equation and therefore, are doing nothing but helping the warfighter. They are left out of the national intelligence director's realm.

Now, the 9/11 Commission is recommending giving the national intelligence director budget executive authority only over those military intelligence programs currently in the national—and I repeat that—in the National Foreign Intelligence Program budget. This shift of authority would not affect the Secretary of Defense's current control over tactical and joint military intelligence programs. I can say that 10 times in a row. It's the truth, if we do it, if we choose to do it.

Now, the argument is that a national intelligence director could control national intelligence systems and personnel in a way that might be detrimental to the best interests of the warfighter. There's always the question of what's going to affect the warfighter. As you indicated, that is the priority. The question is, at what level of priority. I think everybody agrees it is the priority, like you do.

But on the other hand, that potential exists today in our current system. The dispute that might arise between the current DCI, the director of central intelligence, and the Secretary of Defense would have to be escalated today, were there to be such a disagreement, up toward the President, through the National Security Council—in the later round of questioning I want to talk about that, Dr. Kay, what you said about that—to see if it could be resolved, and if it couldn't be resolved at the national security level, it would be taken to the President for a decision.

In the Government Affairs testimony that Chairman Roberts and I went to the other day, Acting DCI McLaughlin replied, and I think he's been there 30-plus years, that he could not recall this escalation ever occurring.

So evidently, something gets worked out. Now, it may be because, as George Tenet said, I have a really good relationship with Don Rumsfeld, even as we understood that he was not necessarily going to be around forever. So it depends on personal relationships. But there's always the way out now, much less under what we are talking about. So this avenue of appeal would still exist if the NID and Secretary of Defense were at odds under organizational restructuring proposed by the 9/11 Commission.

So, two questions for our witnesses, each of you.

First, do you believe that a national intelligence director would be unsympathetic to the legitimate intelligence needs of the warfighter? Would they be unsympathetic? Is there something about a DCI director that would make him or her unsympathetic? For that matter, has the DCI historically been insensitive to military requirements, particularly in times of war?

Second and last question: If the ultimate decision on pressing matters of national security resides with the commander in chief, as it does today and it would under this system if adopted, is there really a danger of a national intelligence director forcing his will on a Secretary of Defense in a way that would deprive the warfighter of the tactical intelligence that he and she need?

Dr. ZEGART. Senator, these are both crucial questions.

I do not believe that a national intelligence director would be unsympathetic to the warfighter. It's no surprise that the Secretary of Defense has made this argument. No sitting Secretary of Defense since 1947 has taken kindly to the idea of intelligence restructuring.

In fact, that natural protection of the Defense Department was in part what led to the flawed design of our intelligence community that we're dealing with today. It was exactly that attitude that stripped the DCI of the authority to actually manage the community that he was charged to do by statute.

So that's an argument that we've seen for quite some time. I understand where it comes from, but I do not believe that there is any indication that the DCI in history or that a national intelligence director in the future would compromise the warfighter.

Quite the contrary, actually. What keeps me awake at night, among other things, is the idea that we will place too little emphasis on strategic intelligence, the kind of long-term assessments that we saw so lacking, with no national intelligence assessment on terrorism from 1997 to September 11th; with no collectors on the ground in Iraq after 1998. Those are strategic intelligence questions, and I believe that the danger is that we give so much attention to tactical intelligence that we end up not providing the type of intelligence support that allows the President to make policy decisions about whether to send troops in harm's way to begin with.

Vice Chairman ROCKEFELLER. Who is it who appoints the national intelligence director?

Dr. ZEGART. The President appoints, with the confirmation of the Senate.

Vice Chairman ROCKEFELLER. Right. Thank you, Mr. Chairman.

Chairman ROBERTS. Dr. Kay and General Boyd, do you have any comments?

Vice Chairman ROCKEFELLER. Yes, my apologies.

Dr. KAY. I can be very brief on this one, because I essentially agree with Amy. I think the real danger is not that tactical intelligence will be devalued. In fact, the history of the last decade is tactical intelligence has gained at the expense of strategic intelligence. Chairman Roberts has started these hearings by saying we don't have to just deal with terrorism, there will be other threats. There will indeed be other threats, and those are the ones that strategic intelligence must address.

I would add, Senator Rockefeller, it's hard for anyone to argue, I would think, that the present system serves the warfighter well. I don't know of any combatant commander who has suffered so poorly from knowledge about the tactical deployment of Iraq's weapons of mass destruction as Tommy Franks.

If you read his book, he's very vocal about that. He put people in harm's way by going to Mach-4 gear because he believed and had been told that there were weapons of mass destruction out there that were not out there. So the present system doesn't serve the warfighter that well.

What you've got is I think what Amy refers to, these antibodies against reform.

Chairman ROBERTS. General Boyd.

General BOYD. Easy, no and no.

But I'll add a comment; I'm old enough to have some perspective. I remember as a young fighter pilot going to North Vietnam with 10-year-old target photos on my knee, when every day, U-2s and SR-71s were collecting strategic intelligence not available to the likes of me, shared with other intel guys, I guess.

I can remember very recently, as an active duty four-star, being deluged with tactical intelligence far beyond any possible ability to consume it, use it effectively.

I believe, if anything, what the other two respondents have said, and that is that I worry more now about neglecting the strategic sphere, something that certainly wasn't the case when I was a young fighter pilot.

Chairman ROBERTS. Senator Hatch has to leave for a prior commitment. I'm going to recognize him. We are under a 5-minute timeframe.

Senator HATCH. Well, first of all, let me thank you, Mr. Chairman. I want to thank you, Mr. Chairman, and our Vice Chairman, Senator Rockefeller, for holding these important hearings today. I also like to thank the Committee staff for their hard work. They've worked very, very hard over the recess for this hearing and working on proposed legislation that we've been chatting about.

I know that when we return, the Chairman intends to hold the confirmation hearings for Porter Goss, with whom I met this morning. Of course, he's had about 10 years inside experience with the CIA and I believe he would be an excellent DCI. So he certainly, I think, knows where the bodies are and certainly knows how to correct some of the difficulties. We'll certainly try to help him at every step of the way.

But I'd just like to ask a question. Is it Dr. Zegart? Dr. Zegart. Then have the other two respond, too.

I want to personally thank you, Dr. Kay, for the service that you've given. You've appeared before this Committee before, and I thought your testimony was really tremendous then, as it is today.

General, I just can't begin to tell you how much we appreciate you and the service you've given, the 35 years in the military plus the service you've given in these areas.

But let me just ask this question. I'd like all three of you to answer. That is that your testimony indicates that the 9/11 Commission doesn't go far enough in guaranteeing that there will be a broad cross-fertilization of personnel in the intelligence community.

Now, it's my sense that communication is dramatically improving across agencies, but I also recognize your concern that unless these initiatives are formalized in legislation and become a routine part of professional development, that these efforts will be lost in the shuffle. So I'd like you to comment on that, and all three of you comment. I don't want this to become another bureaucracy or another worthless bully pulpit with no authority. If we're going to do this, it ought to be done right.

But those two things are matters of great concern to me.

Dr. Zegart.

Dr. ZEGART. Senator, I agree with you. I think that culture, first of all, is a very difficult thing to change. We know that.

There are three levers that you can use in legislation to change culture. The first is, change how people are hired. The second is, change how they're trained. The third is, change how they're promoted, I think an issue that David brought up eloquently in his testimony. You have to reward good performance and punish bad performance.

Now, there is a balance to be made, obviously, between writing too much detail into legislation that limits discretion of the community to change, but I think we've erred on the opposite side. So I do think there are opportunities for legislation to make inroads in making cultural changes throughout the community.

As I mentioned, the two that I know the most about and that I think would be good places to start are age-old ideas and that is training programs and incentives for rotations.

Let me just add one other thing, which is that I am struck by how the challenges that we are discussing today are not so much about developing new capabilities; they are about fixing old problems.

Washington is littered with stacks of studies of commissions past and governmental studies past, and many of them have reached consensus about these issues. Training is one of those issues and promotion incentives.

Senator HATCH. Thank you.

General.

General BOYD. I believe the issue of culture is indeed at the heart of the matter, and professionalism. I'm not sure how much legislation you can do to fix that. I think you can put emphasis on it in ways and help emphasize the kind of person that gets the job of the NID and so forth, that can have a lot to do with it.

Over time, it's education, exactly professional education, it's inculcating these professional values and performance standards, a meritocracy approach that you get passed over twice, you're out of here buddy, you know? Upward mobility, accelerated for the high performer, and the slow performers go home. That's the way you change behavior. That has nothing whatsoever to do with organization.

Dr. KAY. Senator Hatch, I think you're quite right in saying that there's evidence with regard to both terrorism and, in my immediate case, Iraq WMD. Some of the collector barriers have been broken down, the cultural barriers, and people are communicating. That's what usually happens in a system when you're in a crisis, you throw out the rule book and if you've got good people, you try to get things done.

I think all of our concern is—and I've seen this personally—as the crisis is passed and things turned back to normal, the old habits, the old culture, the old barriers impede themselves.

I will say twice in my career, with regard to Iraq, I've benefited from collection systems and collectors across the government and across agencies that have done tremendous jobs. I will say with Iraq—and it really is both the terrorism and Iraq in the current case—there are unheralded heroes out there who deserve it. At the top of my list is Charlie Allen, who I have seen Charlie Allen do absolutely marvelous things with collection systems across this government that people said were impossible to do. They served my interests greatly.

I would like to make that the norm, and not the exception. I think I'd like to see people like Allen rewarded, and people who don't perform that well punished and their career impeded. The system now doesn't do that.

Charlie stands out because he is such a golden exception in this. He does it under crisis. He would be the first to tell you, in areas that you can't break the rules, because there's a crisis brewing, things work their usual way, and that's not very well.

Senator HATCH. Dr. Kay, you mentioned that the President—I think your 10th point you made of the 10 major points that you made in your remarks earlier—is that the President should have the ability to run truth tests. Can you tell us a little bit about how he or she might be able to do that?

Dr. KAY. I think explaining that to a politician as astute as you is like telling my grandmother how to suck eggs.

Senator HATCH. We're giving you a good chance here.

Dr. KAY. That was never a good chance with my grandmother, sir.

Look, it is foolish in the extreme to believe that just because you sit in any office, and that includes the Oval Office, that everyone who comes through that door is committed fully to serving your interests and only your interests, and what they tell you is the full truth. Every President who has been successful, at least that I know of in the history of this republic, has developed both informal and formal means of getting checks on whether people who tell him things are in fact telling him the whole and full truth.

I think this is particularly crucial and difficult to do in the intelligence area. The recent history has been a reliance on the NSC system to do it. I, quite frankly, think that has not served this President very well.

I think we need to think long and hard about how it might. My personal, if I were emperor for a day and not director of national intelligence, would be to see that there be a special assistant to the President for national intelligence, and indeed I think he should be a professional, or someone with professional knowledge, who in fact can run those truth tests, but is part of the President, the Executive Office of the President, not part of the NID structure. He serves the President and the President's interests while he's in that job.

Senator HATCH. I think that's a good suggestion.

Thank you, Mr. Chairman.

Chairman ROBERTS. We thank you, Senator.

Senator Mikulski.

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

First of all, I want to thank you and the Vice Chairman for holding this series of hearings on reform—before we broke, the Feinstein hearing, today and the ones that we will keep on doing. I think we're all committed to reform.

When one reads the 9/11 Commission, they made 41 recommendations. Sixteen the President can do through Executive Order. Nine the President needs our help by putting money into Federal checkbook, and 16 fall squarely in our lap. So I look forward to working with you.

Yesterday I was with the Government Ops Committee to hear from the families, 60 of whom were from Maryland who perished on that day, and of course here today, and you call us back any time you want and I'm ready to be here.

Mr. Chairman, before I ask our very able witnesses something, I want to bring something to the attention of the Committee that I think was a breach of security. Since it's in public document, I can do it here.

In all my intel reading over the weekend, I thought to myself, why be on the Committee; all I need is a subscription to Newsweek. When I read the August 16 issue of Newsweek—and I commend it to my colleagues, called “Target America”—there was this article about the arresting of a man by the name of Khan. That provided detailed information about his role in al-Qa’ida, how the United States intelligence services would use him to find and capture other terrorists, including those in the United States. The arrest and capture of Khan was a major step in penetrating the al-Qa’ida communication network.

He was the switchboard for bin Laden. Reading from *Newsweek*: “Khan had access to handwritten notes delivered by secret relays that came from the caves of bin Laden himself.”

This is the intelligence find of a lifetime. Agents live for this time. We had the man. We had the computer. We had his address book. We were using his address book to e-mail operatives.

According to what Newsweek did, they gave details about how we e-mailed operatives in the United States, the United Kingdom, and other places around the world. He was outed on August 2nd, to go to the news on August 3rd, while we captured 13 more al-Qa’ida networks, then everything shut down.

Dear friends, his arrest could have been the intelligence breakthrough of a lifetime. It's a wasted opportunity. All of our people working in the field, many of you know the kind of work that's done—our Committee knows, too—dangerous, requiring great risks and sacrifices. So what do we have now? So what do you think the guys in the cave think now? Where do you think they're communicating? We had in him the ability to do this.

So I believe that the first reform needs to be no leaks. I really believe that we need to find a way to institutionalize this and then take strong accountability.

Colleagues, you need to know I'm writing a letter to the President, asking the President to investigate this and find out who made the Khan information—not only his arrest, but the information—so public that the guys in the cave know now what we've got and what we've got a hold of. I believe going with the recommendations of Dr. Kay and General Boyd and Dr. Zegart, performance, and it needs to be accountability. I think we need to find out who did this, and I think they should be fired.

I really commend to the Committee and its leadership, particularly Senator Roberts and Chairman Rockefeller, read this, because it's not just your regular arrest here, the arrest of a lifetime, and the information we knew, to see if the Committee wants to take any other action about it.

Chairman ROBERTS. We'll be happy to work with you. I am familiar with the article, as is Senator Rockefeller. It is a matter of extreme concern. I thank the Senator for making her views public. We will work with you on this matter. As you know, we have been plagued—and I'm using the editorial “we” here, including the Com-

mittees of the Congress and the agencies and everything else about leaks.

But this is especially egregious. We will work with you on this topic.

Senator MIKULSKI. Well, Mr. Chairman, that's exactly right.

My letter to the President is not a confrontational letter, nor is it a partisan letter. It's an American Senator's letter. I know you've taken this. But I think our Committee, both its members, then what also happened in the Congress and so on, I really do think we need—our entire government really needs to come to grips with the consequences of what leaks mean.

I thank you for your indulgence. Perhaps during a second round I can ask our very able witnesses about their testimony.

Chairman ROBERTS. I thank the Senator.

Senator DeWine.

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

Well, this has been a very enlightening and interesting hearing.

Let me if I could, just briefly summarize. General Boyd, your comment was that it's performance, not organization, in regard to this whole proposal about a national intelligence director.

Dr. Kay, you're agnostic about the whole thing, in your own words.

Dr. Zegart, you have a little different perspective. If I could quote from a transcript from National Public Radio, you state, "While a proposal for a director of national intelligence is the most popular reform proposal right now in Washington, what that would essentially do is separate the CIA director from the job of running the community. I am probably in the minority here in thinking that that's not the way to go.

"I believe that the problem with the current DCI's position is not that the job is too big, but that his powers are too weak. We need to have a head of the community who has the heft of an agency behind him in order to run the entire community."

I want to ask you in a moment to explain that a little bit further.

Then in your written statement and also in your oral statement, you said: "In particular, I believe that separating the community head from the CIA has drawbacks that may be less obvious than the benefits. One concern is that a director of national intelligence who is not tied to the CIA will be more likely to view intelligence needs and assets through tactical lenses."

Then you go on to explain that a little bit.

I'm not sure I understood why that would be true. So my second question would be would you explain that statement. Why would that person who's not tied to an agency, not tied to the CIA, be more likely to look at things from a tactical and not the big picture?

Dr. ZEGART. Senator, whether to create a new national director of intelligence or to, on the other hand, bolster the power of the DCI, is something that I've grappled with for quite some time, and I don't think it's an easy call.

Senator DEWINE. A lot of us have.

Dr. ZEGART. Right.

On balance, however, let me make two points. First is that my greatest concern is that there be no structural change whatsoever.

I think either solution offers a dramatic improvement to what we have today. I'm concerned that we can get distracted into debating which is the perfect solution, when neither is perfect and both are better than what we have.

That said, I do think——

Senator DEWINE. That we understand, we appreciate. Thank you.

Dr. ZEGART. But I do fall in favor of bolstering the DCI's power, for four reasons, some of which you expressed.

The first is that I do believe that there's a strong case to be made that the job is not too big, the powers are too weak. We've never had a DCI with the kind of powers that we're talking about giving the national intelligence director. Now, there are arguments that disagree with that.

The second is that, in general, in organization theory, simpler is better. The fewer moving parts in a machine, the easier it is for the machine to work well. The fewer phone calls the President has to make to find out what's going on in intelligence, the better off we are—provided that one-stop shopping does not mean one view, which David alluded to is a critical problem of tradecraft today.

Third reason actually has to do with this Committee's report on weapons of mass destruction in Iraq. What I see, and I agree with David, in that case what I see is more of a tradecraft failure than a structural failure.

It's not so much that the director of the CIA cannot run the community. The problem was that the CIA failed to make appropriate use of its unique position in the community to provide the dissenting views and the nuance, and to provide one-stop shopping that informs and improves policy decisionmaking in the White House.

So the CIA was created to bring together different elements of the intelligence community. It's the same idea behind the National Counterterrorism Center. Whenever you try to fuse intelligence in one place, you run the risk of providing only one perspective. I see it as fundamentally a failure of tradecraft rather than a failure of organization.

Finally, to get to your point, your question about tactical versus strategic intelligence, I think that all agencies are not created equal, and that the vast majority of agencies in the community are housed in the Pentagon and have a Pentagon perspective.

My concern is that we actually need to empower whoever runs this community with the ability to think about long-term intelligence analysis. I think there's a real danger that, absent the backing of our premiere strategic analysis outfit in the CIA, that there'll be a tendency not to do that enough.

Senator DEWINE. Well, are you saying then that there is a built-in Pentagon bias, then?

Dr. ZEGART. I think there's a natural gravitational pull.

Senator DEWINE. A natural gravitation that way?

Dr. ZEGART. Yes, I think there's a natural gravitational pull. In any endeavor that we do, there are certain things we put on post-its that get to the top of the pile, and supporting the warfighter and providing that intelligence always gets to the top of the pile.

The challenge is to make sure that the things at the bottom of the pile don't get ignored, the long-term intelligence assessments that are critical for our national security.

Senator DEWINE. Any comments by the other two witnesses?

[No response.]

Senator DEWINE. OK. My time is up. Thank you Mr. Chairman.

Chairman ROBERTS. Senator Bond.

Senator BOND. Thank you Mr. Chairman.

I appreciate the testimony of all three of you. We've certainly had an opportunity to become very well acquainted with Dr. Kay and as usual, Dr. Kay, I appreciate your comments and suggestions. I welcome General Boyd and Dr. Zegart.

Dr. Zegart, you mentioned the fleeting opportunity for reform, we're only going to get one bite at the apple. I think it's really important that we take that bite well. One of the things I'm concerned about is that we rush into doing something just so we can show that we've done something before November rolls around.

But I really think there's a problem. Since we are at war, we have to present our intelligence community with an improved system while they're fighting a war, while that system has to continue to function, as we continue to perform what may be major transplantation surgery.

I am concerned that Congress not do so much that we interfere with the ongoing, the tactical, if you will, as we prepare for the strategic.

Several things that you said about the failure of tradecraft lead me to the question: Are there things that are being proposed for Congress to do that we ought not to be doing, that ought to be done?

As you said, powers were there that were not exercised. Can you help us draw a distinction where we ought to keep our nose out of? While you do indicate that we should, for example, provide community training and cross-jurisdictional transfers, are there things that we are talking about doing that we ought not to do?

Dr. ZEGART. Senator, let me just say that I share your concern that, on the one hand, Congress act with urgency; on the other hand, Congress act with care. I know it's a difficult balance between the two. I fall on the side of urgency, in my mind, rules the day.

Are there things that Congress should keep its nose out of? Yes. That is legislating too far into the weeds about how the agencies should operate.

For example, while I think it would be certainly beneficial to require a rotation to other intelligence agencies, I think legislating the details of how long those rotations should be, where they should be specifically, those kinds of things should be left to the intelligence community to sort through, things that require professional judgment to sort out.

But I err on the side of thinking that Congress actually can do great by providing more specific direction to the community rather than less.

Senator BOND. I would like the comments of the others, but to General Boyd, you've done an excellent job of laying out the problems, that Congress inhibited the effective collection of HUMINT.

I've long been a believer in better HUMINT. But I'm worried that we may try to get too far into legislating what kind of HUMINT. Can you give us some guidance on that and the other question I asked more generally?

General BOYD. I don't know. I don't have a clear enough grasp, sir, of how far you really plan to go or you think you're headed in giving power to the NID. If I had a better grasp of that, I think I could answer your question better.

I think that, if you're going to stand this guy alone, give him these national agencies, expect of him significant analytical capability, you're either going to gut the CIA to give him their analytical capabilities or else you're going to duplicate them, and that all gets squirrely.

Now, if you can help me understand—if on the other hand, what you have in mind is, if I can be just so simple, remember I'm a fighter pilot; it's got to be simple if I'm going to understand it—if you're going to change the DCI's name to NID and give him some significant power that he does not now exercise over those national agencies only, but leave him right there, if that's what you're going to do—

Senator BOND. Excuse me, General. I'm about to get the red light, and I wanted to have Dr. Kay add his 2 cents worth. Also I'm fascinated to know, which of the 15 we ought to be looking at to get rid of? That one, I just find too juicy to pass up.

You could always slip us a note—

Dr. KAY. I probably should pass up, as well.

Let me, Senator Bond, let me emphasize, the thing about urgency that worries me is that we will assume that we have really solved the problem when we do something quickly. This is a journey; it's not a quick fix. We didn't get in this State in 1 year; we got in this State because of well over a decade of the system simply going awry and not being well-managed.

Now, I come down—although Senator Roberts has appropriately tweaked me for being an agnostic that has commandments—I come down to this simply because I too don't know whether we have agreement in the executive branch and in Congress about what are the powers and the problems that the national intelligence director should address.

If I understood that, and that we weren't simply interested in another symbolic czar, I think we could all answer that question better. That's what these hearings I know are designed to help you elucidate.

I must say, I guess in balance, and it's on the last two pages of my written statement, I come down recognizing that we're going to have an NID one way or the other. I mean, I grew up as a poor kid on the east side of Houston, and our favorite game was walking rail tracks. I survived because I understood when to get off the tracks when the train was coming at an appropriate time and not stay on it.

I know there's a train coming down there. I just want to be sure that we take the steps to make this an effective and a real reform and don't blow this opportunity and do something that is quick and self-satisfying for the moment, but not effective over the next decade.

Senator BOND. Thank you.

Chairman ROBERTS. Senator Chambliss. Who has left the premises, who evidently caught the train.

Senator Hagel.

Senator HAGEL. Mr. Chairman, thank you. I wish to also thank our three witnesses for splendid testimony and important insight into a great challenge that we have before us, as you each have articulated so clearly.

I was intrigued with the three of you addressing this intelligence community reform with heavy emphasis on performance, professionalization and culture. As the three of you know, and I think we all appreciate here, you don't legislate any three of those. That comes from a whole different agenda, history, tradition, leadership, vision.

Now, with that in mind—and incidently, I happen to agree with you on those points—and in the interest in time, I would be very interested in getting the three of your brief comments on these questions: One, do we need an NID? Two, if we do, then what authority should you give the NID—budget, policy, line-management—and over which of the 15 agencies?

We've not talked today in much detail about domestic versus foreign intelligence. We appreciate the integration of those and understand the critical nature of those. We've talked about tactical versus strategic. Any way we come at this, it is difficult.

The third part, if we could address this, what in your opinions, without getting into great detail, by virtue of the President's Executive Order power could he do now, would he have the power to do by Executive Order?

Why don't we start in the same sequence of the testimony we heard, and Dr. Zegart, you would be first, thank you.

Dr. ZEGART. It's not often I get to go first rather than last. I appreciate that.

Do we need an NID? Yes, Senator, I believe we do. I think I part company with David a little bit on this. While I believe that performance matters and culture matters, structure matters, too. Structure is not about moving boxes on a chart; structure is about power. It's about who can tell someone else to do what and whose memo goes on top.

What I see in looking at the national intelligence community now is that we have someone who's supposed to run it who cannot match resources against priorities. That's a recipe for failure, I think. We've seen that recipe played out over 50 years. So I think reforming the structure so that whoever runs the intelligence community actually can match those resources against priorities gives us a leg up. Will it solve the problem? No way. But it gets us a large step closer.

Your second question, what authority specifically should we give such a director? I am not a lawyer, happily, but I am an organization theorist, and so I can tell you what I think that person needs to have on the ground, and I think there are three things.

The first is the ability to match funds against priorities and to be able to move those in a fluid manner. It's the equivalent of the CEO who can actually devote the resources in the company to the divisions that need it. Whether that's through appropriations au-

thority or whether that's through reprogramming authority, I don't know enough to be able to say.

The second thing, I think, that—

Senator HAGEL. Excuse me. But make it clear, if this is your point, budget authority, if we have this person, is critical.

Dr. ZEGART. Absolutely, absolutely.

The second critical power is personnel authority. It's all about money and people in organizations, as you know, and the ability to hire and fire and to transfer personnel across agencies in a seamless way—again, to match resources, in this case people—against critical priorities, to be able to move them around.

The third component is actually to have the capability to make those authorities real. It's one thing to have them in law; it's another thing to exercise them in practice.

What that means is, the computer systems actually operate together, so that there aren't different financial accounting systems for each agency in the community, and the personnel and the staff to make use of that information. There's an old saying in management: "You can't manage what you can't measure." You have to be able to measure these things in order to manage them.

Senator HAGEL. Thank you.

General? Or I guess we went to Dr. Kay, that's right.

Dr. KAY. Let me try to be very quick. I think we need organizational reform. I could imagine a situation where it could be—

Senator HAGEL. Does that mean we need an NID?

Dr. KAY. Well, let me get to that. I think I can imagine a situation when the appropriate answer might have been we just need to increase the authority and power of the director of the Central Intelligence Agency.

I really don't believe that now, because of the reasons this Committee documented itself. The failure of the CIA in Iraq was so persuasive and indicative of large-scale failures in analytical and collection tradecraft that it is a full-time job repairing that agency. It must be a priority. It is the crown analytical jewel of our system.

So I actually think that right now, for better or for worse, as agnostic as I am, that in fact we need to create an NID.

That gets me to your second point, one I devoted, actually, most of my written statement to—the authorities necessary to make that NID effective. The worst thing that could happen, in my view, is a reorganization that creates an NID that is feckless, that looks like the drug czar or the cancer czar or the other multitude of czars that are on the ashcan of Washington history.

That is fundamentally budgets, personnel, strategies and holding people responsible for execution even though they may exist in other organizations, as undoubtedly they will in some of these 15 or other numbered agencies that we have.

Senator HAGEL. Authority over all 15?

Dr. KAY. I think you have authority over all 15. It doesn't necessarily mean that all 15 have to report fully and directly to the NID. I think there are creative ways to do this that preserves the interests of DOD and the warfighter but at the same time ensures that we get actual reform.

The danger is you will skew in a way that in fact accommodates and guts the czar. That's what we've done before in almost every other czar.

Senator HAGEL. Thank you.

General.

General BOYD. You need—I don't care what you call it, you need an empowered DCI. If you want to call him an NID, that's OK with me. I would like for him to stay right where he is. I would like to have him have the powers that we've just been discussing.

Senator HAGEL. When you say that, excuse me, you mean at CIA without a new job, without a new title, or without another box?

General BOYD. It doesn't matter. The title really doesn't matter. Maybe it shows—I mean, you know, it shows something new. But what's important is he ought to have those agencies that truly have broad user requirements, and that means the ones we talked about earlier—NSA, NGA, NRO and, of course, he's already got the CIA. He ought to have those absolutely. He ought to have them in budget, in manpower, just as you've heard, in requirements development.

He ought to have nothing whatsoever to do with the Coast Guard's intelligence. I mean, they've got peculiar little requirements that they—and he's going to waste his time doing that.

So the 15, I would give him the authority over one that he already has, three more, with real authorities, and let it go at that. That's a consolidation of collection. I would keep everybody else's, and let the departments draw on him, on that collection pool, as their departmental needs require.

Senator HAGEL. Thank you. Mr. Chairman, thank you.

Chairman ROBERTS. Senator SNOWE.

Senator SNOWE. Thank you, Mr. Chairman. I want to thank our witnesses, most especially for your honest appraisal regarding the challenges before us, and particularly the creation of a director of national intelligence.

You know, obviously, the experience of this Committee, the recent experience has, of course, been our investigation on the issue of whether or not we had stockpiles of weapons of mass destruction in Iraq.

That's basically what prompted me to support the creation of the director of national intelligence. Because it was clear, and abundantly clear, there was so much that went wrong, fundamentally wrong within the agency and across the intelligence community.

For example, as you all know, the lack of information sharing. I mean, almost 3 years later, it actually would have been even earlier than that, because of the time period in which this began and the aftermath of 9/11, information sharing was a lesson not learned, not the sharing of the credibility of our sources that we use for certain analysis like biological weapons and chemical weapons, as we so painfully learned.

It wasn't shared from the CIA with the other analysts and the other agencies. Dissenting opinions didn't sort of filter up to the top to the leadership of the CIA with respect to the aluminum tubes until very late in the process.

In fact, it might have been 2 years since the time they first learned of the conflicting opinions. Probably all of this is very familiar to you, Dr. Kay, on some of these issues.

The question is, it's not just change for the sake of change. I think we have sort of reached, you know, a turning point. It's a watershed moment, because we are in transformational times. Something has gone clearly wrong, I think, within the intelligence community.

I happen to thank that it's, frankly, too much for one person, the day-to-day management of the CIA, at the same time being the principal intelligence adviser to the President of the United States who is not informed, by the way, of all of the dissenting opinions, conflicting opinions in which to inform the President of the United States. I mean, that is seriously troubling.

Then, of course, having responsibilities of the intelligence discerned and things from the other agencies. We need a strategic, macro vision of the entire community, someone who's going to—ultimately, it's not just organizing and creating a bureaucratic chart that's different, but to force integration. There is nothing now to break down these barriers and these stovepipes to work in a horizontal fashion. I think that's what this is all about.

So I would appreciate your response, Dr. Kay, and General Boyd and Dr. Zegart, about the whole issue of the weapons of mass destruction.

We know what went wrong. Could it have been a very different product? Could we have had a very different product in the NIE, for example, if we had had changes organizationally that we're speaking of?

Dr. KAY. It could have been a very different product, in my judgment. It would not just be organizational changes. The failures you documented so thoroughly were not just failures of organization. They were failures of tradecraft, failures of culture, failures of management, conscious mismanagement of the information flow. So these could have been quite different, if you addressed those.

I agree, and the reason I ultimately come down, holding my breath in saying that NID is probably the thing to do, is because I believe the reformation of the CIA is a priority task and is a full-time job in and of itself.

But let me say, again, this is—we all speak about we've got to get it completely right, because we have just one chance. I think that is where we're wrong. This is a journey, not a quick step.

But to ensure that we have more than one chance—and Senator Hagel I think correctly held our feet to the fire by saying a lot of what we've talked about can't be legislated—the thing that you can do is the full exercise of your oversight capability to ensure that this is a journey and not a step that stops as soon as you pass whatever legislation you're going to pass next month.

I think that, in many ways, is probably the most important thing you can do. There, again, remember, I believe the failure to hold people responsible for poor performance over a decade is at the root of what you have uncovered and what I unfortunately had to deal with.

Senator SNOWE. I couldn't agree with you more on that score. I think that we need to have strong legislative oversight and accountability as well.

Dr. KAY. That gives us more than one chance. There's a good news side of that story.

Senator SNOWE. General Boyd.

General BOYD. Directly to your question of WMD, I don't think it had a thing to do with the way we were organized.

I think that, and I covered this in my statement very briefly, the most important work of all I think that the Hart-Rudman Commission did had to do with devising processes for the formulation of policy and for then managing the requirements of and prioritization of the intelligence community. It's the marriage of that process that is absolutely critical.

I think that, in the case of WMD, we decided that for a whole variety of reasons, it was important to do Iraq, and that weapons of mass destruction was going to be the justification for it. When we did that, then all of the analysis and what have you that could be extracted from countervailing argument were marshaled to support that policy objective.

This goes to the issue of having a professional running that place and in developing a professional, truly professional, culture there, which is a big, big job. You can help that with the legislation, but not this kind.

You can help immediately in the way we organize with those four national agencies. But beyond that, I wouldn't fool with it. I would worry about that big professional cultural problem and the way policy is formed and integrated into intelligence prioritization.

Senator SNOWE. Thank you.

Dr. Zegart.

Dr. ZEGART. Senator, this Committee and my fellow—

General BOYD. Can I tell your staff to go look for recommendation number 14 and number 30 in the Hart-Rudman Commission and read just not just the recommendation but the analysis supporting both of them.

Senator SNOWE. We will. Thank you.

General BOYD. Sorry.

Dr. ZEGART. That's OK.

I think General Boyd and Dr. Kay and this Committee have far more expertise about weapons of mass destruction in Iraq than I do, but I've read this Committee's great report, and from my perspective, I do agree with David. I think it is much more a failure of tradecraft and culture than it is of structure.

I'd look at the conclusions that this Committee made—for example, the reluctance to pass information on, the reluctance to include dissent, which is critical for informing judgments about how much stock to put in the judgment of an intelligence analyst.

Those kinds of things are about culture and about how people view the world, more than organizations. I think about the counterfactual. What if these organizations had been crashed together in one giant organization. Would we solve these problems?

I think the answer is likely not.

Even if we create the national intelligence director, which I believe we should do, these cultural problems will take a long time

to fix. I think David is quite right, it is a journey. But we can start the journey on the right foot, with the right legislation.

Senator SNOWE. Thank you. Thank you all very much.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Chambliss.

Senator CHAMBLISS. Thank you, Mr. Chairman.

The one overriding thing I hear from all of you is that—and you're exactly right—we can do all the reorganizing, recommending and legislative changes, but if you don't have the right personnel in place, and the morale of those personnel is not what it ought to be, we're going to continue to have a very, very difficult time in our intel community.

Mr. Chairman, first of all, before I ask any questions, there's been put together a side-by-side of the 41 recommendations of the 9/11 Commission, and 39 of those 41 recommendations have either been addressed by the administration or there is under consideration changes or reactions to those recommendations that may have been ongoing long before the Commission report.

The only two that have not been addressed are the two relative to the restructuring of Congress. I would ask that this copy of that side-by-side be placed in the record.

Chairman ROBERTS. Without objection.

[The information referred to follows:]

FACT SHEET: KEY BUSH ADMINISTRATION ACTIONS CONSISTENT WITH 9/11 COMMISSION RECOMMENDATIONS

President Bush welcomes the 9/11 Commission report and agrees with its conclusion that our Homeland is safer today, but we are not yet safe. He has ordered the highest levels of government to examine in short order the Commission's recommendations and to use them to develop a plan for further action.

The Commission carefully and thoughtfully studied the many complex and critical issues facing our Nation in the War on Terror – and we are gratified that the Commission's final report comes to conclusions similar to the Administration's on the vast majority of the key policy issues.

As the Commission recommended:

- **The Administration is already pursuing a worldwide strategy of disrupting and denying safe harbors to terrorist groups.** We continue to build on these efforts, and the Administration is giving serious consideration to the Commission's recommendations.
 - **The Administration is already undercutting the ideological appeal of terrorism by standing for a "forward strategy of freedom" and promoting needed reforms in the broader Middle East.** The Administration welcomes the Commission's recommendations for further strengthening and expanding these efforts.
 - **The Administration is already developing and deploying cutting-edge technologies to secure our borders, our ports, our critical infrastructure, and other parts of our homeland.** Although there is no such thing as perfect security in our vast, free Nation, the Administration believes more can be done to build on the efforts we have begun, and the Commission's homeland security recommendations are being seriously reviewed.
 - **The Administration has already moved significantly along the road to intelligence reform by vastly improving cooperation and information-sharing among the intelligence, law enforcement, and homeland security communities through:**
 - passage of the USA PATRIOT Act;
 - the ongoing transformation of the FBI;
 - expansion of the collection and analytical capabilities of CIA; and
 - creation of the Department of Homeland Security, the Terrorist Threat Integration Center, and the Terrorist Screening Center.
- These are important steps along the road the Commission charts for intelligence reform. More steps are needed – and more will be taken – but a solid foundation for future action is in place. The Commission's intelligence-reform proposals build on this foundation. The reform efforts we take now will establish an intelligence structure to protect America for decades to come, and it is important to get it right, which is why the Administration is actively and seriously examining each of the Commission's recommendations.

The following are examples of actions already taken by the Bush Administration that are fulfilling the 9/11 Commission's recommendations.

RECOMMENDATIONS	ACTIONS ALREADY TAKEN
<p>Chapter 12 "What To Do? A Global Strategy"</p> <p>➤ "The U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power. We should reach out, listen to, and work with other countries that can help." (Ch. 12, p. 367)</p>	<p>➤ The removal of all al Qaeda sanctuaries was part of our strategy before 9/11. Since 9/11, the United States has removed the #1 terrorist sanctuary, the Taliban regime in Afghanistan, and also Saddam Hussein's regime in Iraq, a long-time state sponsor of terror. We continue to use all elements of national power to identify and eliminate other such sanctuaries around the world and to work with other governments to make sure they are not available to terrorists. We are destroying the leadership of terrorist networks; disrupting their planning and financing; and shrinking the space in which they can freely operate by denying them territory and the support of governments. The effort to identify and eliminate terrorist sanctuaries is ongoing and will continue to be a central element of our strategy in the War on Terror.</p>
<p>➤ "If Musharraf stands for enlightened moderation in a fight for his life and for the life of his country, the United States should be willing to make hard choices too, and make the difficult and long-term commitment to the future of Pakistan. Sustaining the current scale of aid to Pakistan, the United States should support Pakistan's government in its struggle against extremists with a comprehensive effort that extends from military aid to support for better education, so long as Pakistan's leaders remain willing to make the difficult choices of their own." (Ch. 12, p. 369)</p>	<p>➤ The United States has dramatically re-fashioned its relationship with Pakistan in the wake of the 9/11 attacks. As the Commission notes, even before 9/11, the Bush Administration was actively engaged in diplomatic efforts to get Pakistan to change its policy of support for the Taliban and help eliminate the al Qaeda threat. President Bush personally wrote President Musharraf in February 2001 emphasizing that Bin Ladin and al Qaeda were a "direct threat the United States and its interest that must be addressed" and urging Musharraf to use his influence with the Taliban on this critical issue. Again in August 2001, President Bush personally asked Musharraf for Pakistan's active engagement against al Qaeda. Today, the United States and Pakistan are working closely in the fight against terror, and Pakistani forces are rounding up terrorists along their nation's western border. President Musharraf is a friend of our country, and has taken out of commission over 500 al Qaeda and Taliban operatives, including Khalid Sheikh Mohammed, the operational planner behind the 9/11 attacks. Finally, we have proposed a five-year, \$3 billion military and aid package to support Pakistan's security, economic and social programs.</p> <p>➤ American assistance to help improve the lives of Pakistanis will reach \$300 million for the period of 2002 to 2006. Improvements to primary and secondary education, modernization of health care – especially for women and children – and helping small and medium Pakistani businesses compete in the international market are some areas in which Pakistanis and Americans are working together. This year alone, 130 schools are being refurbished, a program to reduce maternal and infant mortality is being launched, and scholarships are being given to top students who could not otherwise afford to go to Pakistani universities.</p>

<p>➤ "The President and the Congress deserve praise for their efforts in Afghanistan so far. Now the United States and the international community should make a long-term commitment to a secure and stable Afghanistan, in order to give the government a reasonable opportunity to improve the life of the Afghan people. Afghanistan must not again become a sanctuary for international crime and terrorism. The United States and the international community should help the Afghan government extend its authority over the country, with a strategy and nation-by-nation commitments to achieve their objectives." (Ch. 12, p. 370)</p>	<p>➤ The United States and its coalition partners defeated the Taliban, put al Qaeda on the run and eliminated Afghanistan as the international hub for al Qaeda terrorist training. This Administration committed \$2 billion for Afghanistan's development. Today, Afghans have a new stable currency, a new Constitution, and are looking forward to voting in the country's first democratic elections. The United States has reassured the Afghan government that America is a steadfast partner. The UN and international community have also pledged to ensure Afghanistan does not plunge into anarchy. To ensure security and stability, the United States and the international community are training security forces to extend Kabul's authority in the provinces. Currently there are over 13,000 soldiers in the well-respected Afghan National Army and over 21,000 Police officials. In addition, the United Kingdom and the United States are better positioning themselves to counter a growing narcotics threat now and over the long-term. Reconstruction programs such as completing the Kabul to Kandahar road; continuing work on the Kabul to Herat road and secondary roads; building clinics and schools; training teachers; and establishing market centers all contribute to a stable and secure Afghanistan.</p>
<p>➤ "The problems in the U.S.-Saudi relationship must be confronted, openly. The United States and Saudi Arabia must determine if they can build a relationship that political leaders on both sides are prepared to publicly defend—a relationship about more than oil. It should include a shared commitment to political and economic reform, as Saudis make common cause with the outside world. It should include a shared interest in greater tolerance and cultural respect, translating into a commitment to fight the violent extremists who foment hatred." (Ch. 12, p. 374)</p>	<p>➤ Three years ago, terrorists were well established in Saudi Arabia. Inside that country, fundraisers and other facilitators gave al Qaeda financial and logistical help – with little scrutiny or opposition. Today, after attacks in Riyadh and elsewhere, the Saudi government knows that al Qaeda is its enemy. Saudi Arabia is working hard to shut down the facilitators and financial supporters of terrorism, and has captured or killed many first-tier leaders of the al Qaeda organization in Saudi Arabia – including one in June 2004. Today, because Saudi Arabia has seen the danger, and has joined the War on Terror, the American people are safer. While there is still much work to be done, the Saudis have made important progress in confronting the terrorist threat and the United States has forged a genuine partnership with Saudi Arabia in this war, one that will continue to pay dividends in the years ahead.</p>

<p>➤ "The U.S. government must define what the message is, what it stands for. We should offer an example of moral leadership in the world, committed to treat people humanely, abide by the rule of law, and be generous and caring to our neighbors. America and Muslim friends can agree on respect for human dignity and opportunity. To Muslim parents, terrorists like Bin Ladin have nothing to offer their children but visions of violence and death. America and its friends have a crucial advantage—we can offer these parents a vision that might give their children a better future. If we heed the views of thoughtful leaders in the Arab and Muslim world, a moderate consensus can be found." (Ch. 12, p. 376)</p>	<p>➤ In Afghanistan and Iraq, the United States is leading international coalitions to help citizens build a democratic future. Free and fair national elections will be held for the first time in Afghanistan this October, and in Iraq by the end of January. Last June, President Bush led the G-8 Leaders in launching the "Partnership for Progress and a Common Future" to support political, economic, and social reform in the Broader Middle East and North Africa region by committing to: establish a Forum for the Future, bring together regularly G-8 and regional ministers to discuss reforms and support progress in the region; bring together democracy foundations, civil society groups, and governments from the G-8, the region, and other countries to promote and strengthen democratic institutions, coordinate and share information on democracy programs, initiate new democracy programs, and sponsor exchanges; assist the region's efforts to halve the illiteracy rate over the next decade, including by training 100,000 teachers by 2009; help as many as 250,000 young entrepreneurs, especially women, expand their employment opportunities; invest \$100 million to assist small and medium-sized enterprises; expand sustainable microfinance in the region to help over two million potential small entrepreneurs pull themselves out of poverty; coordinate the work of development institutions and international financial institutions working in the region; and assist the region's efforts to improve the business climate.</p>
<p>➤ "Where Muslim governments, even those who are friends, do not respect these principles, the United States must stand for a better future. One of the lessons of the long Cold War was that short-term gains in cooperating with the most repressive and brutal governments were too often outweighed by long-term setbacks for America's stature and interests." (Ch. 12, p. 376)</p>	<p>➤ The President has embedded democracy, transparency, and respect for the rule of law into the core of our foreign policy and assistance strategies. A few examples of his fundamental commitment include:</p> <ul style="list-style-type: none"> ○ The Millennium Challenge Account (MCA). At the Inter-American Development Bank on March 14, 2002, President Bush called for "a new compact for global development, defined by new accountability for both rich and poor nations alike. Greater contributions from developed nations must be linked to greater responsibility from developing nations." The President pledged that the United States would lead by example and increase its core development assistance by 50 percent over the next three years, resulting in an annual increase of \$5 billion by FY 2006; ○ The Middle East Partnership Initiative, which is based on the President's conclusion that we must never seek "stability" at the price of freedom; and ○ The Anti-Corruption efforts in the G-8, Asia Pacific Economic Cooperation (APEC), and Summit of the Americas.

<p>➤ "Just as we did in the Cold War, we need to defend our ideals abroad vigorously. America does stand up for its values. The United States defended, and still defends, Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq. If the United States does not act aggressively to define itself in the Islamic world, the extremists will gladly do the job for us." (Ch. 12, p. 377)</p>	<p>➤ President Bush is committed to the long-term future of Afghanistan and Iraq, two nations in the midst of historic transitions from dictatorship to democracy. On November 6, 2003, the President announced the Forward Strategy of Freedom in the Broader Middle East, which is a vision based on the President's conclusion that we must never seek "stability" at the price of freedom. The President's Broader Middle East Initiative, endorsed at the G-8, US/EU, and NATO summits in June 2004, is rooted in a partnership to support the region's aspirations for freedom, democracy, rule of law, economic opportunity, and social justice. The partnership involves not only governments, but also business and civil society leaders as full partners.</p>
<p>➤ "The U.S. government should offer to join with other nations in generously supporting a new International Youth Opportunity Fund. Funds will be spent directly for building and operating primary and secondary schools in those Muslim states that commit to sensibly investing their own money in public education." (Ch. 12, p. 378)</p>	<p>➤ Promoting literacy and developing new opportunities for young people in the Broader Middle East region are key priorities underpinning the President's Broader Middle East and North Africa initiative. The President led the G-8 at the Sea Island Summit in launching new initiatives to support the region's literacy efforts and sponsor entrepreneurship and vocational training programs. Internationally, the President has more than tripled U.S. overseas basic education funding.</p>
<p>➤ "A comprehensive U.S. strategy to counter terrorism should include economic policies that encourage development, more open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future." (Ch. 12, p. 379)</p>	<p>➤ In an unparalleled manner, the President has united aid and trade policies to help integrate the poorest countries into the global economy in a way that promotes free, democratic, and prosperous societies. Examples include the Millennium Challenge Account (MCA), the Digital Freedom Initiative, the Trade for African Development and Enterprise (TRADE) Initiative, the Middle East Partnership Initiative, the Africa Growth and Opportunity Act (AGOA) II and III, and an unprecedented number regional, sub-regional, and bilateral free trade agreements that the Administration is negotiating or has concluded with developing countries. This includes a Presidential initiative to establish a U.S.-Middle East Free Trade Area (MEFTA) by 2013. The recently passed U.S.-Morocco FTA, completion of FTA negotiations with Bahrain, and the signing of Trade and Investment Framework Agreements with every country in the Arabian Gulf demonstrate concrete progress toward the MEFTA goal. Finally, the Administration provided a critical global leadership in successfully launching the WTO's Doha Development Agenda: trade negotiations – the first round of global trade talks focused on developing country development.</p>

<p>▲ "The United States should engage other nations in developing a comprehensive coalition strategy against Islamist terrorism. There are several multilateral institutions in which such issues should be addressed. But the most important policies should be discussed and coordinated in a flexible contact group of leading coalition governments. This is a good place, for example, to develop joint strategies for targeting terrorist travel, or for hammering out a common strategy for the places where terrorists may be finding sanctuary" (Ch. 12, p. 379)</p>	<p>▲ In addition to our bilateral counterterrorism (CT) relationships with key partners around the world, the United States has sought to advance an aggressive CT agenda in numerous multilateral fora, such as NATO, the APEC forum, and the G-8, where the President led leaders in June 2003 in establishing a dedicated group of donor countries to expand and coordinate training and assistance for weak but willing countries. Other organizations, including the Organization of American States (OAS), the European Union (EU), the Association of South East Asian Nations (ASEAN), and the Australia, New Zealand, and United States (ANZUS) Treaty members took concrete steps to combat terrorism more effectively and to cooperate with each other to address this transnational threat. Reorienting existing partnerships and developing multilateral solutions to the threat remains an essential part of our strategy to win the War on Terror.</p>
<p>▲ "The United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists. New principles might draw upon Article 3 of the Geneva Conventions on the law of armed conflict. That article was specifically designed for cases in which the usual laws of war did not apply. Its minimum standards are generally accepted throughout the world as customary international law." (Ch. 12, p. 380)</p>	<p>▲ The United States has worked closely with its coalition partners regarding the detention and treatment of captured terrorists, and is open to exploring whether a "common coalition approach" is feasible and consistent with our national security.</p>

<p>➤ "Our report shows that al Qaeda has tried to acquire or make weapons of mass destruction for at least ten years. There is no doubt the United States would be a prime target. Preventing the proliferation of these weapons warrants a maximum effort—by strengthening counterproliferation efforts, expanding the Proliferation Security Initiative, and supporting the Cooperative Threat Reduction program." (Ch. 12, p. 381)</p>	<p>▲ Since publishing the National Strategy to Combat Weapons of Mass Destruction in 2002, this Administration has fundamentally changed the way our Nation responds to this threat. For example, we have:</p> <ul style="list-style-type: none"> ○ eliminated the WMD programs and SCUD-C missiles in Libya; ○ brought to a close Saddam Hussein's decades-long pursuit of chemical, biological, and nuclear weapons; ○ closed down the A.Q. Khan nuclear proliferation network; ○ achieved the unanimous passage of UNSCR 1540 that requires states to enact legislation that criminalizes proliferation activities; ○ established "Biodefense for the 21st Century," a national strategy for meeting the full range of biological threats; ○ provided record-level resources devoted to Nunn-Lugar and other nonproliferation assistance, including through the creation of the G-8 Global Partnership, which will provide \$20 billion to this effort over 10 years; ○ signed into law Project BioShield, which provides new tools to improve medical countermeasures protecting Americans against a chemical, biological, radiological, or nuclear (CBRN) attack; and ○ established the Proliferation Security Initiative (PSI), a broad international partnership of countries to coordinate actions to interdict proliferation shipments of WMD and related materials – at sea, in the air, and on land – and to shut down proliferation networks and entities.
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<p>➤ Vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts. The government has recognized that information about terrorist money helps us to understand their networks, search them out, and disrupt their operations. Intelligence and law enforcement have targeted the relatively small number of financial facilitators—individuals al Qaeda relied on for their ability to raise and deliver money—at the core of al Qaeda's revenue stream. These efforts have worked. The death or capture of several important facilitators has decreased the amount of money available to al Qaeda and has increased its costs and difficulty in raising and moving that money. Captures have additionally provided a windfall of intelligence that can be used to continue the cycle of disruption." (Ch. 12, p. 382)</p>	<p>➤ In the war on terrorist financing we have successfully disrupted and, in some cases, dismantled the financial infrastructure of terrorist operations. Working in cooperation with the international community, we have frozen more than \$140 million in terrorist-related assets, designated 383 individuals and entities as terrorist supporters, apprehended or disrupted key terrorist facilitators and deterred donors from supporting al Qaeda and other like-minded terrorist groups. America is safer today because we have made it harder and costlier for al Qaeda and other terrorist groups to raise and move money around the world.</p> <p>➤ The Administration has collaborated with Congress to develop a new Treasury Department structure to strengthen our efforts to fight terrorist financing. The Office of Terrorism and Financial Intelligence (TFI) will bring together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components in a high-profile effort led by an Under Secretary and two Assistant Secretaries.</p>
<p>➤ "Targeting travel is at least as powerful a weapon against terrorists as targeting their money. The United States should combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility." (Ch. 12, p. 385)</p>	<p>➤ We have already undertaken numerous post-9/11 initiatives that significantly enhance security with respect to travelers to the United States. Consular interviews of visa applicants are much more rigorous and utilize a larger database of terrorism-related information. Applications of concern are referred to Washington for in-depth review through the Security Advisory Opinion (SAO) process. Incoming international air travelers are subject to comprehensive prescreening carried out by the new National Targeting Center (NTC). When travelers reach U.S. ports of entry, the new Customs and Border Protection (CBP) agency conducts integrated "one face at the border" inspections. Watch lists are being consolidated through the Terrorist Screening Center (TSC) and the Terrorist Threat Integration Center (TTIC). These, and many other US intelligence analysis capabilities, are being used to attempt to exploit terrorists' vulnerabilities as they travel and to learn more about their activities and methods. The US-VISIT entry-exit system uses biometrics to compare the identity of the traveler with known data.</p> <p>➤ In addition to our ongoing efforts to target terrorist travel to, from and within the United States, the Administration is seeking, on both a bilateral and multilateral basis, to promote similar efforts by other responsible governments, and to provide those governments with relevant terrorist-related information.</p>

<p>➤ "The U.S. border security system should be integrated into a larger network of screening points that includes our transportation system and access to vital facilities, such as nuclear reactors. The President should direct the Department of Homeland Security to lead the effort to design a comprehensive screening system, addressing common problems and setting common standards with the systemwide goals in mind. Extending those standards among other governments could dramatically strengthen America and the world's collective ability to intercept individuals who pose catastrophic threats." (Ch. 12, p. 387)</p>	<p>➤ The Administration has made great progress in implementing an improved homeland security strategy that relies extensively on a "layered" approach to screening that actually begins well beyond U.S. borders.</p> <ul style="list-style-type: none"> ○ The comprehensive screening process begins with the careful review of all visa applications by consular officers overseas, who now have ready access to extensive databases with terrorism-related information. ○ New Federal Regulations require traveler and cargo information to be provided to U.S. authorities before arrival in the United States. ○ The Container Security Initiative allows U.S. inspectors at 17 major foreign seaports to examine high-risk containers before they are placed on U.S.-bound ships. ○ Three years ago, there were inspectors from three different Federal agencies at our ports of entry. Today, through DHS, the Bureau of Customs and Border Protection (CBP) consolidates not only all of our border inspectors, but also those who patrol between the ports of entry to create "one face at the border." ○ The Administration is working with other governments on transportation security, including through detailed action plans for implementing Border Accords with Canada and Mexico. The U.S.-introduced Secure and Facilitated International Travel Initiative (SAFIT), announced at the recent G-8 Summit at Sea Island, Georgia, constitutes a redoubled commitment by G-8 countries to a coordinated, comprehensive strategy to move travelers (and goods) across international borders quickly and easily, while providing enhanced security procedures.
<p>➤ "The Department of Homeland Security, properly supported by the Congress, should complete, as quickly as possible, a biometric entry-exit screening system, including a single system for speeding qualified travelers. It should be integrated with the system that provides benefits to foreigners seeking to stay in the United States. Linking biometric passports to good data systems and decisionmaking is a fundamental goal. No one can hide his or her debt by acquiring a credit card with a slightly different name. Yet today, a terrorist can defeat the link to electronic records by tossing away an old passport and slightly altering the name in the new one." (Ch. 12, p. 389)</p>	<p>➤ DHS has established the United States Visitor and Inmigrant Status Indicator Technology (US-VISIT) Program, an integrated, automated entry-exit system that records the arrival and departure of aliens; checks aliens' identities; and authenticates aliens' travel documents that are biometrically enabled. Already on line at 115 airports and 14 seaports for those travelers requiring a visa, US-VISIT will be extended by September 30 of this year to travelers from countries that participate in the Visa Waiver program, and then to all land ports of entry by December 31, 2005. Since January 2004, this new program has processed more than six million travelers and yielded nearly 800 matches to persons who were the subject of look-out bulletins.</p> <p>➤ In terms of speeding "qualified travelers" through the system, the Transportation Security Administration (TSA) is testing the Registered Traveler Program (RTP) that allows aviation travelers in select domestic markets to provide TSA with certain biographical information and a biometric imprint (fingerprints and iris-scan). After passing a security assessment, RTP participants may use a dedicated lane at the airport for expedited screening.</p>

<p>➤ The U.S. government cannot meet its own obligations to the American people to prevent the entry of terrorists without a major effort to collaborate with other governments. We should do more to exchange terrorist information with trusted allies, and raise U.S. and global border security standards for travel and border crossing over the medium and long term through extensive international cooperation." (Ch. 12, p. 390)</p>	<p>➤ Homeland Security Presidential Directive 6 (HSPD-6), issued on September 16, 2003, assigns a high priority to sharing terrorism-related information between and among responsible governments. The Department of State has been coordinating the overall effort to share with foreign governments the key watchlist and other information that could prove useful in identifying and apprehending terrorists. As one example, we now share our data on lost and stolen U.S. passports with other countries through INTERPOL. We have also committed, with our G-8 partners, to broader international information exchange through the Secure and Facilitated International Travel Initiative (SAFTI).</p>
<p>➤ "Secure identification should begin in the United States. The federal government should set standards for the issuance of birth certificates and sources of identification, such as drivers licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists." (Ch. 12, p. 390)</p>	<p>➤ Secure identification is a priority for the United States. Currently underway are several government initiatives enabling the Federal Government to better authenticate the identities of individuals seeking access to federally controlled facilities. For example, the Federal Identity Credentialing Committee, chartered by the Office of Management and Budget (OMB), is developing a common approach to identity badges and credentials across the Federal Government for employees and contractors. US-VISIT combats fraud in the travel documents of foreign nationals by obtaining biometric identifiers. The President's senior advisors are also currently preparing recommendations on what additional steps can be taken in this area.</p>

<p>➤ "Hard choices must be made in allocating limited resources. The U.S. government should identify and evaluate the transportation assets that need to be protected, set risk-based priorities for defending them, select the most practical and cost-effective ways of doing so, and then develop a plan, budget, and funding to implement the effort. The plan should assign roles and missions to the relevant authorities (federal, state, regional, and local) and to private stakeholders. In measuring effectiveness, perfection is unattainable. But terrorists should perceive that potential targets are defended. They may be deterred by a significant chance of failure." (Ch. 12, p. 391)</p>	<p>➤ Homeland Security Presidential Directive 7 (HSPD-7), issued December 17, 2003, establishes "a national policy for Federal departments and agencies to identify and prioritize United States critical infrastructure and key resources and to protect them from terrorist attacks." This effort includes development of the National Infrastructure Protection Plan. The Transportation Security Administration (TSA) is responsible for leading an interagency evaluation of the various modes of transportation to identify security gaps and response strategies.</p> <p>➤ Other DHS actions taken include: (1) issuing Security Directives requiring protective measures to be implemented by passenger rail operators, and screening high-risk rail cargo entering the United States; (2) establishing the Highway Information Sharing and Analysis Center to link workers in the truck and bus industry to intelligence community analysts who collate, disseminate, and analyze threat information; (3) providing security grants and partnering with industry through various education and outreach efforts to improve bus, truck, and rail security; and (4) launching the Homeland Security Information Network (HSIN) that provides for real-time information to be shared between the DHS Homeland Security Operations Center (HSOC) and State and local agencies in responding to transportation-related or other terrorist incidents.</p> <p>➤ Additionally, DHS and DOT are working with other Federal departments and agencies to evaluate potential long-term and short-term measures to protect rail shipments of hazardous materials, like chlorine, from deliberate attack.</p>
<p>➤ "Improved use of 'no-fly' and 'automatic selectee' lists should not be delayed while the argument about a successor to CAPPS continues. This screening function should be performed by the TSA, and it should utilize the larger set of watchlists maintained by the federal government. Air carriers should be required to supply the information needed to test and implement this new system." (Ch. 12, p. 393)</p>	<p>➤ Expansion of the current "no-fly" and "selectee" lists is already underway as integration and consolidation of various watchlists by the Terrorist Threat Integration Center (TTIC) and the Terrorist Screening Center (TSC) progresses. International flight pre-screening is the responsibility of the new National Targeting Center (NTC) and domestic pre-screening is the responsibility of Transportation Security Administration (TSA). The Administration is developing the next-generation approach to aviation passenger prescreening, implementation of which will enable the U.S. government to further expand the use of "no fly" and "selectee" lists to screen airline passengers in advance of their arrival at airports.</p>

<p>▲ "The TSA and the Congress must give priority attention to improving the ability of screening checkpoints to detect explosives on passengers. As a start, each individual selected for special screening should be screened for explosives. Further, the TSA should conduct a human factors study, a method often used in the private sector, to understand problems in screener performance and set attainable objectives for individual screeners and for the checkpoints where screening takes place." (Ch. 12, p. 393)</p>	<p>▲ The Transportation Security Administration (TSA) has made progress in improving the number and capability of the explosives detectors in place at our airports and our related procedures. For example, the National Explosives Detection Canine Team Program now oversees over 300 dog teams that provide coverage at each of the Nation's major airports. Outside the aviation context, in May 2004, TSA launched a test program to measure the feasibility of explosives screening for people and bags traveling on U.S. trains. In addition, several screening and other security technologies are under development, including an explosives detection portal for passengers to determine if explosives are being carried on an individual's person, document scanners to detect trace amounts of explosive materials on items such as boarding passes, and scanners for better screening of casts and prosthetic devices.</p>
<p>▲ "As the President determines the guidelines for information sharing among government agencies and by those agencies with the private sector, he should safeguard the privacy of individuals about whom information is shared." (Ch. 12, p. 394)</p>	<p>▲ Throughout the development of the Terrorist Threat Integration Center (TTIC), the Terrorist Screening Center (TSC), and other information-sharing entities, new procedures and systems have been engineered with all applicable privacy and security issues in mind. The safeguarding of individual privacy is a key concern in the new rules DHS is presently developing on the protection of information specifically related to homeland security.</p>
<p>▲ "The burden of proof for retaining a particular governmental power should be on the executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be adequate guidelines and oversight to properly confine its use." (Ch. 12, pp. 394-395)</p>	<p>▲ The Administration shares the Commission's dedication to preserving the constitutional freedoms that are the bedrock of our system of governance, and indeed, the Administration works every day to safeguard those freedoms. In addition, both Congress and the courts exercise substantial authority to oversee the executive branch's use of tools necessary to make America safer.</p> <p>▲ In his most recent report to Congress on abuses concerning civil rights or civil liberties, the Inspector General of the Department of Justice advised that, of 162 complaints received alleging DOJ misconduct, "None ... related to their use of a substantive provision in the Patriot Act." (IG Report of January 27, 2004)</p>

<p>^ "At this time of increased and consolidated government authority, there should be a board within the executive branch to oversee adherence to the guidelines we recommend and the commitment the government makes to defend our civil liberties." (Ch. 12, p. 395)</p>	<p>^ The President issued a ban on the use of racial profiling by federal law enforcement, the first ever to do so.</p> <p>^ The Administration's commitment to these principles is demonstrated in part by the appointment of an Officer for Civil Rights and Civil Liberties and a Privacy Officer within the senior leadership of the Department of Homeland Security.</p> <p>^ In June the DHS Officer for Civil Rights & Civil Liberties submitted a report to Congress detailing DHS's successful efforts to carry out the President's commitment to the protection of civil liberties.</p> <p>^ DHS has taken strong steps to ensure that aliens detained in connection with a national security investigation will be provided timely notice of the charges against them, access to counsel, satisfactory detention conditions, an individualized review of the possibility of bond, and an individualized consideration for whether the immigration hearings should be closed or open to the public.</p> <p>^ The Justice Department's successful leadership in these efforts is also reflected in the section above.</p>
<p>^ "Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Now, in 2004, Washington, D.C., and New York City are certainly at the top of any such list. We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel." (Ch. 12, p. 396)</p>	<p>^ As a result of historic funding increases sought by the President since 9/11, the Administration has allocated more than \$13 billion to improve the terrorism preparedness of state and local first responders and public health agencies. The FY 2005 Budget request for these programs is 1400 percent above their FY 2001 funding level, and includes proposals to better target funds towards risks and vulnerabilities, such as doubling the Urban Area Security Initiative for "high-threat urban areas" to \$1.4 billion. As the Administration agrees that such assistance should not be "revenue-sharing," Presidential homeland security directives require Federal departments and agencies providing preparedness assistance to first responders to base allocations on terror threat assessments, population concentrations, critical infrastructure, and similar risk factors, to the extent permitted by law. The Administration is developing nationwide risk-based preparedness goals which will help to further refine grant allocations.</p>

<p>Emergency response agencies nationwide should adopt the Incident Command System (ICS). When multiple agencies or multiple jurisdictions are involved, they should adopt a unified command. Both are proven and effective frameworks for emergency response. We strongly support the decision that federal homeland security funding will be contingent, as of October 1, 2004, upon the adoption and regular use of ICS and unified command procedures. In the future, the Department of Homeland Security should consider making funding contingent on aggressive and realistic training in accordance with ICS and unified command procedures." (Ch. 12, p. 397)</p>	<p>Homeland Security Presidential Directive 5 (HSPD-5), issued by the President on February 28, 2003, directs all Federal departments and agencies, beginning in FY 2005, to adopt the National Incident Management System (NIMS), and make its adoption a requirement for providing Federal preparedness assistance through grants, contracts, or other activities. The NIMS, which includes the Incident Command System (ICS) and a unified command structure, provides a consistent nationwide approach for Federal, state, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. A NIMS Integration Center, involving Federal, state, and local government representation, continues development and improvement of this system. DHS plans to conduct research in FY05 to develop location devices for first responders, and allow Incident Commanders to better understand where their resources are and how they are employed; and to provide virtual reality simulation training. The National Response Plan, to be completed in 2004, applies the incident command concepts to include Federal support to states and local governments during disasters. It will integrate operations into a seamless system and get help to victims more quickly and efficiently.</p>
<p>Congress should support pending legislation which provides for expedited and increased assignment of radio spectrum for public safety purposes. Furthermore, high-risk urban areas such as New York City and Washington, D.C., should establish signal corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress." (Ch. 12, p. 397)</p>	<p>The Department of Homeland Security is launching a new office that will coordinate federal, state, and local communications interoperability, leveraging both ongoing and new efforts to improve the compatibility of equipment, training, and procedures. As part of the RapidCom program, DHS is working with the state and local leadership in New York City, the DC Region, and eight other major cities to ensure that first responders can communicate by voice, regardless of frequency or mode during an emergency. In addition to these targeted efforts, interoperable communications planning and equipment has been a high priority for Federal homeland security assistance to states and localities, particularly in high-risk urban areas.</p>

▲ "We endorse the American National Standards Institute's recommended standard for private preparedness. We were encouraged by Secretary Tom Ridge's praise of the standard, and urge the Department of Homeland Security to promote its adoption. We also encourage the insurance and credit-rating industries to look closely at a company's compliance with the ANSI standard in assessing its insurability and creditworthiness. We believe that compliance with the standard should define the standard of care owed by a company to its employees and the public for legal purposes. Private-sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security." (Ch. 12, p. 398)

▲ Private-sector preparedness is a critical part of national preparedness. The Administration endorses the need for a standard of care for the duties and responsibilities of a company to its employees and the public. The Administration also believes in the importance of educating the public, on a continuing basis, about how to be prepared in case of a national emergency – including a possible terrorist attack. To address this goal, the Department of Homeland Security has implemented the Ready Campaign, which is a national public service advertising campaign designed to educate and empower citizens to prepare for and respond to potential terrorist attacks and other emergencies. DHS will strengthen the success of the Ready Campaign by launching Ready for Business, a campaign specifically targeted to preparing businesses in the case of an emergency or terrorist attack. The Ready for Business Campaign is consistent with the recommendations contained within the ANSI standard.

	ACTIONS ALREADY TAKEN
<p>Chapter 13 "How to do it? A Different Way of Organizing the Government"</p> <p>▲ "We recommend the establishment of a National Counterterrorism Center (NCTC), built on the foundation of the Terrorist Threat Integration Center (TTIC). Breaking the older mold of national government organization, this NCTC should be a center for joint operational planning and joint intelligence, staffed by personnel from the various agencies. The head of the NCTC should have the authority to evaluate the performance of the people assigned to the Center." (Ch. 13, p. 403)</p> <p>▲ "The current position of Director of Central Intelligence should be replaced by a National Intelligence Director with two main areas of responsibility: (1) to oversee national intelligence centers on specific subjects of interest across the U.S. government and (2) to manage the national intelligence program and oversee the agencies that contribute to it." (Ch. 13, p. 411)</p> <p>▲ "The CIA Director should emphasize (a) rebuilding the CIA's analytic capabilities; (b) transforming the clandestine service by building its human intelligence capabilities; (c) developing a stronger language program, with high standards and sufficient financial incentives; (d) renewing emphasis on recruiting diversity among operations officers so they can blend more easily in foreign cities; (e) ensuring a seamless relationship between human source collection and signals collection at the operational level; and (f) stressing a better balance between unilateral and liaison operations." (Ch. 13, p. 415)</p>	<p>▲ The President directed the establishment of the Terrorist Threat Integration Center (TTIC) in his 2003 State of the Union address, and TTIC began operations on May 1, 2003. The creation of the Terrorist Screening Center (TSC) was announced on September 16, 2003. These programs are significant steps taken in the direction of the recommended NCTC, as are the numerous forums for coordinated operational planning currently in use in the U.S.</p> <p>▲ The President's senior advisors are currently preparing recommendations on how best to move forward in this area.</p> <p>▲ The President has laid out three principles for intelligence reform: (1) increasing the quality and quantity of human intelligence; (2) strengthening our technological capabilities to stay ahead of the terrorists; and (3) ensuring the most effective and coordinated use of these resources and personnel, because there are multiple agencies with intelligence responsibilities.</p> <p>▲ The President's senior advisors are currently preparing recommendations on how best to move forward in this area.</p> <p>▲ CIA initiated new efforts to expand its collection and analytical capabilities even before 9/11. CIA's efforts were greatly accelerated in the wake of the attacks, including through hiring, training, and deploying a cadre of new highly-qualified human source collectors and analysts at an unprecedented rate, the implementation of a new language program, integration of human and electronic intelligence, and increased focus on unilateral (non-liaison) sources. The CIA has a sophisticated metrics program allowing senior Agency managers to measure progress against its goals. The CIA Executive Board meets at least bi-monthly to review each metric, make adjustments in plans where necessary, and reaffirm priorities.</p> <p>▲ The President's senior advisors are currently preparing recommendations on how best to ensure continued progress in this area.</p>

<p>▲ *Lead responsibility for directing and executing paramilitary operations, whether clandestine or covert, should shift to the Defense Department. There it should be consolidated with the capabilities for training, direction, and execution of such operations already being developed in the Special Operations Command.* (Ch. 13, p. 415)</p>	<p>▲ CIA paramilitary officers and DoD officers have performed together exceptionally in the field, including in both Afghanistan and Iraq. Close coordination and joint planning between CIA and military special operators is standard. ▲ The President's senior advisors are currently preparing recommendations on what steps can be taken to ensure continued optimal CIA/DoD coordination in the future.</p>
<p>▲ *Finally, to combat the secrecy and complexity we have described, the overall amounts of money being appropriated for national intelligence and to its component agencies should no longer be kept secret. Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work.* (Ch. 13, p. 416)</p>	<p>▲ The overall Intelligence Community appropriation has been declassified twice in recent years (in fiscal years 1997 and 1998), when a specific determination was made that the figure for that year could be released safely. ▲ The President's senior advisors are currently preparing recommendations on what steps can be taken in this area consistent with national security requirements.</p>

<p>^ "Information procedures should provide incentives for sharing, to restore a better balance between security and shared knowledge." (Ch. 13, p. 417)</p>	<p>^ The President established the Terrorist Threat Integration Center (TTIC), integrating and analyzing terrorism threat-related information collected domestically and abroad, ensuring that intelligence and law enforcement entities are working in common purpose.</p> <p>^ The Terrorist Screening Center (TSC) was established to consolidate terrorist watchlists and provide 24/7 operational support for thousands of Federal screeners across the country and around the world. The Center ensures that government investigators, screeners, and agents are working with the same unified, comprehensive set of anti-terrorist information – and that they have access to information and expertise that will allow them to act quickly when a suspected terrorist is screened or stopped.</p> <p>^ With the development of the Terrorist Threat Integration Center (TTIC) and the Terrorist Screening Center (TSC) has come a series of steps, including agreement, on March 4, 2003, by key federal departments and agencies, to a comprehensive Memorandum of Understanding to break down barriers to information sharing, increase the writing of intelligence products with unclassified "near-line" versions, reduce information controls to the extent consistent with our national security, and take other steps in this direction.</p> <p>^ Since 9/11, the FBI has continued to enhance its longstanding practice of sharing terrorism threat-related information with state and local law enforcement through its joint terrorism task forces.</p> <p>^ The Administration is also developing guidelines and regulations to improve information-sharing both among Federal Departments and Agencies and between the Federal Government and state and local entities.</p> <p>^ The President's senior advisors are currently preparing recommendations on how best to ensure continued progress in this area.</p>
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<p>▲ The president should lead the government-wide effort to bring the major national security institutions into the information revolution. He should coordinate the resolution of the legal, policy, and technical issues across agencies to create a "trusted information network." (Ch. 13, p. 418)</p>	<p>▲ Since 2001, the President has improved intelligence collection, analysis, and sharing to obtain the best picture of the terrorist threat to the Nation. An important part of each of the major organizational changes since 9/11 has been conscious attempts to increase database accessibility to those who need information, while, at the same time, building into our information-sharing architecture safeguards both for security and privacy. Information technology advances in these areas have been integral parts of the development of the TTIC, TSC, and other efforts, including the following:</p> <ul style="list-style-type: none"> ○ DHS launched the Homeland Security Information Network (HSIN), a real-time collaboration system used by more than one thousand first responders, mainly from the law enforcement community, to report incidents, crimes and potential terrorist acts to one another and the DHS Homeland Security Operations Center. ○ The Department of Defense created U.S. Northern Command, to provide for integrated homeland defense and coordinated DoD support for Federal, state, and local civilian governments. ○ President Bush signed the USA PATRIOT Act, which strengthens law enforcement's abilities to prevent, investigate, and prosecute acts of terror, facilitating Federal government efforts to thwart potential terrorist activity throughout the United States. The President continues to call on Congress to take action to ensure that these vital law enforcement tools do not expire. <p>▲ The President's senior advisors are currently preparing recommendations on how best to ensure continued progress in this area.</p>
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<p>^ "Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administrations by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow new officials to assume their responsibilities as quickly as possible." (Ch. 13, p. 422)</p>	<p>^ The Administration agrees that minimizing disruption to the national security policymaking process is critical, including expediting the process for national security appointments.</p> <p>^ The Administration supports the Commission's view that the Senate should take steps to speed confirmations at the beginning of an administration and its recommendation that the number of positions requiring Senate confirmation should be reduced.</p> <p>^ In addition, the Federal government has in place robust programs to ensure that essential functions of government, such as uninterrupted continuity of leadership and policymaking mechanisms, continue during emergencies. We continue to work to improve the effectiveness of these continuity programs to minimize disruption of critical governmental functions.</p> <p>^ As noted by the 9/11 Commission, responsibility for improving transitions lies largely with President-elect and with Congress. The President's senior advisors are currently preparing recommendations on what the Executive Branch can do to move forward in this area.</p>
<p>^ "A specialized and integrated national security workforce should be established at the FBI consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, rewarded, and retained to ensure the development of an institutional culture imbued with a deep expertise in intelligence and national security." (Ch. 13, pp. 425-426)</p>	<p>^ The FBI has implemented a strategic plan to recruit, hire, and retain Intelligence Analysts. The Bureau has selected veteran analysts to attend events at colleges, universities, and designated career fairs throughout the country. It executed an aggressive public recruiting plan and, for the first time in FBI history, is offering hiring bonuses for FBI analysts. In its Special Agent hiring, the FBI has changed the list of "critical skills" it is seeking in candidates to include intelligence experience and expertise, foreign languages, and technology.</p> <p>^ The FBI continues to grow the Field Intelligence Groups (FIGs) established in every FBI field office and is on track to add some 300 Intelligence Analysts to the FIGs in FY 2004. The FIGs conduct analysis, direct the collection of information to fill identified intelligence gaps, and ensure that information is disseminated horizontally and vertically to internal and external customers, including our state, local and tribal partners. As of June 2, 2004, there are 1,450 FIG personnel, including 382 Special Agents and 160 employees from other government agencies. To support information sharing, there is now a Special Agent or Intelligence Analyst in each Joint Terrorism Task Force (JTTF) dedicated to producing "raw" intelligence reports for the entire national security community, including, as appropriate, state, municipal, and tribal law enforcement partners and other JTTF members. These "Reports Officers" are trained to produce intelligence reports that both maximize the amount of information shared and, equally important, protect intelligence or law enforcement sources and methods and privacy interests.</p> <p>^ The President's senior advisors are currently preparing recommendations on how best to ensure continued progress in this area.</p>

<p>A "The Department of Defense and its oversight committees should regularly assess the adequacy of Northern Command's strategies and planning to defend the United States against military threats to the homeland." (Ch. 13, p. 428)</p>	<p>A The Department of Defense created U.S. Northern Command (NORTHCOM), and principal responsibility for defending the homeland is now assigned to a four-star unified military commander wielding capabilities and resources that did not exist prior to 9/11.</p> <p>A The Secretary of Defense already provides significant oversight of NORTHCOM, as do numerous Congressional committees.</p> <p>A The President's senior advisors are currently preparing recommendation on what additional steps, if any, may be needed to ensure the defense of the United States against threats to the homeland.</p>
<p>A "The Department of Homeland Security and its oversight committees should regularly assess the types of threats the country faces to determine (a) the adequacy of the government's plans—and the progress against those plans—to protect America's critical infrastructure and (b) the readiness of the government to respond to the threats that the United States might face." (Ch. 13, p. 428)</p>	<p>A Homeland Security Presidential Directive 7 (HSPD-7) details the roles and responsibilities of the Department of Homeland Security (DHS) and other Federal departments and agencies in protecting national critical infrastructure. DHS is currently working with all Federal departments and agencies to develop a comprehensive, cross-sector National Critical Infrastructure Protection Plan. The plan will be completed by this fall and will be reviewed annually for its adequacy in protecting against current threats. Additionally, with the creation in March 2003 of the Information Analysis and Infrastructure Protection (IAIP) directorate within DHS, the United States now has a single focal point for the matching of real-time threat information with potential vulnerabilities in national critical infrastructure. Furthermore, Homeland Security Presidential Directive 8 (HSPD-8) directs the development of a measurable National Preparedness goal and a training and exercise program to ensure that the Federal Government, states, and localities are making progress toward that goal.</p> <p>A The President's senior advisors are currently preparing recommendations on what additional steps might be taken to ensure the protection of America's critical infrastructure.</p>

Senator CHAMBLISS. Thank you.

The one thing that has really brought me 180 degrees toward supporting the national intelligence director is the fact that I have seen so many stovepipes because of my keen interest in this information-sharing issue over the last several years that simply today I think have not been broken down.

I don't know how you're going to break down these stovepipes within the various institutions where everybody is of a mind to do whatever they can to win the war on terrorism. But it is just a natural fact that people tend to try to want to do their thing and, when they find something they think may be good, just naturally not to share it out there, and we have to get rid of that.

The one way I think that can happen is to have somebody outside, a CEO, to look down and say, "OK, all of you guys are responsible for getting together every day and getting your heads together, getting your department heads together at whatever level, and making sure that all of that information goes into that funnel."

I think unless we have somebody at the top—and the DCI simply can't do that, he has too many other things he has to do—but somebody has to be there to make sure that that information is analyzed properly and shared in real time.

Unless we create that position, Dr. Kay, as you say, with full power and authority budget-wise, the ability to move people around, the ability to take somebody who is not doing their job and either get rid of them or move them to another position, again, we're not doing anything.

I'm curious. Yesterday we had Secretary Rumsfeld and General Myers and John McLaughlin. John McLaughlin, who I have such great respect for, he's been a tremendous asset. I know you've worked very closely with him.

I asked him the question about the change that will be required in the position of the director of central intelligence with a restructuring and the creation of a national intelligence director, and with the fact that all of a sudden, the chief intelligence officer in the country is not going to be the DCI, he's going to be chairman of—the director of Central Intelligence Agency reporting to a national intelligence director and what's that going to do to the morale of the CIA officers out in the field.

John was quick to say he thought it would have a negative impact. I'd be curious, Dr. Kay, about your reaction to that question also.

Dr. KAY. I quite frankly don't think the morale's so great right now. The morale's not great because of concern about NID. It's the result of failures and a recognition that those failures have not been addressed, and the feeling of people in the field and in the guts of the CIA that no one is being held responsible at the levels that, in fact, led to the breakdown in tradecraft for the mistakes that were being made.

I think if the new CIA director comes in and is committed to reformation and reform, he will find a supporting and moralized, motivated staff, regardless of whether there's an NID or not.

What they're concerned about is the corruption and failure—and it didn't take place in a year. This is a result of several decades of decay and poor direction.

If you do that, I don't think morale is a problem. The morale is a problem when people don't think anyone cares about what they're doing, or they're going in the wrong direction.

So I think it is certainly something we ought to be concerned about, but I actually think if you get the right person in there, it's not going to be a problem.

Senator CHAMBLISS. The more I've thought about it, too, the more I think it's an opportunity to rebuild that morale and have somebody as a DCI who focuses on the CIA and the real job of the CIA. Right now, from a HUMINT standpoint, we're in serious trouble.

The next DCI has got to be focused on making sure that the HUMINT side is rebuilt, giving them the authority to take risks that they haven't been taking for any number of reasons over the last several years.

One other thing, Dr. Kay. I was following your scenario of structure that you were talking about, and I did not hear you mention TTIC and the NCTC. Tell me your thoughts on what we would do relative to TTIC and your thought about the establishment of NCTC.

Dr. KAY. This is an area that I agree very strongly with the 9/11 Commission. I think TTIC and that type of process is an interesting innovation that needs to be followed up, because it offers an opportunity both for focusing on new problems in interesting ways and collaboration across organizational boundaries.

My one concern is that we don't get into the situation—I think 15 agencies are too many. I would hate to come back—well, actually, I would love to come back before you, Senator Roberts, 10 years from now, but I would hate to come back and discover that in addition to the 15, we've now got 25 TTICs, including some that relate to problems that are no longer seen as a No. 1 priority.

The creation of special functional organizations works in business. It really does work. But it works because there is a vicious bottom line that ensures that you don't let them exist beyond the point at which they're adding value to your process. So I think we need to emphasize that. Government is not very good about execution in the sense of getting rid of things and people, once created.

Senator CHAMBLISS. Mr. Chairman, can I have one more question although my time has expired?

Chairman ROBERTS. Yes, I think so. I think you can have one more.

Senator CHAMBLISS. Thank you.

General Boyd and Dr. Zegart, one issue that has come out of this discussion, particularly over the last couple of days, is the issue of the fact that the leadership in the intelligence community thinks that the competition from an intelligence-gathering and analyzing standpoint is good.

I have some doubts about that. But I would be curious to know your thoughts about the thinking that we ought to promote competition within the intelligence community from a gathering standpoint as well as an analyzing standpoint. Does that tend to move us in the direction of more stovepipes as opposed to trying to break those down?

General BOYD. Do you want me to go first?

Dr. ZEGART. It's up to you.

General BOYD. I can address that, Senator, I think a little better in the context of military service. The same question, of course, has been on the table for years about the competitiveness of our services and trying to dampen that.

I've never understood that really, in a society that puts such a great premium on competition. It goes to the very core of our values of success. But when it came to military services, we were somehow supposed to not be competitive and that would make us better. I don't think that's right. It's probably not right in the intelligence community either.

I would foster—as a matter of fact, it's buried, but in the Hart-Rudman Commission, there is a recommendation that we enhance competition through budget reward. You have to have winners and you have to have losers. That would work at the problem of the defense budget going in steady fractions to the services over the last quarter of a century. But it would foster something, I believe, that would be of huge benefit.

If you can do X task better than service B, C and D, then you're going to get it. You're going to get the money that goes with it. I think the same thing, the same principle, I would try to apply to the extent that there is competitive approaches to collection, for example.

Dr. ZEGART. Senator, I think that competition in theory is a good idea. The question is, how can we harvest the benefits of competition while avoiding the dysfunction of competition. I think that we've seen in intelligence that's very hard to do.

So, while I in theory like the idea of competitive collection and competitive analysis, I think the challenge for this community is to figure out how to channel that competition into a useful product for policymakers. That is, I think, one of the key conclusions I drew from this Committee's report.

Senator CHAMBLISS. Thank you for your patience, Mr. Chairman. Chairman ROBERTS. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman. Let me add my thanks to our panelists.

First, I'd like to just briefly support Senator Mikulski's request, I guess, by an implication that the Chairman and Vice Chairman be supportive of her request to the President. I don't know if she was explicit in asking for that. But it seems to me this leak is so egregious that it has got to be followed up.

What is doubly troubling to me is that if the USA Today article is correct, that the leak was—I shouldn't say the leak here, but that the name may have been disclosed on background; that's not technically perhaps a leak, but it's just as illegal. That would be unthinkable to me. I'm not going to go into the name of the party named here in the article. But it seems to me, Mr. Chairman, that it is important that this Committee follow up this leak for the reasons that Senator Mikulski mentioned.

But there is a secondary issue here too, which is not just a leak, but apparently an acknowledgment, alleged reported acknowledgment by a named key official that a name had been disclosed to reporters in Washington "on background." That, again, is just as illegal as a leak, as far as I know, unless the person to whom it's

told has the clearance to receive the name. That would be up, obviously to you and the Vice Chair as to whether or not you take that action or not. But I want to join in that request.

Let me ask our panelists a couple of specific questions about the powers of the NCTC head and the NID, the director of the proposed NID. There's been a number of recommendations of the 9/11 Commission report relative to those powers and I want to be specific on those powers.

First, on NCTC, the 9/11 Commission says that the NCTC should have the power to assign operational responsibilities to combatant commands. Do you have any thoughts on that, Dr. Zegart?

Dr. ZEGART. Senator, I think in general the 9/11 Commission recommendations are excellent. I think the idea of having a national counterterrorism center that fuses not only analysis with collection but also with operations is something that we sorely need.

I understand that there's concern about the chain of command. But my understanding, based on the history of the Joint Chiefs of Staff, is that in the military they've solved that problem, that there is a chain of command that runs from the President to the combatant commanders. The Joint Chiefs of Staff fulfills a very useful role and doesn't interfere with that command. I think that was the thinking behind this idea, and I think—

Senator LEVIN. Except they're all inside the Defense Department.

Dr. ZEGART. They are.

Senator LEVIN. They are in a chain of command. The NCTC is not in the chain of command, as proposed, and yet that is one of the recommended powers, that the NCTC should have—the head of it—the power to assign operational responsibilities to a combatant commander. You agree, disagree, or you don't know?

Dr. ZEGART. I do agree with it.

Senator LEVIN. OK, thank you.

General Boyd.

General BOYD. I can't imagine it, sir.

Senator LEVIN. Thank you.

Dr. Kay.

Dr. KAY. I basically agree with it. I think it's workable. I think inside the NITC you well could have a military officer serving, maybe as the head, certainly, maybe as the deputy, so in fact you don't violate the chain of command.

Actually, as you know, that's essentially what we did with regard to ISG. I had some directional responsibilities over military officers serving, but I had Keith Dayton there to ensure that the chain of command was respected. We actually do it all the time.

Senator LEVIN. OK. I will save the time for all the answers, but General Boyd, why can't you imagine that?

General BOYD. The tasking, if you're going directly from essentially everybody to any commander, and that has command authority behind it, he could be overwhelmed, it would seem to me, in such a way that it would just be impossible to serve. If there's some mechanism by channeling it into a chain of command, then sure. But that's not what I see and understand. That's why I cannot imagine it.

Senator LEVIN. Well, OK. I'm just reading from the 9/11 report. I think my time is up.

Chairman ROBERTS. Senator DeWine for a second round.

Senator DEWINE. Thank you, Mr. Chairman.

First, let me just start with just a brief statement. It seems to me as we analyze this that it really is all about the money. My experience in 30 years of government is that policy always flows from money.

It seems to me what you all are saying, and at least certainly my belief, is that as we structure the language in this legislation the key is that this person has to control the budget, not just the writing of the budget, not just the drafting, not just the planning of the budget, but to me it has to be the execution of the budget. That's a lot easier said than done. The devil is in the details. The task of this Congress is going to be to draft this legislation so it works. I think that's going to be very, very difficult. I think it's going to be very, very challenging.

But to me it is the money. It's all about the money and who controls that money.

That said, let me ask a more specific question, and it may be a narrow question, but we all understand that the DCI, one of his jobs today is to brief the President and the CIA's job is to prepare that report for the President every day.

If we create this NID, whatever you want to call it, that is separated from the CIA, what are the ramifications of that as far as the daily brief of the President and the fact that this person with this new title, NID, will then, I assume, become the person who is the chief adviser to the President or the chief briefer to the President in regard to intelligence issues, not national security, but intelligence, since it was not actually security, but intelligence issues.

What will that mean? Does it have any significance at all?

Dr. KAY. It does indeed. That's one reason I suggested among my 10 Commandments that in fact the NIC, the National Intelligence Council, be transferred to the new director of national intelligence, and that they assume the responsibility, among other things, for the preparation of the PDB and the daily briefing of it.

One of the problems of the director of central intelligence providing the daily briefing to the CIA is quite frankly that a number of other intelligence agencies never thought they got a fair shake.

Senator DEWINE. So you would look at this as a positive change?

Dr. KAY. Absolutely.

Senator DEWINE. As a positive.

General Boyd, how do you see this change, proposed change or hypothetical change?

General BOYD. If he's going to be stand-alone and be effective, you've got to transfer a lot of resources to him.

I was asking myself a little earlier, do you mean you're going to give the whole analytical capability of the—you got the analytical capability of the CIA with this guy. Does that make any sense? You're going to have redundant capabilities—David's got an option here—but I think the vast resources that have got to really be refined then into that daily presentation to the President has to be essentially under his operational control.

If you leave him where he is—he's got all that—and enhance his power with these other three national agencies that we've been talking about—I mean, it seems to me that's the simplest fix, with-

out creating new capabilities and giving him a lot more effectiveness than he now has.

Senator DEWINE. Dr. Zegart.

Dr. ZEGART. Senator, I think there's an awkwardness to this solution, because it's a difficult problem to solve. The downside that I see, just in the interest of putting it on the table, is that, imagine the next terrorist attack. Who does the President call and where does he get his information? Is it the director of the national counterterrorism center? Is it the head of the CIA? Is it the national intelligence director?

The answer is probably all three. I think that can be confusing. I think particularly in times of crisis, the more people you need to draw on to get basic information, the more difficult decisionmaking can be. So that is one of my concerns.

Senator DEWINE. I see my time is almost up, but it seems to me that is a challenge and a problem that this Congress has to face.

You always want someone who is accountable. You always want someone—it seems to me in this particular case, you want someone who is the principal adviser to the President, where the buck is going to stop. You know, after the Bay of Pigs, there was someone who was accountable. Right or wrong, there was someone who was accountable, and that was someone who had been in the government for many, many years and who was highly respected.

It just seems to me that this is a challenge, and it's not clear to me who that someone is going to be under this new proposal. They got something that Congress will have to be pretty well sure of before we embark down this path.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

The next question I wanted to ask all of you had to do with clandestine and covert operations, the proposal being that the lead responsibility go to the DOD for both.

I want to start with you, Dr. Kay. Do you agree with that?

Dr. KAY. Senator, I don't, as formulated. It's one that troubled me the most. There are both legal as well as practical implications of asking American military officers to carry out things that have been traditionally carried out by CIA covert operations.

I do not think that was really thought through, although I appreciate the argument they made that we couldn't afford both and we ought to do it in one and make that a very professional organization. I just think that's going to require a great deal of thought before, I think, you walk down that particular path.

Senator LEVIN. I couldn't agree more.

But General Boyd.

General BOYD. There's a problem, I think, just stated, but there's a problem with carrying out covert operations in an area of responsibility that are not coordinated with or not under the command of a regional commander who's trying to fight a war. I would be more comfortable having those covert operations executed under a combatant commander, and it would break the link between the guy that's supporting the policy and doing an operation in the field.

Senator LEVIN. OK. Thank you.

Dr. Zegart.

Dr. ZEGART. Senator, this is one of the areas where someone in my field as an outside academic I think can't credibly comment as well as my colleagues.

Senator LEVIN. Thank you.

On the budget issue, currently under law, it is the director of intelligence that puts together the budget, presents the budget to the President. When it comes to the execution of the budget, that's where the issue really comes. The big heart of that goes to the reprogramming question. But when it comes to the production of the budget, that is, by law, now in the DCI's hands.

So, when people talk about we've got to give the intelligence director, the NID, the legal power to do something theoretically, at least—and Dr. Zegart's point is good, because what goes on in reality can be very different from the theory—but nonetheless the law now puts that in the lap of DCI.

But I think where the difference is going to come, really, is in the execution issue. There it is, an Executive Order which puts the execution into the lap of the Department of Defense now. Apparently under President Carter it was in the hands of the DCI. When I say "in the hands," there's obviously consultation, coordination and so forth, but the responsibility is given to them.

Do any of you have an opinion on the question of whether or not we could have a joint recommendation required for any reprogramming, by either an Executive Order or if necessary, I guess, by law, so that both the NID and the Department of Defense, when it comes to reprogramming, would have to join in the reprogramming request? Do any of you see pluses, minuses in that approach?

Dr. KAY. Senator Levin, I see minuses. I think to the extent that you carve up and undermine and share out, these responsibilities are going to be so hard to give to a NID, you essentially undermine him and make him look like another czar.

Senator LEVIN. Even though he has the veto?

Dr. KAY. Look, as Secretary Rumsfeld found out early on, you have the responsibility for appointing the combatant commanders and those officers who are promoted to various flag ranks. If all you do is approve the recommendations that come to you, you don't get it done.

One of the major renovations of Secretary Rumsfeld in the Department of Defense is saying, now, a want a much broader task. I just don't believe—I'm leery of that solution.

Senator LEVIN. Then you would put that in the NID?

Dr. KAY. In the NID.

Senator LEVIN. Into the NID. OK.

General Boyd. I think you probably have addressed this issue—

General BOYD. You already know.

Senator LEVIN. You would leave that where it is.

Dr. Zegart, you would put that in the NID, as well?

Dr. ZEGART. Yes, I would.

Senator LEVIN. OK.

Any problem with that being done by Executive Order, being shifted by Executive Order? Since it's in the hand of the DOD now by Executive Order, any problem that you see by just having that

done through Executive Order back to the way it was under the Carter administration?

Dr. KAY. Well, the one problem I see resides here on the Hill, if you're talking about reprogramming authority. That is a responsibility that, regardless of where you are in the executive branch, you don't exercise without congressional oversight and agreement.

Senator LEVIN. Right. That's not affected by what I'm talking about. It's still there.

Dr. KAY. It could be affected if, in fact, it's currently under the Armed Services Committee, for example, and the NID has to suddenly discover he's going to—

Senator LEVIN. If the Executive Order addresses where the reprogramming is.

Dr. KAY. That's correct.

Senator LEVIN. General Boyd, do you have any thoughts?

General BOYD. I don't.

Senator LEVIN. OK. Dr. Zegart?

Dr. ZEGART. Senator, I do. One quick point, which is that I think that the problem with Executive Orders in this is, if reprogramming authority is that important, in my mind it needs to be in legislation. It should not be left to the discretion of individual Presidents to move it in or out of the NID.

Senator LEVIN. Thank you. My time is up. Thank you.

Chairman ROBERTS. Senator SNOWE.

Senator SNOWE. Thank you, Mr. Chairman.

Just an additional question. Dr. Kay, one of the arguments against the creation of a director of national intelligence is the idea that somehow it will stifle competition of ideas and analysis within the intelligence community. In fact, that was one of the witnesses's testimony before this Committee in July.

Could you speak to that, as to whether or not you think it would encourage or discourage competitive analysis? Obviously, what we discovered in our investigation is there was no competition of thought and group think was the entire approach, essentially, on the NIE and on the weapons of mass destruction stockpile in Iraq.

Dr. KAY. Well, I mean, you've essentially given my answer. Certainly, the present system does not encourage diversity of analysis or competitive analysis. I think the NID actually encourages it, because he represents the whole. Everything is under him. In fact, the reason you encourage competition when you're at the top is because you want the best possible outcome that will make you and the Nation look the best possible.

So, in fact, I think if you get the right person there and you create the right authorities, it should encourage it. Here again, I come back to oversight. I think having discovered that, this Committee has a right to demand that there be competitive analysis. I actually think the proper place to foster that is the National Intelligence Council moved to the NID, who has that responsibility, because it is broader than any one agency.

It is very difficult, as you showed, to get competitive analysis out of a system whose leader is viewed as a partisan leader of a single agency within a broader system.

Senator SNOWE. Yes. I appreciate that.

Dr. Zegart, do you have any comments?

General Boyd, on that question?

Dr. ZEGART. I agree with what Dr. Kay said.

Senator SNOWE. General Boyd?

General BOYD. I do, as well.

Senator SNOWE. Thank you.

One final question of you, Dr. Kay. As head of the Iraqi Survey Group, obviously you were a user of tactical and strategic intelligence that had to be disseminated to both the operators and the policymakers. What was your experience based on that? Did you have difficulties at all in any way?

Dr. KAY. Did I ever have difficulties. Look, the Defense Intelligence Agency and the CIA use incompatible reporting systems, isolated communication systems. The DIA officials could not go in CIA spaces. You could not directly easily reach from a CIA computer. In fact, what you did, is you created multiple CPUs within the same space.

The format of reporting, of disseminating intelligence is entirely different. The DIA one looks like the old fashioned telegraph, all caps, very hard to read, not edited. The CIA one is, actually, a much more polished and policy-friendly one.

Look, there are multiple systems. There is one of the collection agencies that I lost count of how many e-mail systems they have, and that's NSA, because they could not reach from one to the other themselves. When I had to ask for information, there again, Charlie Allen more often than not saved my bacon because he could figure it out back here because he was at the heart of the collection system.

This is a serious problem. It seems silly for anyone who's existed in the commercial world, but it exists to, in my view, protect turf and deny accountability and responsibility or assessing accountability and responsibility.

Senator SNOWE. Thank you very much.

Thank you all. I appreciate your willingness to testify here today. Thank you.

Chairman ROBERTS. Senator Rockefeller.

Vice Chairman ROCKEFELLER. Quick ones. In the Balkans and Afghanistan, in Iraq and North Korea, you know, you start adding up all the possibilities, we're stretched thin on the military side. We're also stretched thin on the intelligence side. If it does take 5 to 10 years to really train an analyst well—and 10 may be excessive, but 5 isn't—you could, I would think, have an intelligence reserve corps, which actually made itself available right after 9/11. People who'd retired some years ago came roaring back and the number of applications went up tremendously. Well, that's not quite a reserve corps, but it gets close to it.

But I like the idea of institutionalizing that for surges, because I think 9/11 has created a sense that we're in this for a long period of time and that the stakes are very high, and that people have to be able to or want to be able to sacrifice their time for their country. An intelligence reserve corps attracts me. I just wanted to say that. I know you all agree.

Secondly, one of the things that I disagree with in the 9/11 Commission—and Carl's referred to it already, but I want to do it, be-

cause I feel strongly about it—is the cessation of paramilitary activity by the Central Intelligence Agency.

What everybody points to is the Northern Alliance experience. Some people say it was a good one. Some people say it was a bad one. But it was, in my judgment, a very good cooperative effort between the CIA and the Defense Department.

There have to be times when you have plausible deniability, when you're doing things which are not entirely the most publicly relatable in the world. You have to have people who aren't in uniform who do have a kind of I won't say an entrepreneurial spirit, but you understand what I mean, who would get out there and get it done.

They're either going to be our people who look like their people or they're going to be our people who are their people, and they do it well. They do it in ways that are different. They do it in ways that are outside, I believe, the DOD culture.

So, to me, the idea should be jointness, that you allow each to do what they do best, and that that be allowed to continue. If you want to respond.

Dr. KAY. I agree.

General BOYD. So do I.

Vice Chairman ROCKEFELLER. That was just an observation about the general discussion going on, classic Washington. Somebody comes up with a reform idea, and I go back to that brilliant “triggers the antibodies of affected agencies.”

Dr. ZEGART. I'm going to make sure to use it in my book.

Vice Chairman ROCKEFELLER. Put it right on the front cover. It's classic behavior. We have a 20, 30, 40—I don't know how long it's going to take us to connect with the Islamic world and other radical groups, and then Africa will come in for a whole different set of reasons, of poverty and hatred, and hatred of their government, and then South America, China, who knows what.

But we're in for a long one. We keep looking. We get the picture. Let's say 9/11 comes together, and they do spend a good amount of time putting together a commission. We find holes in it. Then we go right after those holes and say, “See? Can't do what they say.”

Denying the possibility that America is full of people, even some in Congress, who are capable of rational and pro-national security thought, and who would plug those holes and would see things that should not be done or change of command that could not work will not happen. I mean, this isn't the Bible.

Where's your copy, Carl?

Senator LEVIN. A copy of what?

Vice Chairman ROCKEFELLER. The report.

This isn't the Bible. It's just a rather closer one on intelligence matters than we've had in some time on the scope that it takes on. So I would just say I hope that, as we go through this process, we will not sort of pick out that thing which affects an agency which we may be working with in a way which detracts from it and then decides that the whole thing is going down the wrong track. It's so easy to do.

You say, I'm not capable of doing that. Then you do it. I think that the people gathered around this table and other tables are ca-

pable of making right decisions which are in the best interests of national security, which protects from mistakes that may come out of this. There are a number of things which this didn't address. There are things which they addressed, I think wrongly, saying that I don't agree with the fact that the NID should be inside in the White House. I think it should be outside the White House.

So what? We make that decision. You know, it's a matter of looking at the whole question, of the next 40 years, of the terror, and angst, and budget expenditures, and homeland security, 90 percent of which goes to aviation security and only 10 percent to everything else, and saying, "We've got a big job to do and we've got to do it as well as we've can."

So if you legislate a NID, does that mean that you close down the system because one person isn't perfect or will be biased? You make the assumption. You're telling me that there aren't somewhere in the United States of America 15 to 25 people who could do this job absolutely brilliantly? Of course there are.

I think that ought to be our approach. Then we work what has to be worked out. That's what we're for.

Chairman ROBERTS. Senator Levin, did you have an epilogue?

Senator LEVIN. No, just a few more questions, if I could, Mr. Chairman.

Chairman ROBERTS. Certainly.

Senator LEVIN. Dr. Kay, you made reference that the national intelligence director should not be in the Executive Office of the White House or in the cabinet because intelligence must serve the Nation and speak truth to power.

Dr. KAY. Yes, sir.

Senator LEVIN. What in your experience prompts you to make that very vital point? You made a similar point here today, that some of the problems that we had with this intelligence was there was a conscious mismanagement of information flow.

Dr. KAY. Quite frankly, on that particular issue, I was drawing on what I think is an extraordinarily good piece of work done by the Committee with regard to the aluminum tubes, which I saw from the other side, but I must say you have details that I didn't have knowledge of, of how that was mismanaged and the expertise and the data was kept away from people who had superior expertise and should have been involved.

Senator LEVIN. Who was not speaking truth to power and why?

Dr. KAY. The why is the more interesting and more difficult, and I look forward to your second report in that regard.

Senator LEVIN. But what's your opinion? Do you agree with the general, what he said here today?

Dr. KAY. My experience is always to agree with a general.

Look, I think what happened here is that it's a combination of things. I think the most important issue that led to the distortion of our opinion about Iraq WMD is that, for about 14 years, the essential thing that kept a—and this crosses administrations—the essential thing that kept a coalition together, allowed us to keep a coalition, that kept sanctions in place, was Iraq WMD.

Therefore, data and information that might indicate there was not a WMD program there had such a high bar that it had to pass before it was considered useful or should be passed, whereas infor-

mation that supported the argument that there was WMD seemed to have almost no bar to jump over, and we got into what the Committee calls “group think” and a train moving ahead in which everyone jumped on board.

Now, in my view, the responsibility for ensuring that does not happen in an intelligence community is the ethical center, and honesty, and the desire to manage that system so, regardless of what the issue, that does not occur. The closer you are to power—and I think we should speak frankly here on this regard, and if you don’t mind, I will.

The most recent director of central intelligence came in after two disastrous DCIs, one of whom never met the President of the United States. In fact, the joke around Washington is the small plane that crashed into the White House was Jim Woolsey trying to get an appointment with the President of the United States. John Deutsch had much the same experience.

The decision was, manage the relationship, understand the customers—and this, quite frankly, actually, if you look at the history of the CIA, and Amy’s done a far better job about this, more thorough than I have, you will see the creeping in during the Bob Gates era, in which the decision is, we’ve got to serve our customers, we’ve got to keep our customers happy.

I think, quite frankly, that is the greatest falsehood to penetrate the intelligence community. The job of the intelligence community outside the tactical arena, but in the strategic arena, is not to serve the customers by telling them what they want. It’s to tell the customers what you see, what you believe, what your collection and analytical systems see are the problems, objectives. I think we lost that perspective and it took about two decades to lose that and believe we’ve got to serve the customers.

That is, I think, if you move forward on NID legislation, is going to be the hardest thing to communicate, that the NID must serve the Nation and the national security objectives of the Nation, and he serves whoever is the President best by giving him the unvarnished truth, which will often not be welcomed.

Senator LEVIN. Well, that’s frankly what I’m most interested in, in this legislation. The details are obviously important. We’re going to work through them. Everybody’s interest is the same, to add to the security to the Nation. I don’t think there’s one member of the Senate that does not have that as their goal.

A lot of talk about turf, but I think everybody is equally sincere. I have to attribute the same sincerity to everybody else that I hope and feel I have, that that is the goal of everybody, is to try to come up with a structure and responsibilities that add to the security of the Nation.

But I’ve got to tell you, what you just said resonates with me, what the general has said in his testimony here today, and in his written testimony, as well, resonate very, very much with me. When the general says that we have people who are in the current intelligence structure that are under enormous pressure or temptation to give the President what he wants and not necessarily what he doesn’t want, but needs.

We’ve got to talk about independence of that person. When I read in a book of Bob Woodward that we had a director who said some-

thing was a “slam dunk” when it wasn’t a slam dunk, let me tell you, folks, that to me is more important than structure, as important as structure is. But I’ve got to try to figure out if there are ways that we can promote that independence and that objectivity and that unvarnished opinion that you just talked about, Dr. Kay.

One way, surely, is not to put this person, if we create a new position, in the Executive Office of the President. My time is up, but would you all comment as to whether you agree?

Dr. KAY. I agree completely.

Senator LEVIN. General.

General BOYD. I love what you just said.

Senator LEVIN. Pardon?

General BOYD. I love what you just said.

I think it is hugely important. I talk to people, like David has just mentioned, and they talk to me the coin of the realm being access to the President and social events and so forth. The coin of the realm ought to be his distance from the President, his independence of the President, his professionalism and be respected as such.

George Marshall corrected his President when his President tried to call him George and said, “Call me General Marshall.” He didn’t want any personal relationship with his President. He wanted to be treated like a professional. He wanted to give professional advice and not any buddy-buddy relationship with his President, and not be tempted to tell his President what the President wanted and what he didn’t need.

You can do this. I mean, you can write that legislation. You wrote it in the legislation that appoints the chairman of the Joint Chiefs. He’s got to be a professional. You don’t allow it otherwise.

What would you think if the President of the United States appointed a congressional staffer as the chairman of the Joint Chiefs if we didn’t have that law? What would the military think? How could they be professional? How could they have this ethic without that? I mean, it’s inconceivable to me.

I realize how hard it would probably be to get a President to agree, but at the very core, this is—I’ve been dealing with these guys my whole life and particularly the senior part of my life. The professionalism in the CIA is not even close to what it is in the military.

Now I think there’s a direct connection to being led by amateurs, having their analyses torqued to please a President’s policy objectives. I think that’s crucial in the development of where we are. If you’re going to change it, you’re never going to have a better time to change it than right now.

Senator LEVIN. Dr. Zegart, do you have anything to say on that?

Dr. ZEGART. Yes, I would just add one thing, which is that I think we typically think of independence and trust as mutually exclusive when it comes to the head of the intelligence community. I think one actually serves the other. The more the head of the community has independence and is seen as speaking truth to power, the more trust he will earn from the President. So, I don’t think they’re mutually exclusive at all.

Senator LEVIN. Thank you all.

In defense of our staff here, by the way, I must say that we do have many staffers who do speak truth to power regularly, tell us

what we don't want to hear, and we are usually grateful for that. I don't want to say always grateful, because that may unleash something here which would be unfair to our Chairman and our Vice Chairman.

Thank you all.

Chairman ROBERTS. Well, sometimes the pressure is really just overwhelming.

General Boyd, were the members of the Hart-Rudman Commission, even though they were politicians in the finest sense of the word, former Members of Congress, were they professional?

General BOYD. Not professional in the sense that we're talking about. But they rose to, not at the beginning, but over time, they rose to a standard of non-partisanship that was truly remarkable. I think it occurred as they saw and thought more about the gravity of the problem they were dealing with. They were out of office, and they weren't being pulled by a lot of the pressures that would have otherwise, I suppose, affected them.

Chairman ROBERTS. So, a former Member of Congress would have a tendency then to have less political pull and be more independent and more professional perhaps?

General BOYD. I think that the professionalism has to do with a lot of other things. It has to do with a lifetime of service in that profession, an accumulation of that kind of special knowledge and esoteric expertise that goes with something like the intelligence profession or the military profession.

I don't think you get that from some very early service in the Army as a sergeant and then most of your productive life serving in the Congress. Does that mean he's not a good man or he's not honest or he's not—that doesn't have anything to do with that. But it has to do with how he will ultimately be viewed as a professional by other professionals.

You can get used to dealing with amateurs as your boss if you have to do it forever, but it's going to affect your own attitudes about professionalism.

Chairman ROBERTS. Kean, Kerrey, Lehman and Hamilton. Now they're—at least one is not, but the other three are Members of Congress, former Members of Congress, politicians. It was Mark Twain that said, "there is no criminal class in America, except, of course, the Congress."

The reason I'm bringing this up, and I'm being sort of a pest about it, is that we had somebody who's been testifying quite a bit and is one of the method actors on television who is an expert on intelligence who made the comment that he didn't think any Member of Congress could be professional, or independent, or somehow rid themselves of the partisanship that, I guess, comes along with the job.

I took umbrage at that. That this Committee voted 17-0 with strong differences of opinion to issue a report that I'm very proud, occasionally, we do rise to the occasion. I thought it was lumping everybody in the same category, much as some people in this country lump, unfortunately, people of color, or people of sex, or people of gender, or people of age, or people of geography or whatever.

I just have a feeling that, you know, when the right time comes, when we have an opportunity like this, I think, despite our dif-

ferences, I think despite all of the Committee jurisdiction, I think despite the fact that the Administration hasn't come forth with the specifics yet because they're still working through it, I think despite the 9/11 emotionalism, which is perfectly understandable, I think we can get this done.

I really do think we can get this done. We have to get it done because the status quo is unacceptable. Now, you can either go full NID, half NID, 75 percent NID, put independence or whatever, and you've all three made excellent suggestions, but I really do think we can get it done, despite the fact that we are "politicians."

I thank you all for coming. The hearing is adjourned.

[Whereupon, at 5:35 p.m., the hearing adjourned.]

REFORM OF THE UNITED STATES INTELLIGENCE COMMUNITY

DAY TWO

TUESDAY, SEPTEMBER 7, 2004

UNITED STATES SENATE,
SENATE SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Committee met, pursuant to notice, at 2:38 p.m., in room SH-216, Hart Senate Office Building, Hon. Pat Roberts (Chairman of the Committee) presiding.

Committee Members Present: Senators Roberts, Hatch DeWine, Lott, Snowe, Hagel, Chambliss, Warner, Rockefeller, Levin, Feinstein, Wyden, Durbin and Mikulski.

STATEMENT OF HON. PAT ROBERTS

Chairman ROBERTS. The Committee will come to order. The Select Committee on Intelligence meets in open session to continue its discussion of intelligence community reform.

To explore this issue, we have a very distinguished panel. Our witnesses today are three members of the National Commission on Terrorist Attacks upon the United States: Chairman Thomas H. Kean, who is president of Drew University and former Governor of New Jersey; Vice Chairman Lee H. Hamilton, who is president of the Woodrow Wilson International Center for Scholars and former chairman of the House Committee on International Relations; and also Commissioner John F. Lehman, who is Chairman of the J.F. Lehman and Company and former Secretary of the Navy.

Gentlemen, the Committee thanks you for your service to this country and for being here today.

Three years ago this week, on September 11, 2001, America was attacked by 19 terrorists who were financed and trained by Usama bin Ladin's al-Qa'ida network. Armed with knives and box cutters and mace and pepper spray, these terrorists successfully hijacked four airplanes. Two were flown into the twin towers of the World Trade Center, one was flown into the Pentagon, and one was forced down in a western Pennsylvania field after its passengers very heroically attempted to retake the aircraft.

Nearly 3,000 Americans died on that fateful day. There would have been more were it not for the heroism of those in that flight over Pennsylvania. I might add that some of us here sitting on this dais might well not be here.

The al-Qa'ida network was well-known to American intelligence prior to 9/11. It had a track record of prior attacks, including the 1993 bombing of the World Trade Center, the 1998 bombings of the U.S. embassies in Kenya and Tanzania, the attempted attack known as the "Millennium Plot," the October 2000 attack on the USS COLE, also involvement in regards to Somalia.

Consequently, after the attacks of 9/11, a stunned American public rightfully asked why our government and specifically the intelligence community had been unable to detect and also deter this plot. To address this question, the Senate and House Intelligence Committees launched an investigation which became known as the Joint Inquiry. Following a year-long investigation, the Committees determined that systemic failures were the primary causes which did prevent the intelligence community from detecting and deterring these attacks.

To further the work of the Joint Inquiry and to examine the governmentwide performance related to the attack, in 2002 Congress passed legislation establishing the 9/11 Commission. Aply led by Chairman Kean and Vice Chairman Hamilton, on July 22nd the Commission did release its comprehensive report on the failures that hindered our ability to discover and stop the 9/11 disaster.

On behalf of the Committee, I would like to thank Chairman Kean, Vice Chairman Hamilton, Mr. Lehman and all the members of the 9/11 Commission for setting aside partisan differences and releasing a unanimous report. Senator Rockefeller and the members of this Committee and I know how difficult that can be.

The report does provide a historic examination of the terrorist threat to the United States and makes recommendations for intelligence community reforms to help prevent any future terrorist attack. The release of the Commission's recommendations also combined with this Committee's recently released report on the intelligence community's flawed pre-war assessments on Iraq—more especially the WMD programs—have created a unique window of opportunity for enactment of real and lasting reform.

This, however, is not the first time that intelligence reform has been tried. Back in 1949, only 2 years after the 1947 National Security Act actually created the Central Intelligence Agency and the position of the Director of Central Intelligence, Congress also then created a commission to consider the question of intelligence reorganization and reform. Since then, intelligence reform has been the subject of literally dozens of additional congressional and executive branch commissions and reviews. Since the 1950's, many of those reform efforts have focused on increased authority and responsibility for the director of the intelligence community.

It is no surprise that the creation of a strong central leader of the intelligence community with increased budget and personnel authority was recommended by both the joint inquiry and the 9/11 Commission.

Three years after September 11th, a decade after the end of the cold war, and over 50 years since the enactment of the National Security Act of 1947, we can no longer wait to implement lasting reforms of the intelligence community. The time to act is now. Simply put, the structure of the U.S. intelligence community is defective. The so-called Director of Central Intelligence, or the DCI, lacks au-

thority, in statute and in practice, to effectively manage the intelligence activities of the United States.

The organization of the intelligence community, with a substantial portion falling under the direct control of the Secretary of Defense, prevents the DCI from exercising even those authorities granted under the National Security Act.

The DCI does not effectively control the creation of the National Foreign Intelligence Program budget. He lacks the ability to transfer or dismiss intelligence community personnel. He cannot unilaterally direct the transfers of National Foreign Intelligence Program funds. He cannot mandate intelligence sharing, data fusion or the creation of a community-wide information technology infrastructure.

This flawed design has contributed greatly to past intelligence failures and prevents responsible parties from being held accountable.

We know what the problems are. However, fixing them has always been a bridge too far. The Joint Inquiry, the 9/11 Commission and numerous Members of the Congress have now submitted proposals. I expect that the President will also submit a reform proposal to complement the Executive Orders which were promulgated just this past month.

Drawing on my 8 years of experience on this Committee, there are a number of principles which I believe we must adhere to if we are to have real reform of our intelligence apparatus. These principles include: a setting aside of turf battles and institutional interests in favor of our national interests; the creation of a strong, empowered national intelligence director who is separated from the day-to-day management of the Central Intelligence Agency; the creation of a structure that does accommodate the diverse activities of the various agencies and gives direct responsibility and control of the primary intelligence disciplines and corresponding agencies to a truly empowered national intelligence director and his assistants; the realignment of agencies and their elements to create clear chains of command within the primary intelligence disciplines; statutory creation of a national counterterrorism center with operational planning responsibilities; the ability to create other national intelligence centers to direct collection, analysis and operations in other mission areas, such as counterproliferation and counterintelligence; the creation of an inspector general and an analytic review unit which will mandate the use of mechanisms such as red-teaming, a concept that is championed by the distinguished Vice Chairman, so that we can ensure that intelligence analysis is objective and competitive and independent of political considerations and hold agencies and individuals accountable for failures; and finally, reform of congressional oversight of intelligence activities.

I believe that these principles address both the counterterrorism concerns of the 9/11 Commission as well as the significant flaws which this Committee has uncovered during its Iraq inquiry and its 27-year history of oversight.

If we are willing to set aside turf battles and organizational self-preservation and focus on what is best for our nation's security, we can truly reform our intelligence community in the bold manner

which has been required for over 50 years. Taking on entrenched and bureaucratic and jurisdictional interests is not easy. It is hard work. It is, however, what we must do.

If we fail, I fear the result will be incomplete half measures which will result in the perpetuation of an already dysfunctional intelligence community. If we don't make the hard choices now, I fear that after yet another series of intelligence failures we may be right back in this hearing room listening to the national intelligence director testify that he still lacks real authority to control budgets, to manage personnel, to transfer funds and mandate intelligence-sharing procedures and technology for our nation, which will be at war with Islamic terrorists for the foreseeable future.

This is an unacceptable outcome. We need to do real reform, and we need to do it now.

I look forward to hearing the testimony of our witnesses on these issues. But, before we do so, I would like to recognize the Intelligence Committee's very distinguished Vice Chairman for his remarks.

Senator Rockefeller.

STATEMENT OF HON. JOHN D. ROCKEFELLER IV

Vice Chairman ROCKEFELLER. Thank you, Mr. Chairman.

Actually, one of the great challenges of the day is to figure out how to thank you for your service to this country and to the world, in fact, in ways that others have not chosen to try to do that. It's impossible to do it. So let me just simply say that what the Chairman has said, what people have said all over this Capitol Hill and all over the country, that your work is extraordinary, and that the time that you've given up, what it has done to your personal lives, I can't even imagine. But what it's doing for America, I think I can imagine and I can see. I think it's great. I thank you very much for that.

The Senate leadership wants very much to set a target of October 1 for the passage of legislation on our part. I just wanted to say that that may not leave us enough time to both complete all of the action that we need to on the floor, but also, most importantly, to conference with the House on a very delicate matter, as the Chairman said, "complicated matter", and then adjourn before the election.

I just want to say right out front, hoping that others will hear, that I'm very worried about this. September has to be devoted entirely to intelligence reform. We cannot get into other issues if we're going to do the right thing for our country. The Chairman said, "This is too important to delay". Of course, he is right.

Like my colleagues and others that have spoken at you before giving you a chance to talk to us, I've very, very carefully read several times, all of your materials. On August 22nd, I wrote Senator Collins and Senator Lieberman as the Committee having jurisdiction in this matter. I outlined seven principles that I consider essential to reforming our intelligence system. Most of them comport with what the 9/11 Commission has recommended and some do not. Part of what I say will be a predicate for questions, which will follow.

First, as the Chairman indicated, we should establish the national intelligence director. That's easily said, but that's been suggested so many times and not done so many times, and also, separated from day-to-day management of the Central Intelligence Agency and with the authority over the budget and the personnel, which is all important, the all-important consideration of intelligence reform that comprise our national intelligence program.

Second, I think the national intelligence director should have deputies to oversee the foreign, domestic and defense intelligence agencies. These individuals should be dual-hatted. Those individuals would be the director of the CIA, as you indicate in your report, the intelligence director of the FBI and the Undersecretary of Defense for intelligence.

Third, we should create a national counterterrorism center, as you've suggested, to bring together all U.S. counterterrorism efforts, foreign and domestic. The head of this center should have authority to bring to bear all capabilities, whatever is necessary—intelligence, law enforcement, diplomatic, homeland security and, with certain restrictions, military resources—to counter the terrorist threat, which is all-consuming for us. I think this is absolutely critical, that they have this capacity.

Merging foreign and domestic efforts in the national counterterrorism center is a monumental change from the way we've done business in the past. We are not England, which has gotten accustomed because of the IRA, Northern Ireland problems, to being videoed and everything all day long. We're very different. We've taken CIA, you're overseas; FBI, you're internal, but you shall never meet.

What we're doing, and what you've suggested—and I think properly so—is the merging of the foreign and the domestic efforts in the national counterterrorism center. We have drawn artificial distinctions in the past. But I don't want to suggest I think this is going to be an easy thing for the American people to accept. But I do want to suggest that I think it's a very important matter for our people to understand that if this is going to work, in that terrorists are transnational, don't respect borders, there's no such thing as domestic or international to them, that we have to organize ourselves to fight them and to understand them in the same way.

So I'm hopeful that Americans will recognize and accept the need for this change. I think it's a superb, bold, strong idea on your part, and I congratulate you for it.

Fourth, we should establish the national intelligence centers that the Chairman also spoke of to focus and coordinate both on collection and analysis of intelligence on other important national security issues. You mentioned counterproliferation. It could be something on China, something on North Korea, Iran. Whatever it is that's out there, we have to be aware of what that's going to be.

These centers, like the national counterterrorism center, will break down the intelligence collection stovepipes that now drive the system and inhibit the effective sharing of information and also, frankly, which hold back the ability of people to look out into the future, because everything is of the moment. Well, everything isn't

of the moment until it becomes of the moment. If you can look out ahead, that's what this will do.

Fifth, I think we have to take steps to ensure independent objectivity, accountability in the intelligence community. Not to say that it's not there, but we have to make sure that it always will be.

We can do this in a variety of ways. I recommend establishing an ombudsman and an inspector general for the intelligence community and creating a permanent red team group to conduct what I would call contrarian analysis under the national intelligence director, to look at all major reports, to make sure that national intelligence estimates, all of this, that everything has been—that the intelligence group, which isn't as large as some of the bigger ones but had very contrary views on very important subjects, where they have real expertise, that they're heard, and so that these things are honestly brought together.

I also must say that I oppose placing the national intelligence director and the head of the national counterterrorism center inside the Executive Office of the President. I won't discuss this at length. But I think it's not really so much a question of structure. I think it's more a question of how are these two men or women or man and woman, how are they going to get along. What is the chemistry going to be? I don't think the bureaucratic structure will dictate the relationship between the President and the NID.

I think the bureaucratic structure could, however, tie the NID too closely to the policymaking process—I worry about that enormously—and risk further, I would say, politicizing of intelligence.

Sixth, we must reform ourselves, which you strongly took on, and the intelligence oversight process. We absolutely must remove the term limits on Committee members. We must also find ways to streamline the process for authorizing and appropriating the intelligence budget and declassifying the aggregate budget, something the President, in fact, could do without legislation, would be an important first step. We should organize our own Committee much better in relevant subcommittees so that we can be more cogent.

Finally, recognizing the intelligence community will continue to face unanticipated crises, surges, we should create, in my judgment, and intelligence community reserve corps.

I was amazed after 9/11 at the number of people who were applying from the Silicon Valley, people who had retired from the CIA and other intelligence agencies a number of years ago but still had the analytical tools, et cetera, who simply came back, walked in the door and said, "We're here. We want to help."

I think we need this on a permanent basis, because there will be surges. The military is stretched thin. The intelligence community is stretched thin. It will continue to be stretched thin. Then under the war on terror, it will be stretched the most thinly. So I think we now have to rely on an intelligence community reserve corps as we rely on the National Guard and Reserves in the military.

Now, these are concepts that I consider essential to any comprehensive efforts. I think one can say why have they never been adopted. I think the answer is that there has never been a 9/11 before.

These ideas have been suggested for years. But they came together in this brilliant compendium that you put in your 9/11 Com-

mission. I think now it's the vehicle, it's the gold standard. It doesn't mean we have to agree with everything. But we have that now. We have the momentum. We can't lose the chance.

It's a very complicated matter, also, which the Chairman indicated. People think it's a sort of an easy thing to fix and it isn't. The nuances involved in it are just extraordinary.

The reason that most of the intelligence collection is done by agencies within the Defense Department, which the Chairman mentioned, is because the military has always been the largest consumer of intelligence. They use intelligence to guide everything they do now, from deciding what weapon systems to buy, where troops should be deployed, to planning, executing specific combat operations, carrying them out.

But now it's different. It's beginning to be different and will become much more different. The greatest threat facing our Nation is not from another country's military, but it's from amorphous groups of international terrorists who don't wear uniforms and don't particularly have allegiance to any one country or another, who have no respect for human life, operate around the world without regard for national borders, and they're not deterred by military might. They're not afraid of military might.

It's time to realign our intelligence, I think, our structures to deal with the threat.

Now, final point. As we make these changes, we cannot short-change the needs of our military forces, and this is one point in which I would disagree with what the Commission has suggested. I propose a structure where the national intelligence budgets, personnel and tasking are controlled by the national intelligence director and tactical programs that support the troops on the ground are controlled by the Secretary of Defense.

Under this structure, the Secretary becomes co-equal as a manager with the NID of the national intelligence assets within the Department of Defense during wartime—during wartime. When the men and women of our armed forces are involved in combat, the Secretary should carry sufficient weight on intelligence matters—and that's what I'm talking about, intelligence matters—to fulfill his responsibility.

We can't take the chance of not having the Secretary be able to do that, and then if there's a conflict, take it up through the NSC and the President. But, as John McLaughlin said, in his 32 years, he'd never heard of anything that had gone up there.

So that is something I think is very important. We have to find a way to ensure that the Secretary of Defense has an appropriate voice in these programs, and I would suggest in that fashion.

I disagree on the paramilitary thing, but I'm not going to go into that because my statement has become too long. But I do think that the CIA has to continue to do that simply because it's a very discreet, extremely covert as opposed to clandestine operation. You want to have plausible deniability. That's a harder thing for the military to do; it's something that the CIA does do.

Mr. Chairman, again thanking the three commission members before us, I think we're ready to go ahead on this and debate it, if we will do it. I hope we will.

Thank you.

Chairman ROBERTS. I thank the Vice Chairman. Before we turn to our witnesses, I want to mention, we invited Senator Bob Kerrey to join his fellow commissioners here today. Senator Kerrey is obviously a very well-known and a very respected former member and vice chairman of this Committee.

Unfortunately, due to prior commitments as the New School University's president, he is not able to be with us today. He did, however, write a letter expressing his regrets and some additional thoughts on the issues before us. I ask unanimous consent that it may be made a part of the record.

Without objection, it is so ordered.

[The information referred to follows:]

NEW SCHOOL UNIVERSITY,
New York, September 7, 2004.

Hon. PAT ROBERTS, *Chairman,*
Senate Select Committee on Intelligence,
211 Hart Senate Office Building,
Washington, DC 20510-6475

DEAR SENATOR ROBERTS: I regret I am not able to testify in person today before you, Senator Rockefeller and other members of the Intelligence Committee. As a former member of the Committee, I would have liked to have been able to be there—were it not for the conflict, which prevents my attendance. Had I made the trip, I would have needed to leave early and you know how much fun leaving an important meeting can be in our nation's capitol.

As to the details of your bill, I will leave all such questions to our Chairman and Vice-Chairman. Governor Kean and Congressman Hamilton are by far the best witnesses the 9–11 Commission has to offer.

I write to present one observation which might be useful to the Committee:

If you fail to unite behind a single committee bill, the national intelligence community as a whole will be weakened. You are their most important advocate and ally. As we learned again with your recent attempt to put language in the intelligence authorization bill, which would make this Committee permanent, the SSCI has, by Senate Resolution, been weakened relative to the Armed Services Committee.

Senator Specter and I learned that lesson well in 1996 following the Aldrich Ames spy case. With Congress and the American people up in arms and demanding change, we thought the relatively small changes recommended by the Aspin-Brown Commission would be a piece of cake to pass. We were wrong.

After passing out of the SSCI easily, the bill was sent to the Armed Services Committee. All the changes, which strengthened the Director of Central Intelligence relative to the Secretary of Defense, were stripped from the bill. The only reason we were able to give the DCI new authorities was that we were willing to have the SSCI take the Defense Authorization bill on sequential referral from the Armed Services Committee. This action—which meant we were threatening to prevent final passage of the Defense Authorization bill just as final passage of this year's Intelligence Authorization bill has been jeopardized—was our only means of enacting very modest change.

The 9–11 Commission is asking Congress to make much more substantial changes in the laws that govern our national intelligence agencies. I know how hard fought this battle will be. I know the opposition will be just as determined.

It is with knowledge of this reality clearly in mind, that I express my hope that the Committee will rally behind a single bill. Your bill is an excellent first step. I hope that the Committee will find a way to take the necessary remaining steps to ensure that the bill arrives on the floor of the Senate as a unified proposal.

Thank you for the opportunity to express my perspective via letter.

Very truly yours,

ROBERT J. KERREY.

Chairman ROBERTS. Governor, please proceed. Know that you can summarize your statement and every golden word, sir, will be made part of the permanent record.

We welcome you. And we thank you, again.

STATEMENT OF HON. THOMAS H. KEAN

Governor KEAN. Thank you very much, Chairman Roberts, Vice Chairman Rockefeller. Thank you both for very articulate, forceful and constructive statements. That was very, very helpful, and I want to thank you both.

Distinguished members of the Senate Select Committee on Intelligence, we are honored to appear before you today. We want to thank you and the leadership of the U.S. Senate for the very prompt consideration that you are giving to the recommendations of the Commission, and we thank you all very much for your support.

The Commission's findings and recommendations were, as you know, strongly endorsed by all commissioners, even though we come from very different backgrounds, even though we're five Republicans and five Democrats. But we do share a unity of purpose, and we hope that the Congress and the Administration will display the same spirit of bipartisanship as we collectively, together try to make our country and all Americans safer and more secure.

I want to begin by reviewing briefly the road we've traveled since July 22nd, and that was the day that we as the Commission presented you our report. We believe we've made very important progress. From the outset, we have had statements of support from the President and from Senator Kerry. We've testified now 16 times during the summer recess. We appreciate how unusual it is for Congress to hold hearings in the month of August, and we welcome the opportunity to speak with respect to the whole array of recommendations that we have made. We thank the Congress, because it's given us an opportunity to explain our report to the American people.

Mr. Chairman, we recognize that several Senators and Committees are now working to draft legislation to address commission recommendations, and we are deeply grateful for their work.

Mr. Chairman, you put forward a proposal a few weeks ago entitled "The 9/11 National Security Protection Act." We commend you for your leadership. You have reflected on the work of the Commission. You have been unflinching in your own examination of the intelligence community. We commend you for preparing a far-reaching, ambitious proposal for reform.

Mr. Vice Chairman, you have conveyed your own views on reform to the Senate Governmental Affairs Committee. We have studied your suggestions. We have found them to be important, thoughtful and constructive. We see a clear convergence in these proposals toward the creation of a powerful national intelligence director with control over the budget and with hire-and-fire authority, the creation of a national counterterrorism center, and the creation of additional national intelligence centers.

Both you and we find the status quo unacceptable. We've studied the 9/11 story. We explained in chapter 11 of our report the significance of management issues, both large and small. Our basis premise is that good strong management of an enormous enterprise so central to countering terrorism is absolutely necessary.

Good management opens the way for many particular reforms, including improved collection of human or signals intelligence and certainly improved analysis. The results of good management can-

not be specified with precision in advance. Innovation and creativity can't always be legislated, but good legislation can create the conditions where better things can happen.

You have the benefit not only of our work but also the superb report of this Committee on intelligence assessments of weapons of mass destruction in Iraq. We saw your work on Iraq, actually, and read it before we completed our report. It reinforced our conviction that this is a time for fundamental change.

We know that there are some differences between the Commission's proposals and some of those that you put forward. We'll be glad to discuss some of those specifics with you. We welcome the refinements of the legislative process. But what impresses us most is at this point we believe there is a consensus for change. We want to work with you. About once in a generation comes the opportunity for real reform. I suspect that this is it.

We know that organizational changes are not a cure-all. The quality of the people is more important than the quality of the wiring diagrams. Good people can overcome bad structures. But why should they have to? Americans should not settle for incremental, ad hoc adjustments to a system designed generations ago and designed for a world that simply does not exist anymore.

On August 27th, the President issued four Executive Orders and two homeland security Presidential directives. President Bush has come a long way. As the White House said, these orders "have strained the limits" of Presidential authority. The White House has stated plainly that its actions on intelligence reorganization and on the national counterterrorism center can thus only be interim measures and that they await further reports and further work by the Congress.

For example, in its briefings on August 27th, the White House spokesman emphasized, in very strong terms, that the national intelligence director must be an office separate from the head of the CIA, but only Congress can take that step.

We appreciate the hard work that is now the task of you all in the Congress. We appreciate that the Commission did not address every detail, that the Commission does not have a position on every question. Some of your questions will go beyond, I suspect, what the Commission has decided. Several matters, of course, we have to leave to your discretion and your good judgment. But we want to return to some key themes. We want to make clear here what we support and what we don't support. For that, I'd like to turn now to my friend and mentor, Lee Hamilton.

STATEMENT OF HON. LEE H. HAMILTON

Mr. HAMILTON. Thank you very much, Governor Kean, Chairman Roberts, Vice Chairman Rockefeller, distinguished members of the Committee, it's been a high privilege of course to work with Governor Kean whose extraordinary leadership has enabled us to have the impact I think we've had. It's a pleasure to be with one of our very distinguished commissioners, John Lehman.

We strongly believe that the national intelligence director should be created by statute, should be a Senate-confirmed position. The Executive Order strengthening the current Director of Central Intelligence, in our view, is not sufficient for the task.

We believe that the national intelligence director should not be the head of the CIA. It's an impossible task for any single individual to run effectively both the CIA and the agencies of the intelligence community. The head of the CIA should report to the national intelligence director as one of his deputies.

The national intelligence director must have clear legal authority over budget, personnel, information technology and security procedures within the intelligence community, as I spell out in more detail in the statement. We cannot solve the problem of information sharing within the intelligence community unless there is a national intelligence director with legal powers to compel sharing and to create the structures so that sharing can take place.

The national intelligence director needs these authorities if he is going to be able to transform the intelligence community to meet the challenges of the 21st century. If the national intelligence director does not have these strong authorities, then we oppose the creation of such a position.

We believe strongly that the director of the national counterterrorism center should be a Presidential appointee, confirmed by the Senate. The Director should be a high-ranking official at the Deputy Secretary level, executive level 2.

We do not believe that the national counterterrorism center can carry out its mission successfully if it is part of the CIA or part of any existing Cabinet department. In this regard, we believe the Executive Order making NCTC subordinate to the CIA is a mistake. The responsibilities of the national counterterrorism center include actions across the government. They are not confined to any single agency.

The director of the national counterterrorism center should report directly to the national intelligence director on everyday issues and intelligence matters. On policy matters beyond intelligence, the director would report to the President and the NSC.

The national counterterrorism center needs strong authority to influence relevant intelligence collection. It should have primary responsibility for net assessment and warning. The operational planning responsibilities of the center should not be limited to broad strategic plans. They should extend the daily oversight of particular joint operations and explicit authority to monitor implementation of joint plans.

Vice Chairman Rockefeller's letter to Senators Collins and Lieberman offered a constructive suggestion, to be sure, that the Secretary of Defense retained his proper place in the chain of command for military operations. The Vice Chairman's suggestion is consistent with the Commission's approach.

The national counterterrorism center should have authorities giving it influence over budget planning and leaders of the government-wide counterterrorism effort. The national counterterrorism center should be able to hire its own personnel and not be totally dependent on detailees from other agencies. We believe the creation of the national counterterrorism center must rest upon a firm legal foundation, and new legislation is necessary for that purpose.

Our report emphasized that no single agency can construct the network capabilities needed to bring all of the agencies together

and extend information sharing beyond the Federal Government. We commended the work of the Markle Foundation Task Force, which has recently offered suggestions to this and other committees about how to translate these ideas into legislation. We also wish to re-emphasize that our recommendations for intelligence reorganization will enable action on this front as well.

Mr. Chairman, we strongly believe that the overall budget of the intelligence community, as well as the top-line budget numbers for the component agencies of the intelligence community, should be declassified. Making these numbers public will improve accountability. There is much skepticism, even cynicism about the intelligence community among the American people. Declassifying the budget is a step toward increased public understanding of the challenges facing the intelligence community and the manner in which they are addressed. We believe making these numbers public will help the Congress in its oversight responsibilities.

Oversight doesn't get any harder than it does on the question of intelligence. Nobody else has access to the information. You do not have the media to help you. You don't have watchdog organizations. Opening the door, even a little, will help spark public interest, engagement and support for you and the difficult work you must conduct. Opening the door will also enhance the kind of hard-headed cost-benefit analysis that is necessary to ensure that the intelligence community uses its resources effectively.

For the balance of the statement, I turn to Commissioner Lehman.

STATEMENT OF HON. JOHN F. LEHMAN

Mr. LEHMAN. Thank you. Mr. Chairman, Mr. Vice Chairman, distinguished members, thank you for including me in this important testimony this afternoon.

As you know, we on the Commission were very critical of congressional oversight in our report. In fact, we all feel that it is of equal importance to reform in the executive branch. But let me make it clear, this criticism is by no means directed at this Committee. You, Mr. Chairman, Mr. Vice Chairman, and the members of this Committee have labored very long and seriously with a great background and experience that you bring to these issues, and no one could fault the effort that you have put in over these past years to making us safer.

But the system under which you work, we feel, is as dysfunctional as the system that we have criticized in the executive branch. You need a better environment within which to work. We have recommended two models—the Joint Committee on Atomic Energy, model, which frankly many of us would recommend as our first choice; and, if that is not practical, then the model of unifying appropriations and authorization in each house.

We feel very strongly that oversight is not just overlooking and checking what the executive branch does; it's a partnership. Senator Warner well knows, and other members, like Senator Feinstein and Senator Levin, that the oversight that was provided during my tenure as Secretary of the Navy was really a partnership.

I had an analysis done of the time I spent when I was in Washington during the 6 years I was Secretary. For the first half of each

year, 35 percent of all my time was spent up here on the Hill. It was in a very coherent, although I didn't always think so at the time, system of oversight with the Armed Services Committee, having a Sea Power Subcommittee, and the Appropriations Committee having a cadre of naval expertise. So there was a real pattern to this partnership.

The result of our naval program during that period was as much the product of the dialog up here on the Hill, both in formal committee hearings and as important in the back hidey-holes in the Capitol and in the Senate offices. Frankly, this was one of the most satisfying parts of my responsibilities. It was successful. It worked the way the founding fathers envisioned it.

We certainly have not seen that same kind of oversight, by any means, in the investigations that we conducted over 20 months. This Committee does not have the power, the longevity and the direct coupling with the appropriations that would enable a true partnership with the executive branch intelligence community in making and carrying out successful policy on intelligence.

While, as our Chairman has said, "good people can make any system work", I think that the attitude that has emerged over the years in the intelligence agencies calls that into question, because the general attitude has been that if the intelligence agency can't get the right answer they want out of this Committee, they have only to go shop to other committees to undo.

Our examination of your record of legislative initiative has shown that you have done impressive work, innovative work, imaginative ideas and reallocations of emphasis. Yet, there seems to have been only a random record of these ideas reaching final implementation at the end of the legislative process.

So we urge you to put as much emphasis in the changing of the oversight, of totally reforming the way you conduct this oversight here in Congress, as you do to the already good initiatives, excellent initiatives you've undertaken in a very short period of time to carry out our recommendations in the other sections.

Finally, let me just conclude by saying and re-emphasizing we're under no illusion that by moving around these boxes on your organization charts or the executive branch organization charts that this will solve the problem. Our purpose in making these organizational recommendations is really a secondary purpose. It's to create an environment that will enable good people to be creative, to take risks in intelligence analysis and recommendations and collection, and to carry out their responsibilities free of the underbrush that binds them to layers of bureaucratic process, the stovepipe of obstacles of originator control and compartmentalization and all of the barnacles that have attached to our intelligence hull over these many decades.

The time for reform is now and I think that you've made an excellent start, but we want to emphasize what is done up here to change the way you conduct oversight is just as important as what you do to the executive branch.

Thank you very much. We'd be happy to take your questions now.

[The prepared statement of Governor Kean, Mr. Hamilton and Mr. Lehman follows:]

PREPARED STATEMENT OF GOVERNOR THOMAS H. KEAN, VICE CHAIR LEE H. HAMILTON AND COMMISSIONER JOHN F. LEHMAN, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Chairman Roberts, Vice Chairman Rockefeller, distinguished members of the Senate Select Committee on Intelligence: We are honored to appear before you today. We want to thank you and the leadership of the U.S. Senate for the prompt consideration you are giving to the recommendations of the Commission. We thank you for your support.

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

REVIEWING THE PAST SEVERAL WEEKS

We want to begin by reviewing briefly the road we have traveled since July 22nd, the day the Commission presented its report.

- We believe we have made important progress. From the outset, we have had statements of support from the President, and from Senator Kerry.
- We testified 16 times during the summer recess. We appreciate full well how unusual it is for Congress to hold hearings in the month of August. We welcome the opportunity to speak with respect to the whole array of recommendations we have made.
- We thank the Congress for the opportunity to explain our work to the American people.

LEGISLATIVE EFFORTS

Mr. Chairman, we recognize that several Senators and Committees are now working to draft legislation to address Commission recommendations, and we are deeply grateful to them for their work.

Mr. Chairman, you put forward a proposal a few weeks ago entitled the "9-11 National Security Protection Act." We commend you for your leadership. You have reflected on the work of the Commission. You have been unflinching in your own examination of the Intelligence Community. We commend you for preparing a far-reaching, ambitious proposal for reform.

Mr. Vice Chairman, you have conveyed your own views on reform to the Senate Governmental Affairs Committee. We have studied your suggestions. We found them to be important, thoughtful, and constructive.

We see a clear convergence in these proposals toward:

- The creation of a powerful National Intelligence Director, with control over the budget, and with hire-and-fire authority;
- The creation of a National Counterterrorism Center; and
- The creation of additional National Intelligence Centers.

Both you—and we—find the status quo unacceptable. We studied the 9/11 story. We explained, in chapter 11 of the report, the significance of management issues both large and small.

Our basic premise is that good, strong management of an enormous enterprise so central to countering terrorism is necessary. Good management opens the way for many particular reforms, including improved collection of human or signals intelligence and improved analysis. The results of good management cannot be specified with precision in advance. Innovation and creativity cannot be legislated. But good legislation can create the conditions where better things can happen.

You have the benefit not only of our work, but also the superb report of this committee on intelligence assessments of weapons of mass destruction in Iraq. We saw your work on Iraq before we completed our report. It reinforced our conviction that the time has come for fundamental change.

We know that there are some differences between the Commission's proposals and those you have put forward. We will be glad to discuss some of those specifics with you. We welcome the refinements of the legislative process. What impresses us most is that there is a consensus for change. We want to work with you to seize this opportunity for reform.

We know that organizational changes are not a cure-all. The quality of the people is more important than the quality of the wiring diagrams. Good people can overcome bad structures. But why should they have to?

Americans should not settle for incremental, ad hoc adjustments to a system designed generations ago for a world that no longer exists.

EXECUTIVE ORDERS AND DIRECTIVES

On August 27th, the President issued 4 Executive Orders and 2 Homeland Security Presidential Directives.

President Bush has come a long way. As the White House said, these orders have “strained the limits” of the President’s authority. The White House has stated plainly that its actions on intelligence reorganization and on the National Counterterrorism Center can thus only be interim measures, and that they await further work by the Congress. For example, in its briefings on August 27, White House spokesmen emphasized, in very strong terms, that the National Intelligence Director must be an office separate from the head of the CIA. But only Congress can take that step.

We appreciate that the hard work ahead is now the task of the Congress. We appreciate that the Commission did not address every detail, and that the Commission does not have a position on every question. Some of your questions will go beyond what we as a Commission decided. Several matters we must leave to your discretion and good judgment.

We want to return to some key themes. We want to make clear here what we support, and what we do not support.

THE NATIONAL INTELLIGENCE DIRECTOR

We believe strongly that the National Intelligence Director should be created by statute, and should be a Senate-confirmed position. An Executive Order strengthening the current Director of Central Intelligence is not sufficient to the task.

We believe that the National Intelligence Director should not be the head of the CIA. It is an impossible task for any single individual to run effectively both the CIA and the agencies of the Intelligence Community. The head of the CIA should report to the National Intelligence Director as one of his deputies.

The National Intelligence Director must have clear legal authority over budget, personnel, information technology, and security procedures within the intelligence community.

- He must have the authority to prepare and execute budgets.
- He must have reprogramming authority.
- He must have hire and fire authority over the key senior officials within the Intelligence Community.
- He must have the authority to set uniform standards for security and classification.
- He must have the authority to create common standards and the application of new network capabilities to foster information sharing.

We cannot solve the problem of information sharing within the Intelligence Community unless there is a National Intelligence Director with the legal powers to compel sharing and create the structures so that sharing can take place. The National Intelligence Director needs these authorities if he is going to be able to transform the Intelligence Community to meet the challenges of the 21st century.

If the National Intelligence Director does not have these strong authorities, we oppose the creation of such a position.

THE NATIONAL COUNTERTERRORISM CENTER

We believe strongly that the Director of the National Counterterrorism Center should be a Presidential appointee, confirmed by the Senate. The Director should be a high-ranking official at the Deputy Secretary level (Executive level II).

We do not believe that the National Counterterrorism Center can carry out its mission successfully if it is part of the CIA or part of any existing Cabinet Department. In this regard, we believe the Executive Order making the NCTC subordinate to the CIA is a mistake. The responsibilities of the National Counterterrorism Center include actions across the government; they are not confined to any single agency.

The Director of the National Counterterrorism Center should report directly to the National Intelligence Director on everyday issues and intelligence matters. On policy matters beyond intelligence, the Director would report to the President and the National Security Council.

The National Counterterrorism Center needs strong authority to influence relevant intelligence collection. It should have primary responsibility for net assessment and warning.

The operational planning responsibilities of the Center should not be limited to broad strategic plans. They should extend to daily oversight of particular joint operations and explicit authority to monitor implementation of joint plans.

Vice Chairman Rockefeller's letter to Senators Collins and Lieberman offered a constructive suggestion to be sure that the Secretary of Defense retained his proper place in the chain of command for military operations. The Vice Chairman's suggestion is consistent with the Commission's approach.

The National Counterterrorism Center should have authorities giving it influence over budget planning and leaders of the governmentwide counterterrorism effort. The National Counterterrorism Center should be able to hire its own personnel and not be totally dependent on detailees from other agencies.

We believe the creation of a National Counterterrorism Center must rest upon a firm legal foundation. New legislation is necessary to achieve this purpose.

DESIGNING NETWORK CAPABILITIES FOR INFORMATION SHARING

Our report emphasized that no single agency can construct the network capabilities needed to bring all the agencies together and extend information sharing beyond the Federal Government.

We commended the work of the Markle Foundation task force, which has recently offered suggestions to this and other committees about how to translate these ideas into legislation.

We also wish to reemphasize that our recommendations for intelligence reorganization will enable action on this front as well.

DECLASSIFYING BUDGET NUMBERS

Mr. Chairman, we strongly believe that the overall budget of the intelligence community—as well as the top-line budget numbers for the component agencies of the intelligence community—should be declassified.

Making these numbers public will improve accountability. There is much skepticism, even cynicism, about the intelligence community among the American people. Declassifying the budget is a step toward increased public understanding of the challenges facing the intelligence community, and the manner in which they are addressed.

We believe making these numbers public will help the Congress in its oversight responsibilities. Oversight doesn't get any harder than it does on the question of intelligence. Nobody else has access to the information. You don't have the press to help you. You don't have watchdog organizations.

- Opening the door—even a little—will help spark public interest, engagement and support for you in the difficult work you must conduct.
- Opening the door will also enhance the kind of hardheaded cost-benefit analysis that is necessary to ensure that the intelligence community uses its resources effectively.

CONGRESSIONAL OVERSIGHT

Mr. Chairman, we have been critical of the Congress on the question of oversight. Let us be clear here. You, the Vice Chairman and Members of your Committee have worked hard and long on intelligence questions, with great devotion to the nation's security. The current structure of Congressional oversight has made your work more difficult.

We believe that the Congress needs to change its structures so that they help you, not hinder you, in the conduct of oversight.

We are encouraged by the creation of a bipartisan working group on congressional reform by the Senate leadership, and we commend them for that important step.

We believe that the Intelligence Committees need to be strengthened considerably in the performance of their oversight work. We suggested the option of a joint Senate-House Committee. We also suggested, as an alternative, the unity of the authorization and appropriation process for the Intelligence Committees. We note that Senator Rockefeller endorsed this option in his recent letter.

The point here is a straightforward one: Whatever course the Congress chooses, we believe the committees of Congress charged with oversight of the Intelligence Community must be made stronger, with power over the purse strings.

Each of you knows that the Intelligence Community resists providing you information. Each of you knows that when the Intelligence Community doesn't like the answer they get from you, they go to another committee for another answer.

We advocate a strong National Intelligence Director. We believe that stronger executive branch powers must be balanced by stronger Congressional oversight. The case for stronger Congressional oversight—already powerful—becomes overwhelming once a new National Intelligence Director is created.

The Commission is asking the Congressional Committees to do a lot to make the Intelligence Community better. We are asking you to provide the long-term over-

sight in order to improve management and analysis. We are asking you to provide oversight over the improvement of human intelligence, especially the development of a diverse workforce with knowledge of the regions, language and cultures that we must understand.

We recognize that you cannot do the many things we ask you to do, unless you have the tools to do the job. The committees charged with oversight of the Intelligence Community need, above all, control over the money. If you control the money, then we believe you can get the job done.

CLOSING COMMENTS

Mr. Chairman, we do not want to get too fixated on charts, on boxes or the location of boxes. We believe that the creation of a National Intelligence Director and a National Counterterrorism Center are important. Indeed, our testimony this afternoon is about why these reforms are so important.

Yet reforms of executive branch structures, in the absence of implementing the other reforms and recommendations in our report, will have significantly less value than the value of these reforms as a complete package.

Reforms in Congress, as well as the many recommendations we did not present in detail this morning—on foreign policy, public diplomacy, the cooperative threat reduction program, border and transportation security, and national preparedness—can make a significant difference in making America safer and more secure.

In short, we welcome each step toward implementation of our recommendations. But no one should be mistaken in believing that solving structural problems in the executive branch addresses completely, or even satisfactorily, the current terrorist threat we face.

The first part of our recommendations dealt with substantive policy—the ingredients of a global strategy. We hope those suggestions will get some fraction of the attention that has understandably been given to our ideas to reorganize the government. Our purpose in reorganizing the government is so that we can implement the ambitious, long-term substantive agenda spelled out in our Report.

We thank you again for the opportunity to testify before this distinguished Committee.

We should seize the moment and move forward on reform.

With your counsel and direction, we believe that the Nation can, and will, make wise choices.

We would be pleased to respond to your questions.

Chairman ROBERTS. We wish to thank the panel.

Mr. Lehman and Mr. Hamilton, more especially Lee, I want to thank you for coming before the Committee and asking for our very frank and candid advice and counsel on how we can improve our oversight capabilities and responsibilities.

We have been very favorably impressed that you have basically recommended a lot of what we told you. I think you recognized at that time the frustration that the Vice Chairman, myself and the members of the Committee have in regards to your recommendation that the Intelligence Committee should be the one that, at least in terms of congressional oversight, be the most independent, have the most clout and the most power in recommending policy.

Yet, because of the fractionalized way that Congress finds itself evolved into, if that's the proper way to put it, we are the least. So there's a great deal of frustration on the members of this Committee, who work very hard in achieving what you achieved in the 17-0 vote in reference to our pre-war intelligence. We'd like to think that we spend a great deal of time—I know we do—on these matters with a sense of responsibility.

So I want to thank you for coming to the Committee and asking first, and at least agreeing with us on a great many issues. I could get into that and I think I'll pound my gavel in regards to the fact that many of our recommendations end up on the cutting room floor or are simply ignored, and then we simply do the business by supplemental appropriations. The Vice Chairman and I have made

many speeches on that, I shouldn't be making one now, but thank you for your comments.

I am now going under regular order, and turn to Senator Rockefeller for a first round of questions.

Senator Rockefeller.

Vice Chairman ROCKEFELLER. To be limited to 5 minutes, Mr. Chairman, right?

Chairman ROBERTS. That is correct.

Vice Chairman ROCKEFELLER. I just want to take advantage of Vice Chairman Hamilton's statement to sort of see if I can nail this one down. Because it is one that I worry about, and that is the perception that the emphasis on intelligence is going to somehow put the warfighter at risk.

We know from your document and your report that you leave the Joint Military Intelligence Program and the tactical intelligence intact and others under the control of the Secretary of Defense and his intelligence Undersecretary. But I think people worry—and it may, in fact, be one of the reasons that this kind of reform hasn't passed in past years, is the worry of the military that somehow they're being moved in on, and their powers are being taken away.

Now, one of the things—and Vice Chairman Hamilton spoke to it and I thought he spoke to it in a favorable and accepting way, but I don't want to take anything for granted.

You want, I think, to give the Secretary of Defense, when you are in a situation of being at war, a joint position, an equal position to the national intelligence director, on all matters of intelligence. Technically, if they disagreed, as I indicated in my opening statement, they could take that to the NSC and to the President. But you don't want that to happen.

You've got a group of insurgents coming up one side of the hill and we're coming up the other side of the hill, you don't have time for that. John McLaughlin said this never happened.

But I want to try to pin down that there is still a concern that the NID might manage the national intelligence systems in a way that could be detrimental to the warfighter. We don't want that to happen in times of war. We do not want that to happen.

So is the idea of making the Secretary of Defense co-equal to the NID and that they would agree on approaches on reflecting intelligence matters in time of war, is that one upon which you look favorably?

Mr. HAMILTON. Senator Rockefeller, we do not think that's inconsistent at all with what we have recommended in the Commission report. I want to be very clear here that we never suggested, for one moment, diminishing support for the warfighter. We agree with the Vice Chairman on the importance of that support. We think in the organizational structure that we have put forward, that support is assured.

There is another equity here that has to be looked at. I don't think anybody wants to reduce the quality of intelligence that goes to the warfighter. We all recognize the importance of that. The other equity is the American people. The American people have to be protected too against a 9/11-type attack. You do that by providing effective, strong intelligence, national intelligence, strategic intelligence to the national intelligence director.

I believe the way we have structured it, and I think it's consistent with what you have said, the Deputy National Intelligence Director, who would be the Under Secretary of Defense, would certainly be sitting at that table to be alert to every possible bit of information that would be helpful to the warfighter going to the war fighter. And we fully support that.

What you have suggested kind of reinforces that. I think it's consistent with what we say.

Vice Chairman ROCKEFELLER. Thank you, Vice Chairman Hamilton. My time is virtually up.

Chairman ROBERTS. Senator Warner.

Senator WARNER. Thank you, Mr. Chairman.

Mr. Chairman, I wish to join my colleagues in commending each of you for your further public service. Really, in my judgment, there is a long history of Presidential commissions and congressional commissions. I think you have reached the new high watermark and bring credibility to that procedure. I commend each of you.

Secretary Lehman, I remember well when we worked together, when you were Secretary of the Navy, and I want to commend you. You remember the Goldwater-Nichols Act, which many have referred to as a precedent for what we are undertaking here in the Congress today. I remember you were very active in that piece of legislation.

Gentlemen, my first question comes to the Chairman, the distinguished Chairman. There's been some speculation that with Executive Orders and what took place prior to the issuance of your report, that, of the 41, a very high percentage of your recommendations have been implemented, are being implemented. Do you have any base of fact there as to your own opinion of where we are today in connection with the implementation of those 41?

Governor KEAN. There's no question we've made progress on some of them, and some of them even before we came out with the report.

What we would call the major recommendations have not yet been dealt with.

Senator WARNER. Not one.

Governor KEAN. There are a whole series of recommendations involving things like transitions and emergency response and public foreign policy, a whole series of things that we still think we have to work on.

Senator WARNER. Now, Congressman Hamilton, I'm going back to your testimony before the House Armed Services Committee. You indicated the Commission's understanding of the importance of tactical military intelligence, and you used these words, I believe, had "evolved since the report was published and that some of the Commission's thinking on this subject needed to be refined."

Can you amplify on that, I think, very perceptive observation on your part?

Mr. HAMILTON. Well, I think, Senator, we've learned as we've gone along, and making a sharp division between tactical and strategic, which I think we did in the report, the clear bright line may not be as clear and as bright as we thought. There are a number of intelligence assets that can have both a military and a strategic

value to them. So I do think our thinking has been refined, as we have talked with our friends in the Defense Department and in the CIA, with regard to this.

I believe, as a pragmatic matter, it can be worked out. It helps me to think in terms of specifics. You take an asset like the U-2. The U-2 clearly has military applications, but likewise it gives us important political information.

Senator WARNER. I think that's helpful.

I want to refer to your chart here. My concern is, and I go back to one word that you had, which I found very interesting in the report, the lack of imagination. To me, imagination is the direct product of competitive analysis in many respects.

Where in here is the ability of the President to receive views other than that held by the national intelligence director? For example, Secretary Lehman, we put in Goldwater-Nichols the ability of any member of the Joint Chiefs to have access to the President. Do you envision that the President will receive differing views from many of the substructure here? Or how does he receive the differing views?

Mr. HAMILTON. Senator Warner, first of all, we want to see competitive analysis. We're not against competitive analysis. We think our proposal, and I'll spell this out, gives us more competitive analysis.

We think the status quo did not give us competitive analysis, not only with regard to 9/11, but with regard to the report this Intelligence Committee made the other day on weapons of mass destruction. So we think the status quo fails to foster competitive analysis. But beyond that, the whole concept we have is sharing information across the various agencies of the intelligence community.

The more you share information, the more ideas, the more competition for ideas you're going to have.

Senator WARNER. I agree with that. I'm thinking in that Oval Office, when that NID comes in and states a proposition to the President, does the President have the benefit of other views?

Now, presumably, the Deputy NID for defense intelligence can energize the SecDef. Likewise, the Deputy NID for homeland can exercise that Cabinet officer. I'm not sure exactly how the survivor of the CIA gets in there and the DIA. That's what concerns me here. As we work through it, I can assure you this Senator is going to make certain that there is some ability for others to have access to the President—

Mr. HAMILTON. All of the departments of government we don't make any change. State has their intelligence. Energy has theirs. Treasury has theirs. Each of the armed services has their intelligence. None of that is changed. So that competition from those areas would be the same as it has been in the past. We think there are other steps we've taken that strengthen that competition.

I think the point you are raising is enormously important. You and all of us need to be satisfied that whatever we have permits a maximum amount of competitive analysis.

Senator WARNER. Last, a group of us have been invited—I think, basically the Chairman and Ranking Member of the several committees involved in the intelligence business, to go and visit at the White House tomorrow, presumably given the opportunity to ex-

press our views and to receive perhaps their initial thinking on draft legislation that will be coming to us eventually.

Do you have any pre-knowledge of what the disposition is for the White House as to the legislation? If not, in the course of that legislative proposal being made available to the Congress, are you in a position and will you comment on it such that the Congress can have the benefit of your ideas on such White House proposals, legislatively, as would be forthcoming?

Governor KEAN. We've had no communications from the White House as to what their proposals may be. We would be glad to work with this Committee as you consider them in any way which you deem appropriate.

Senator WARNER. My time is up, Mr. Chairman. Thank you.

Mr. HAMILTON. May I observe, Senator, that I think the Executive Orders of the President have been a constructive step forward.

Senator WARNER. As do I.

Mr. HAMILTON. When they say that they've gone as far as they can go with an Executive Order, I think that's about right. Now, they don't go as far as we recommend, as you recognize.

We think there are some important changes. But the Executive Orders support the national counterterrorism center. They support a national intelligence director. They believe in strengthening the management of the intelligence community. They believe that more sharing has to take place. All of these things are positive and constructive. We want to build on them.

Senator WARNER. Thank you.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Lott. Senator Lott is no longer here. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

First question is for you Mr. Hamilton. The report of the Commission documents extensive intelligence and aviation security failures. You talk about the failure to put dangerous people on the watchlist, to take the Phoenix memo seriously, the failure to get the warrant against Mr. Moussaoui. The list goes on and on.

Yet, no one was ever reprimanded, demoted, transferred or fired anywhere in our government because of the mistakes that contributed to the attacks.

Now, I'm not saying that the attacks could have been prevented. But I am very troubled about the lack of accountability in the intelligence community. I'm struck by how different it is with the military community. For all practical purposes, in the military community, there is strict liability. When something goes wrong, somebody gets held accountable. It doesn't seem to be that way in the area of intelligence.

I'd like you to say what you all found as you looked to the question of why nobody was reprimanded, demoted, transferred or in any way faced any consequences because of the failures that you take—you all take almost 10 pages to document the management failures. They go from around 350 to 360. Why, in your view, was nobody ever held accountable?

I ask that of you, Mr. Hamilton.

Mr. HAMILTON. Senator Wyden, you can look back and you can find mistakes that were made. This person didn't check the pass-

port carefully enough. That person didn't look at the visa applicant carefully enough. The ticket-taker at the airport wasn't careful enough about people boarding the airplane. You can go on and on and on. We can list 50 of those people.

But we really saw no value to pointing out one person here, one person there and giving you a list of 25 people or 50 people. What good is that going to do?

The fundamental problem we saw was systemic, not personal. That's what we focused on.

Senator WYDEN. Well, I share your concern. But it also seems to me that no organization can succeed if, at some point, failure isn't acknowledged and people held accountable. So we'll have further discussion about this. But I will tell you, I'm struck by how different intelligence is from the military area where there really is strict liability.

Mr. HAMILTON. One of the things we did find was that the military did do, after 9/11, after-action reports. That has not yet been complete, as we understand it, in the CIA. The Justice I.G. has completed a report. So some of this is being done.

Senator WYDEN. Governor Kean, my next question's for you. Senator Lott and I have introduced comprehensive legislation to overhaul the way government documents are classified.

It seems to me that a problem that was serious years ago has gotten more and more so. You said during the course of your review, this is a quote from you, "Three-quarters of what I read that was classified shouldn't have been."

I can tell you, Senator Lott and I are going to use that as exhibit A for making the case for our legislation, but I'm interested in having you amplify a bit on why you found that to be the case, and in particular whether an official faces any repercussions at all with respect to overclassifying a document.

It seems to me what we have is a system where somebody just sits there with a big old stamp and marks "Secret," and there are never any consequences. I and Senator Lott would like to shake that up. I'm very pleased that one of our sponsors, Senator Snowe, is here as well. If you could tell us why you found that to be the case, I think that would be very helpful.

Governor KEAN. Well, congratulations, Senator. You and Senator Lott, unlike my two colleagues here and most of the other members of the Commission—I had never seen a classified document before. So this was my first time, and so I was very eager to read after I got my security clearances.

What amazed me, I remember the first time document I read, it was about 300 pages from the FBI. I read the whole thing very carefully, and I looked at my watch, turned to the FBI agent that was there and said, "I know all of this. I've read it in the newspapers. Why is it classified?" He said, "But you didn't know it was true."

Now, that is not a reason for classification. As I read more and more documents, there were more and more things that I already knew, and things frankly the American people deserve to know. I mean, they weren't anything to do with sources or methods or anything which in my mind as a citizen jeopardized the security of

America or the lives or occupations of any of the people who work so hard in the security area.

It happened to me again and again and again and again. I think all of my fellow commissioners shared exactly the same feeling. You talk about incentives, the incentive is the other way around. So I talked to a number of people, and they said, “the incentive is you don’t get into any trouble if you put that stamp on it. You’re safe”.

It’s the other way around. If you don’t put the stamp on it, maybe there’s some way you can get in trouble. So I congratulate you on that.

Senator WYDEN. Mr. Chairman, can I ask one other question on this classification matter? I know my light is on.

Chairman ROBERTS. Certainly.

Senator WYDEN. Thank you, and I’ll be very brief.

For Mr. Lehman, as you know with respect to your proposal that the overall amount of money being appropriated no longer be kept secret, I’d be interested in having you tell us how you’d respond to critics who say that declassifying that information is in some way going to harm national security. We’ve been hearing people say western civilization is going to end if somehow this overall number is printed.

It seems to me you’re right, they’re wrong. But how would you respond to the critics on that question with respect to declassification?

Mr. LEHMAN. Well, frankly I think the biggest damage that would be done would be the shock that our enemies would have at seeing how irrational we are at allocating resources, if they really knew how little we spend on translators and on human intelligence sources compared to what we spend on hardware, redundant hardware and so forth.

Obviously there’s a level of granularity that needs to be protected. We don’t want to tell them exactly how much we’re spending on infrared satellites or particular SIGINT assets.

But the American public would be shocked if they knew the misallocation of resources between HUMINT and other aspects of our intelligence budget. They need to know that. How can you carry on a debate on the floor of the Senate without talking about those kinds of gross numbers?

So we feel very strongly that certainly the top line and the rough allocation of resources between different parts of the community, not necessarily in fine, and certainly not down to the problematic level—but we have not heard a compelling argument for maintaining overall classification. It’s silly that you, when you go out and speak, have to quote Tom Clancy and can’t discuss in a rational way.

Senator WYDEN. Thank you, Mr. Chairman.

Chairman ROBERTS. I’m not sure we all quote Tom Clancy. There are other people we could quote.

[Laughter.]

Chairman ROBERTS. Let me just say that the Committee is taking very seriously the proposal by Senator Wyden, Senator Lott, and others. It is a matter of the highest priority.

Senator DeWine.

Senator DEWINE. Thank you, Mr. Chairman.

Let me just thank the three of you for a magnificent job on the Commission. All of us appreciate it very, very much.

Mr. Secretary, thank you for your very perceptive and eloquent comment about the institutional problem this Committee has in doing oversight. I don't think I've heard it expressed any better. I think you have touched on a real problem that we have, and I hope we can change that.

Let me talk a minute, and then ask a question about a reform challenge I think that we face that affects both our branch of government as well as the executive branch. That has to do with the supplemental budget and the fact that we rely more and more to fund our intelligence community on the supplemental budget.

It seems to me that this is a problem. I guess you could look at it from a positive point of view. Thank heavens we have had the supplementals. I don't know where we'd be without them, as far as funding the intelligence community for the last few years. But it is a problem. It makes, I would think, for executive branch and for the different agencies planning very, very difficult.

They never know from one year to the other whether they are going to have the supplemental. What will happen some year if we don't have a supplemental? This really needs to be made a part of the permanent budget, needs to be part of the baseline budget. It presents a problem, I think, for Congress as well, because, as has already been pointed out here today, when the money is in a supplemental, it really doesn't go through this Committee and we don't have the opportunity to have any say about it, or any effective say.

So I wonder if I could get your comment about this, because it seems to me that when we're talking about reform—and you've talked about many things in regard to reform—this is one area of reform that we're going to have to face up to.

If I could start with Congressman Hamilton.

Mr. HAMILTON. Senator DeWine, I agree with you. The supplemental appropriation process shuts you out of the game and it shuts out most of the other Senators. In the House of Representatives, which I know a little better, it shuts out most everybody except a very few people, not all of whom are elected members. A few key staff people and a few key appropriation players, they're the only ones in the game.

We all know how supplementals work around here. The fact of the matter is they work in such a way that ordinary members of the Senate and the House cannot impact it.

The other point you make I think is terribly important. From the standpoint of the intelligence community, it's an awful way to run the institution. They don't know what their budget is going to be, oftentimes until well into the fiscal year. They cannot plan ahead.

So I think from your standpoint and from the executive branch standpoint, supplementals are just awful. They're an abomination in terms of process. They seriously undercut deliberation, seriously undercut contributions that other members can make.

What do you do about it? Well, one of the things we suggest, I think you probably are going to have to have to restructure the intelligence budget and maybe have a separate intelligence budget—today it's part of the defense budget—and try everything you can

to avoid the supplemental process. But I very much agree with your observations.

Senator DEWINE. Governor.

Governor KEAN. I couldn't agree more. Everything I know, which is about a quarter of what Lee Hamilton knows or less, makes me agree very much with your point.

Senator DEWINE. Mr. Secretary, you have had a lot of experience in budgeting on Capitol Hill and being up here.

Mr. LEHMAN. Well, you know, when I was Secretary of the Navy, we used to view that, in those years that it got crowded, as a mixed blessing because it basically freed us up from any oversight. We could do whatever we wanted.

Senator WARNER. And you did it too.

[Laughter.]

Mr. LEHMAN. I have reformed, Senator.

But I couldn't have said it better than Lee. It is just really totally disruptive and frustrating of the whole process.

Senator DEWINE. Well, I just think it's just a huge, huge problem that we really have not concentrated enough on or thought about enough or talked enough about. You know, the average American obviously doesn't have a clue about this and wouldn't be expected to understand all the intricacies of this.

But you lose, it seems to me, the input of the people who Congress expects on a daily basis to be paying attention—lose their input. But equally important, as Congressman Hamilton said, you lose the ability, it seems to me, for each agency to have the assurance that this is in the baseline, that they can plan ahead, that they have the assurance that they're going year to year to year to year.

Government budgeting is tough enough the way we do it every year, anyway, coming in later and later, and all the problems. We get the feedback from every agency.

But to have so much tied up in the supplemental year after year, it seems to me, it would just be a horrible, horrible way to have to do business in an area that is so vital, so vital to the defense of this country and to the protection of the American people. We just have to do something about it.

I thank the Chairman.

Chairman ROBERTS. Senator Chambliss.

But I might point out before the distinguished Senator starts, that the Senate has passed the Defense Appropriation Act, which includes money for the intelligence community, but has yet to pass the Intelligence Authorization Act. I'm not quite sure what to call it, but that's not the way that we want to run the railroad.

Senator Chambliss.

Senator CHAMBLISS. Thank you, Mr. Chairman.

Lee, those supplementals also tend to get loaded up with members projects, as you well know, and we spend too daggone much money on them.

One of the recommendations of the Committee is to move the NID into the Executive Office of the President. There are several of us who have already noted publicly that we have some concern about that from a political standpoint.

I tend to look at the national intelligence director—I think which we all are basically agreed on now we need to move toward—that that individual ought to be more in the form of a CEO of a major corporation who is overseeing the whole intelligence community and separate them as much as we can from the political atmosphere and the political world. How integral is that recommendation to your committee's overall recommendations?

Mr. HAMILTON. I think we've learned from our contacts with you. It's my understanding that that's not a well-received recommendation for the very reason you stated. We accept your judgment about it.

We think that the authority is much more important than the box. We really do think the authorities of the national intelligence director are crucial. But where you put him in the White House or as a freestanding office I don't think is crucial.

Mr. LEHMAN. Frankly, one of the reasons why we recommended the Executive Office of the President was we are all very sensitive to not creating another bureaucratic layer. Exactly the example that you use of a well-run large corporation with a very small CEO staff with real powers is what we wanted. The Executive Office of the President already has the administrative bureaucracy, the treasurer, if you will, and the human resources person and the admin side.

So we thought it would be much easier, probably a good way to reduce some of the billets that would be needed for the NID, if we just used the existing bureaucracy. But it is not really essential, and the objections to it that have been raised in this Committee are very legitimate ones. So I think we all agree that that's fine, to take it out of the EOP.

Mr. HAMILTON. Senator Chambliss, if I may add, our concern would be that the NID, the national intelligence director, not be subordinate to a Cabinet person. The reason for that is that the national intelligence director is going to be not only collecting all of the information, intelligence information, but is also in charge of operational planning to deal with counterterrorism.

Now, what that means is you've got to be able to work with all of the departments of government that have a role in counterterrorism strategy. That's almost everybody. It's diplomacy, it is military, it's CIA, it is Treasury. It is all of them.

So we think it would be a mistake to put the national intelligence director under somebody, because he or she is going to have to be giving orders to a lot of other people in a lot of different areas of government. You cannot have an effective counterterrorism strategy unless you integrate many departments and agencies of government. It takes all of it to be effective. You've got to have good diplomacy. You've got to have the Treasury working to stop the financing. You've got to have good law enforcement. You've got to have good military. You've got to have good covert action. You've got to have good public diplomacy. It goes on and on. The importance then is that the national intelligence director has to oversee all of that.

Senator CHAMBLISS. Looking at the combat support agencies within the Department of Defense, your recommendation is that those agencies stay within the Department of Defense. The Chair-

man's proposed legislation that he has out there now moves those three agencies out of the Department of Defense and reorganizes them by function.

I think there are good points and bad points to both of them, both those particular concepts. But does the Committee feel strongly about the fact that those agencies ought to remain within the Department of Defense, answerable to the Secretary of Defense, as opposed to being answerable directly to the NID?

Mr. HAMILTON. We did not consider those changes that the Chairman put into his bill. We do believe that the national intelligence director has to control the budgets of the NSA and the NGA and the NRO. They have to obviously work very closely with the Secretary of Defense to do that.

We did not pull those agencies out of the Defense Department. We didn't recommend that. We do agree with the view expressed in the Roberts bill that the deputy for military support has the responsibility of making sure that the needs of the warfighter are met, but we did not consider the changes that the Chairman recommended.

Senator CHAMBLISS. Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman, and I thank our witnesses for their major contribution to the security of this country. Their personal commitment of time and energy is really outstanding. It's a role model for citizens in this country.

The debate over intelligence reform is a critical debate, obviously, but whatever we do in terms of moving around boxes on an organizational chart, whatever authorities we decide to give to a national intelligence director, I believe that we cannot ignore one of the fundamental problems that we see with intelligence, and that is the shaping of intelligence to support policy.

We saw it in the Vietnam war when McNamara cited secret intelligence to support the Gulf of Tonkin Resolution. We saw it in Iran-Contra, when intelligence was misused by a CIA Director, according to the Iran-Contra report, to achieve a policy goal.

This is what the Iran-Contra Committee said about this issue. It's an issue which I think is a critical issue and one which is not directly addressed by your report, but which is impacted by your report, because you create a more powerful national intelligence director.

Before I'm comfortable creating a more powerful national intelligence director, I've got to be comfortable that we are taking steps, significant, real steps, to achieve objective, independent intelligence assessments. Too often in the past, that has not been the case. It was not the case before Iraq. This Committee had a 500-page report that showed the failures of intelligence prior to Iraq.

Although we haven't gotten to phase two relative to the use of intelligence, every single case that was pointed out in that report where the public statement about what the intelligence showed by the CIA Director differed from the classified information, it was pointing toward a greater, more sharp, threat on the part of Iraq, which clearly had but one impact, which was to support a policy-makers' direction.

Now, whether you agree with that or not, I would hope that we would all agree that we have got to take steps to assure that we're going to get independent, objective intelligence.

Would you agree with that? Governor?

Governor KEAN. Yes.

Senator LEVIN. OK. Is there any disagreement that we have got to take steps, whether we create a more powerful NID, or do it in some other way, to the steps that we're able to take to make sure we get the most objective independent assessments of threats from the intelligence community?

Mr. HAMILTON. Senator Levin, I obviously agree with what you have said. Organizational structures don't politicize intelligence; people politicize intelligence. I don't know of any organizational structure that you can draw that would give you assurance.

Senator LEVIN. We'll be proposing some changes in law which will help to promote that goal, if you agree with the goal. I'm not asking you to comment on them now because we're working on them. The question is the goal.

Senator LEVIN. Secretary Lehman, you agree with that?

Mr. LEHMAN. I agree completely, and it's closely related to an earlier question about maintaining competitive analysis.

Senator LEVIN. I think it does, it does indeed.

Mr. LEHMAN. That's crucial.

Senator LEVIN. Let me just read one thing from the Iran-Contra Committee report: "The gathering and reporting of analysis should be done in such a way that there can be no question that the conclusions are driven by the actual facts rather than by what a policy advocate hopes these facts will be."

Let me go to a second question, which relates to the budget power. Under current law, the CIA Director does have the authority to present the budget. I believe, in the exact words of the law, he's responsible to develop the budget for the entire intelligence community and to present it to the President. So the power to put the budget together already exists in the CIA Director.

I think what the issue is is when it comes to budget implementation once there's an appropriation, what power do we want to give to various people to seek reprogramming in that area? I think that's what the real issue is.

But we've got to be careful about controlling the budget, those kind of words. Because right now, under law, the CIA Director has the power, the responsibility, as a matter of fact, to present and develop that budget.

My question to you relates to the budget. It's similar to Senator Wyden's question about personnel and holding people accountable, but slightly different because I'm asking about budget. Did your commission find evidence that Director Tenet tried to change the CIA budget when he presented it and developed it, in ways in which he was thwarted?

Mr. HAMILTON. My only recollection there—and I don't know if it's responsive—Director Tenet complained to us about his inability to reprogram the money in the budget.

Senator LEVIN. Well, then, I'll ask the same question. Do you have examples of—if none of you have examples of where he tried to come up with a different budget going forward, then let me ask

you on the reprogramming side. Do you have specific examples of where Director Tenet sought to reprogram money where he was thwarted from doing so?

Mr. HAMILTON. Well, we had a report in the paper just the other day—

Senator LEVIN. No. I mean in terms of the Commission report.

Mr. HAMILTON. Well, I cannot recall one in the Commission report. But the news reported just a few days ago that Acting Director McLaughlin came before Senator Collins and complained that it took him 5 months to reprogram money because of congressional restrictions.

Senator LEVIN. I was there when he made that statement. This has to do with congressional restrictions on reprogramming, not who has the executive authority to put together the request.

But your report doesn't have, as I understand it, any. If I could ask one last question, Mr. Chairman, I think I may be over as well.

I'm over. I'll withhold. Thank you.

Chairman ROBERTS. Senator Snowe.

Senator SNOWE. Thank you, Mr. Chairman. Again, I want to thank our witnesses here today for the extraordinary work and leadership that they've provided on the issue of national security to our country, and taking the Commission report one step beyond, a major step beyond, and that is galvanizing action on the part of the President and Congress and not only testifying on 16 different occasions, which is exceptional in and of itself to withstand that before the U.S. Congress, but also traveling the country to ensure that action is taken on the Commission's report and recommendations.

To that point, on the question of timeliness, as you know, there has been somewhat of an undercurrent questioning whether or not Congress should take action this fall on these initiatives and any others that have obviously been recommended, because it would result in ill-considered measures.

Not that that doesn't have merit, that some people conclude rightfully, and we have given ample credence to that, that we can't be both thoughtful and timely, but I think in this instance it's an important issue to address, because there have been a number of reports over time to recommend changes. Of course, we just concluded our investigation on the stockpiles of weapons of mass destruction in Iraq and came to many of the same conclusions that you have reached with respect to the intelligence community, that it does, in fact, require a major transformation to provide the catalyst for change.

How important is it that this change occur this fall before we adjourn? I say this because as you well know, in the deliberation part, if we say we need more deliberation then it becomes a prescription or a rationale for procrastination.

Governor KEAN. This, obviously, has been of tremendous worry to us on the Commission. If we don't act now, does it go over into a lame duck? Does it go over past January? When does action happen? Because our concern is that we're not the first commission who has made thoughtful recommendations in this area. I mean, this has been going on for 25, maybe 30 years.

A number of the recommendations we've made have synthesized things from people like Scowcroft and a number of others who have made similar recommendations. Those recommendations have not been implemented.

We believe that if our recommendations are not implemented in a timely fashion that the American people won't be safe, that our recommendations are designed, each and every one of them, to make people safer, and that, God forbid, you know, something happens again, and we're 6 months from now and recommendations that could have made the American people safer have not been implemented.

That is our great worry, and that is our concern as commissioners. That's why we recognize we want due consideration, we want thoughtful consideration; that's what the Senate is all about.

But we also want timely consideration. That's why we were so happy with the hearings that were scheduled in August. We think the sooner these recommendations or the variation of them that the legislature in its wisdom chooses to make, the sooner that's done, the safer our constituents are going to be.

Mr. LEHMAN. In the 1947 Act, there were at least three major fine-tunings in the subsequent years. The basic framework was passed as one package, but it was recognized there was more that needed to be done or refining what was done in the original Act.

So I think we all feel strongly that it's important to have the intellectual debate about the framework. If we can get the framework passed, then the flesh can be put on the bones further down the road.

There are some things, for instance, which and how many of the national intelligence centers—nonproliferation and Middle East and whatever—that should await an NID getting his feet or her feet on the ground and help, working with Congress over the next couple of years, to flesh out the organization.

But if we don't put the framework in place now, it is, I think, undue delay that extends our vulnerability without question. Because al-Qa'ida is not going to give any further due deliberation. They know what they're doing.

Mr. HAMILTON. We believe it's urgent that these recommendations or a variation thereof be adopted.

Now, you have a long list of problems in front of you. It may be a bit presumptuous of us to say this is the most important. From our perspective, we think it's the most important thing on your agenda. But you have a lot of very tough problems to resolve, in—I read in the paper this morning—19 days or so before the election. So we put it before you as an urgent matter. You're the policy-makers, and I think you have to make the judgments.

Senator SNOWE. Congressional reform, I know, Secretary Lehman, you referred to that, and I know the recommendations within the report said it was equally important. How critical is it for that congressional reform to be in tandem with the executive branch reform?

Mr. LEHMAN. I think it's absolutely critical, because it's one hand clapping if you only do the executive branch this year.

Senator SNOWE. Thank you.

Chairman ROBERTS. Senator Hatch.

Senator HATCH. Well, I want to thank all three of you and the whole Commission for all of the very heavy lifting you have done. This has been not only time-consuming, but intellectually exhausting as well. Then of course, you have had so many hearings and so many people you have chatted with.

But let me just more specifically ask you just a couple of questions. What parts of any of these reforms specifically will improve our ability to understand, penetrate and neutralize armed groups? I mean, just add a little bit to that, is an organizational redrawing of the community enough to address our weaknesses in facing these armed groups?

Just one other aspect, what needs to be done to strengthen or rehabilitate our capabilities in the field? Do any of these bills address our needs in those areas?

What further initiatives can be proposed by Congress that in your opinion do not rely on organizational fixes?

Those are four questions that I think relate to each other; that's why I ask them all together.

Governor KEAN. To give you a very brief answer, Senator, we believe that good management will enable everything else, that if you don't have good management over the agencies or structures that are a problem, then all the other things you want to do in the area of intelligence are going to be problematic, and have been. I think a lot of the failures are because of those problems.

There are a number of recommendations in our report, some of them outside intelligence. For instance, we know that the terrorists are most vulnerable when they travel. Well, that's why we have a whole series of recommendations in that area about biometric—

Senator HATCH. There's a lot of people that argue that we have had good management in the past and what changes to make this so much more effective. I personally believe you are right, but I just would like to—

Mr. LEHMAN. See, that's the illusion, if I could just interject. We talked earlier about the CIA director having authority to put together the budget. That's not true at all. I mean, it's true in form, and people believe that that's the case, but it's not true in substance. All the DCI does is collate the submissions of 15 different agencies and put it together—put it on top of the stack and move it forward.

Senator HATCH. He doesn't even do that, does he?

Mr. LEHMAN. Somebody does.

Senator HATCH. You've got maybe some consideration over 20 percent of the budget in the CIA Director. A lot of people didn't know that.

Mr. LEHMAN. The problem here is—and you are putting your finger on the key—it's operations.

Why didn't we penetrate these cells, not only in Afghanistan, but here? It's because process and bureaucracy has superseded output and human initiative and judgment. Time and again during our investigations, we found that the response—why didn't you, or why wasn't this carried out or why wasn't that carried out?—it was because they had to get a legal brief, a legal document to allow them to enter into discussions, et cetera, et cetera. It's form over substance.

Senator HATCH. There is a lot of interagency conflict, too.

Mr. LEHMAN. A lot of interagency conflict with nobody to arbitrate, with nobody to have the authority to say, "OK, we've heard from CIA and DIA and we've heard from NSA, but here's how we're going to do it" and removing the obstacles that we talked about that were raised earlier about over classification and compartmentalization and nobody has the authority to do it. It links very closely to the question of why nobody was held accountable, because there was nobody to hold them accountable. The FAA, you could make a case that a dozen people should have been sacked there, but who was going to sack them? There was nobody to provide that central accountability and authority, and hence the NID is the missing link.

Governor KEAN. There are so many cases, Senator, we find in our report. Moussaoui is maybe the most famous, because that information came up, discovered by the FBI, found out by the CIA, Director Tenet figured it was an FBI matter, so he did nothing. It never got up to the head of the FBI, and we ran out of time.

Another example is 1998 when Director Tenet got it. He said, "All of a sudden, these people are really after us", and he declared war in a statement. He declared war on bin Ladin and al-Qa'ida and nobody knew it. Nobody knew it in any other intelligence agency. Nobody knew it even inside the CIA.

Senator HATCH. That was only one illustration.

Mr. Chairman, if I could just ask one other short question?

Chairman ROBERTS. Surely.

Senator HATCH. Section 301 of Chairman Roberts' bill is an idea that has been promoted by our colleague, Senator Feinstein, and that is having an intelligence university where we train people outside of these respective agencies, perhaps, but nevertheless where we have a training ground to begin to train our agents in the new doctrines and practices to combat armed groups in particular.

Shouldn't we do more than just ask for a study on this idea of an intelligence university? What are your feelings on that?

Governor KEAN. Obviously, that's a good idea. We didn't talk about it in the Commission, but it's a good idea. I believe, frankly, as a university president that as you all look in the education area, we've got to encourage people to train people in other languages, in other cultures.

When you can't find people who speak Arabic, when you can't find people who understand the cultures in these various regions when you're trying to hire them, that doesn't help us very much. We've got such a wonderfully diverse population.

Senator HATCH. We do that now, but by having a university you could really coordinate that.

Governor KEAN. I think a university is a good idea, but we already have a number of great universities and I think spending a little money pushing some of these areas that are so important would be helpful.

Senator HATCH. Well, thank you all. I appreciate your responses today.

Chairman ROBERTS. Senator Feinstein, who will now speak on behalf of her university.

[Laughter.]

Senator FEINSTEIN. Not quite, but thank you very much, Mr. Chairman. Thank you very much for your service, commissioners.

I wanted to react to something you said, and maybe in my reactions, then ask you to comment. The first was this timely consideration in view of the fact we have 19 legislative days left. We're in the heat of a Presidential election. Our President has taken a very specific view on this subject, which you describe as "coming a long way."

Be that as it may, Senator Hagel wrote an op-ed piece, with which I very much agree. I think we have one chance to do this, one moment in time, and we had better get it right. It would be worse to rush and get it wrong. I have been with this idea of a national intelligence director for a long time—actually, the first one. Every year I learn more. Every year I see more. Every year I realize how much more complicated it is.

You have brought the Congress along, and in that respect you are really to be congratulated because it was a very lonely world for a long, long time.

Something, Congressman Hamilton, you said, in reaction to Senator Warner's inquiry about the organization chart, I don't agree with, respectfully—and I have great admiration for you—and that is that the Deputy NID for defense is not inconsistent with the ability to directly report to the President.

I don't see that in your organization chart. I don't see that line of authority at all. It raises the question that, if we were to go with the three Deputy NIDs, whether it would make sense to take the Deputy Defense Intelligence NID out of that box, put him in a separate box, and draw it more clearly to the Secretary of Defense.

My concern has been the Secretary of Defense controls 80 percent of the budget. The head of the intelligence community, whoever that is, DCI, NID, whatever you want to call him, has to deal with that consistently. Therefore, reprogramming, by its very nature in that structure—and we're talking structure—is made much more difficult.

So my thinking, just looking at this and just listening to you, would be to take that one position outside that box, so you have foreign intelligence, you have homeland intelligence, and you have the direct link between the Secretary of Defense and the defense-related agencies.

Now, let me tell you why. Senator Levin, I thought very eloquently, pointed how, you know, policy and intelligence follows. The defense intelligence agencies weren't wrong about virtually anything in this that I can pinpoint, but the human intelligence structure, wherever there was a conflict, they took position over the land, so to speak. I think that organizationally is a big, big problem.

Now, I also think the only way you're going to have an NID that is not beholden to the top of the chart is if that individual has a long-term appointment, and that's something we have to come to grips with, because whether it's Gates, or McNamara, or Tenet, they all are subject to the owner of intelligence, who is the President of the United States.

It's a very powerful thing. I talked to enough people now to know that they pick up vibrations of what is wanted. You cannot sepa-

rate that unless you have a completely separate identity, in my view.

So I think, also, the best—this is just my view—the best chance for a bill is, frankly, if this Committee can come together with a bill. You've got chairman of the Defense Committee, the ranking member of Armed Services, ranking member of Armed Services. That's a real problem. If you have Armed Services vote against any bill, you're not going to get a bill through.

Under the surface of this thing, there are a lot of tides and eddies running, and we all know that. I think we've got to handle this question of defense, the Secretary of Defense and the defense-related agencies in a different way than you have on this organizational chart.

Mr. HAMILTON. Senator Feinstein, the chart before you indicates that the Deputy NID for defense intelligence does report up to the national intelligence director. What the chart doesn't show is that the Deputy for defense does have a direct line to the Secretary of Defense. That person is dual-hatted, in effect, and that's the very thing that Senator Rockefeller had suggested.

Senator FEINSTEIN. Well, let me ask you, then, could I request that you submit—because there are more dual hats—could you submit a new organizational chart, as you would see that?

Mr. HAMILTON. I understand how you might be misled just by looking at this chart, because this chart just explains the national intelligence director and the deputies under him and so forth.

But our intent would be that the Under Secretary of Defense for Intelligence would serve as the Deputy National Intelligence Director. He or she would report to the National Intelligence Director, but also report to the Defense Secretary as well.

Mr. LEHMAN. This is a precedent that has worked well in my experience in the Navy Department, as Senator Warner would attest. The director of naval reactors is always a four-star admiral, since Admiral Rickover's time. He's also a line Deputy Assistant Secretary of Energy. The dual-hatting has worked very well for safety issues, for nuclear waste, for quality control, for training.

He reports directly in a not dotted but solid line to the Secretary of Energy. But 98 percent of his time and his responsibilities are to the Secretary of the Navy. That is what we envisioned here with this recommendation. The Deputy for Defense Intelligence would be spending most of his time doing his defense responsibilities and implementing the agreed national policy on intelligence, and the NID would rule by exception. It's a distinction that is an important one, but the precedents are there and can work very well, we believe, in this case.

Senator FEINSTEIN. Then I would respectfully request that you submit an organizational chart—

Mr. HAMILTON. Very good point.

Senator FEINSTEIN. That properly reflects this, because if I might say this, respectfully, it is not believed by a lot of members.

Mr. HAMILTON. That's a very good point. Thank you.

Mr. LEHMAN. That's a very good point.

Chairman ROBERTS. Senator Mikulski.

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

To the members of the Commission, I too want to thank you for your service and that of the staff. As we come up, now, on the anniversary or commemoration of September 11th, I think about my own Marylanders who passed away that day. Sixty from Maryland died that day, mostly at the Pentagon. The people of Virginia suffered far greater losses.

In my own state, 24 came from one county, Prince George's County. They were primarily African-American and primarily women who happened to be in a financial clerical service unit that day. So we think about them, and we think about what we could do differently.

Your report, I just have to say, you did it with integrity, independence and intellectual rigor. Your staff and the way they wrote the narrative, is compelling. The fact that you're No. 1 on the New York Times best seller list says how much the American people want to know something about this and do something.

Now, I've looked at the 41 recommendations, and what I could see is there are 16 the President can do right now by Executive Order. Nine the President can do with funding through appropriations, like aid to Pakistan, stabilize Afghanistan.

When the President meets with his team and the Congress tomorrow, we can work on our appropriations now and do that. Of the 16 that require congressional action, I think we can do it.

Senator Rockefeller and Senator Feinstein asked many of my questions about the organization chart. I'm going to go to congressional reform since they did that pretty much on the lines I would ask. If we would take the organizational chart—and, colleagues, this goes to congressional oversight. I know Frist and Daschle have appointed a committee, but they're going to appoint a committee when they don't know what the executive branches are going to be. If you don't know what the executive branches are going to be, you don't know where it's going to go in authorizing.

So my recommendation would be along these lines.

One, whatever is adopted through the executive branch, we then say whatever has been adopted now becomes the Intelligence Committee. We just take this, and this becomes us. Are you with me? That's the diagram on page 412 with the amplification that Senator Feinstein recommended.

This then goes to money. You had two recommendations: atomic agency or giving us also appropriations. I'm an appropriator. I know the senior leadership in appropriations. Just like DOD would resist, so would the appropriators.

Mine might be a third way, which is that we have a subcommittee on intelligence in appropriations to reflect the authorizing. We have 13 subcommittees. We have one on the District of Columbia. We have one for agriculture. Certainly, we could have a subcommittee on intelligence, many of which would also be from the authorizing committee itself.

There is precedent. For example, the State Department is under Commerce, State, Justice. But Foreign Ops has its own subcommittee. So all of the foreign aid has its own subcommittee even though we fund State differently. Right now, as we all know, this goes through DOD, some slivers in State, Justice, Commerce, here and there with the FBI.

I can tell you, over there in appropriations, there is one person, while they're working on \$400 billion or \$300 billion, looking at this. So you have one staffer with all that other responsibility going on at DOD Approps, which is enormous, and then there is this.

So we're like microchips to them. So I wonder what you think of the idea, perhaps, of exploring a subcommittee on appropriations, that the authorizing committee reflect whatever changes are made.

Let's just say for conversation, it's this diagram. That, then, becomes the Intel Committee, and then there's an Intel Appropriations.

Governor KEAN. I think that would be very much, in my mind, within the spirit of our recommendations. What we're after, basically, and we recommend ways to do it, but you know better than we do, and that is to centralize authority within the Congress so you get real oversight, so that the people who are looking at intelligence have the knowledge and the power to do it properly.

It's the only area—you know, everybody else is overseen, because of the press. They keep the pressure on. They're part of the oversight. Intelligence, the press can't get in on it. So you are the only game in town. You're the only real oversight the intelligence area has. I think the kind of recommendation you make is very much in the spirit of what we're saying, "centralize it and give it power."

Senator MIKULSKI. Well, and then, failing that, for it to become part of this Committee, it would be unprecedented. But I think I was shocked when I came on the Committee—and I came on specifically as a reformer when signals intelligence, which is in my state, the National Security Agency, often didn't get very much attention—that 80 percent was in DOD and that we had very little to say. And it was a shock.

So anyway, that would be one of the third ways that I would have that we could accomplish reform. But failing that, I would think that we would have to really consider some other way that this Committee would exercise greater control over the appropriations to deal with many of the issues that were raised by Senator DeWine. So that was that recommendation.

I see my time is up.

But, you see, what we want to do is provide oversight and not get stymied in our own turf and entangled in it. You know, the reforms that fail the most are the ones of ourselves.

But thank you again. Because the three Rs that come out of the Commission: Let's reform, let's put the money in the Federal checkbook with resources and then, let's be relentless about it. Am I right?

Chairman ROBERTS. Senator Hagel.

Senator HAGEL. Mr. Chairman, thank you.

Gentlemen, I wish to add my thanks to you and the Commission for the excellent work that you have done, the contributions you have made to our country, which will be lasting. We recognize that, as you have heard today and you have heard many times up here on the Hill, how much we appreciate it.

I believe we do need to seriously restructure our intelligence community. Your additions to this debate, recommendations, have been important and will continue to be as we craft something here meaningful, relevant and realistic. I know you have thought

through this carefully, but actions always produce reactions, and they also produce unintended consequences.

That's why my colleague, Senator Feinstein, noted my op-ed in The Washington Post a couple of week ago about caution, because this is too critical to allow it to become hostage to a political process, to the momentum of politics. I know you all share that.

I think you also believe, as I do, that as serious as an organizational structure is, as accountable and important as it is, just moving around an organizational structure and boxes is not going to make America safer.

Now, with that as the prelude, I have three specific questions, specific to your recommendations. I would like to hear, first, how much consideration you gave when you produced your recommendations to the culture and professionalism that is really the essence of any organization. Management is important, absolutely. Structure is important, absolutely.

But you don't put top professionals in place overnight. You don't just create them. You produce them. You develop them, as all of you know. So culture, professionalism, people, budgets to work that, it takes years. Very important.

Second, as you have thought through this, at a time when our intelligence is as important to this country than at any time since World War II, if we go ahead and implement radical, fundamental changes in our intelligence community, what impact will that have on the day-to-day responsibilities of our intelligence gathering, sharing, analysis that we must rely on every second of the day? Will it inhibit it? Will it hurt it? will it jeopardize it?

The third area that I want to ask you about in regard to the previous comment: Terrorism is a very important dynamic of our intelligence process today, but it is not the only part of our intelligence process. It is still vitally important to the security interests of this country for our intelligence people to understand what's going on in all corners of the world, in geopolitical areas, military, economic, energy.

Terrorism is a big part of it, but it is not the only part. So how much consideration did you give that when you were thinking about restructuring and coming forward with recommendations?

Thank you very much.

Governor KEAN. I'll take a crack at a couple of them and then my fellow commissioners will give more intelligent answers. We gave a lot of thought to the culture and professionalism and talked a little bit in the report about the need for that, particularly human intelligence, the need to develop.

I was appalled, as an outsider in a sense looking at this for the first time, when Director Tenet testified before us and told us it would take 5 years to rebuild the CIA. You know, then you think immediately, do you have 5 years? But we recognize how difficult that is.

We believe that under our reforms the CIA, for instance, that giving the CIA Director that job, instead of the other two jobs that he now has to do as well, will enable that to happen faster. We'll have a better CIA because of it.

We considered the culture a lot and worried about the culture because some of the culture in these agencies is a culture of secrecy

and a culture of secrecy even among agencies. So the fact that the impulse was not to share, rather than share, was part of the culture.

We worried very much about the culture of the FBI, because the old Edgar Hoover culture was break down doors. In law enforcement, you know, it wasn't the kind of thing we need now from the FBI, in addition to what they do already, which is really trying to do investigations to disrupt these terrorist plots, and we worried and talked about that on the Commission.

We believe that there will be some disruption when you make changes. But we also believe, as a commission, that what is really unacceptable is not to make changes, because what we have got going now is not satisfactory in my mind and anybody's point of view.

We interviewed, you know, hundreds and hundreds of people who have some expertise in this area. Nobody was satisfied with the status quo. Everybody said you had to do change. You can argue a little bit about what some of those changes ought to be. But everybody wants change. Nobody wants to keep the status quo.

The third point was—

Mr. HAMILTON. Well the third point—I can remember one. You remembered two, Mr. Chairman.

The third point is other threats, other than terrorism. Of course, that's why we create these other centers. You have a national counterterrorism center. We think the big national security threat for a long time is terrorism. We put a lot of attention on that.

But we also recognize that the need for sharing of information, the need for operational planning exists with regard to weapons of mass destruction, narcotics and whatever the President and the National Security Council would identify as the major threats to the United States.

If I may make a comment on the culture, that's a very tough one and a very important one. I was thinking, as you were asking your question about the intelligence community. There you really need to emphasize diversity. We talk all of the time about the importance of human intelligence. I think all of us agree on the need to strengthen that. But in order to penetrate the al-Qa'ida cells, you're going to have to have a totally different kind of intelligence agent.

You cannot send a fellow from Nebraska or Indiana and expect him to penetrate Usama bin Ladin's cell. No matter how fluently you might speak Arabic, you can't do it. Those cells are too small. They are too disciplined, family related and all of the rest of it.

So the culture has to change in many ways. It has to become more professional. But it also has to become more diverse.

When I went to college, people studied German and French, and then, a little while later, they studied Russian. Well, those languages aren't going to do us any good with regard to al-Qa'ida. You've got to speak 15 or 20 other kinds of languages. We need people who can speak those languages fluently and penetrate those cells. So culture is enormously important and we have to think of it in different ways.

Mr. LEHMAN. The third, the one of disruption or your second issue, yes, there will be some disruption, but we're not talking

about firing everybody in the intelligence community. People will continue to do their jobs every day. The satellites will still go around, the take will come down, and the analysts will continue to analyze.

But people will be, you know, thinking about who is their next boss, what new opportunities there are, because the purpose of this is to create a new culture, a culture of more entrepreneurial rather than more bureaucratic approaches to intelligence. Bureaucratic approaches lead to group-think. A more entrepreneurial environment creates a culture of more creativity, imagination, the imagination that was lacking for 9/11.

So, yes, there will be disruption, but I think, net, it will be good disruption, the kind of disruption that will create positive ferment.

Senator HAGEL. Thank you.

Mr. Chairman, thank you.

Chairman ROBERTS. Senator Durbin.

Senator DURBIN. Thank you, Mr. Chairman.

Again, thank you all for joining us. I won't repeat all of the lavish praise; just trust that it was part of the record before and remains my feeling that you have done a great service for the American people.

This long march of the members of the 9/11 Commission before 17 different venues on Capitol Hill is proof positive of two things—your endurance and the enduring commitment of Congress to create overlapping, often muddled oversight when it comes to important issues like intelligence.

Secretary Lehman, I think you were right on when you suggested that if we set about this awesome task of reforming the executive branch and ignore reforming our own Congress and the way we deal with oversight, it is one hand clapping. We've ignored the obvious. We're pretty good at recommending changes for another branch of government. We're not quite as good at recommending our own branch of government be reformed. So I hope we can meet that task.

I want to address two issues, one which is somewhat self-critical and the other which I believe may raise a question about the Commission and the way it handled its business.

Let me ask you about, first, the softer side of this report. People have really focused on the wiring diagrams and the hard business of fighting terrorism, but there is another side of this report which I think has been genuinely downplayed and often overlooked, and it should be taken very seriously.

You understood your mission and directive. It included some discussion of diplomacy, what the United States needed to do in the world. One of the areas that you talked about was how we are viewed by the Arab and Muslim world, and you were very specific. Though we've seen in the last week that the face of terrorism in Russia includes people who may or may not be associated with al-Qa'ida, you say in your report: "The enemy is not just terrorism, some generic evil. This vagueness blurs the strategy. The catastrophic threat at this moment in history is more specific. It is a threat posed by Islamist terrorism, especially the al-Qa'ida network, its affiliates and its ideology."

Then you talk about, to use a metaphor here, how we should focus not only on draining the swamp but in trying to make certain that less water is flowing into the swamp, that there are fewer terrorists being recruited in other parts of the world. How do we do this? There have been some suggestions.

Now, let me ask you about your commission's work, though. Because you had 19 public hearings and 160 public witnesses identified in your book here. The best we can establish, of the 160, only three witnesses who appeared before the 9/11 Commission could be characterized as either Arab or Muslim. Now that you have focused it in and said that our terrorist threat is an Islamist threat, do you feel you should have been more open to hearing from the Arab community and the Muslim community about the real challenge that we face?

Governor.

Governor KEAN. We could always have heard from more people. I believe if you take the whole list of people we interviewed, including people we interviewed in Saudi Arabia and the Arabian Peninsula, in Afghanistan, in Pakistan, that the numbers of people who are Muslim or of Arab nationality will increase dramatically. I would have to look at all the witness lists because we interviewed over 1,000 people.

But your point is very well taken. We've got to study these people, we've got to understand them. The point we made that is so very important is that—and Secretary Rumsfeld made it, actually. He said, "You know, we can't do it with the military," he said, "not if we're creating these people faster than we can kill them." In order not to create them we've got to change, we believe, the way the United States is viewed. We've got to change a number of our policies.

We have to use public diplomacy in a much more realistic way. We have to start educating our own citizens, particularly those, again, who are going to deal in this area.

Senator DURBIN. Well, again, I'm not being overly critical.

Governor KEAN. No. I think your point is well taken.

Senator DURBIN. I think the burden falls on the Commission as well as Congress to understand that in the world of using intelligence as our first line of defense against terrorism, we have to view Arab-Americans and Muslim-Americans as potentially our most important allies instead of assumed adversaries from the start. I think that that is a message which comes through in your recommendations.

Governor KEAN. Senator, I just want to comment, because I told this story to somebody else today. I had a cab driver in New York who recognized me and started talking about the problem. He was more articulate than most of the witnesses we had had from government, because his family had been Afghan immigrants 16 years ago, believed in this country, loved this country and was frustrated because he didn't think we understood Afghanistan and moving in the right way. We have those assets. We are the most diverse country in the world. We're not using them.

Senator DURBIN. Our Chicago cab drivers are pretty good experts, too.

[Laughter.]

Senator DURBIN. Now, since the Chairman is not listening, I'm going to try to sneak in another question here, if I might.

One of the things you talked about—

Chairman ROBERTS. Without objection.

Senator DURBIN. Thank you very much, Mr. Chairman. I knew you would be there.

One of the things you talked about here were civil liberties, which is the other side of this balance sheet, to give government the power it needs to protect us, but no more power than necessary. You, I think, strike the right balance, saying it's the burden of the government to establish why we should give up our freedoms.

Now, the President in one of his Executive Orders has created, on August 27, a board on safeguarding American civil liberties. The board is housed at the Justice Department, chaired by the Deputy Attorney General, the vice chair being the Department of Homeland Security Under Secretary and members of all high-ranking government officials, the vast majority of them political appointees.

Let me ask you, the obvious criticism is why would we take people within government who are being given this authority, or using this authority which may go too far in infringing on our civil liberties, to be the referees or officials to determine whether or not the government has gone too far? Does this meet the spirit of your recommendation of, as you say, a board within the executive branch to oversee adherence to the guidelines we recommend and the commitment the government makes to defend our civil liberties?

Governor KEAN. What the President did is inform a response to the Commission's recommendations, but we said in the report we didn't believe the board should be comprised exclusively of administration officials drawn from the agencies the board was created to oversee.

Instead, we envisioned a board with members appointed directly by the President, with the aim of including outstanding individuals who can provide a more disinterested perspective, perhaps, on that vital balance. Such a board may also, by the way, need explicit authority to obtain access to relevant information, including, by the way, an understanding of classified information and the ability to look at it. But we left a lot of the details, obviously, up to you to structure.

Senator DURBIN. I understand why you did. Your broad recommendations are very important. I would just say, in follow-up, that I think there should be more independence on this board, so that instead of having as its chairman someone who is in the Justice Department and may be the subject of some review, it should be a more independent source.

Thank you again for all that you've done. Thank you.

Governor KEAN. I don't think we have any argument with that, Senator.

Chairman ROBERTS. Senator Warner.

Senator WARNER. Thank you, Mr. Chairman. Does the Chair wish to have a few questions in here?

Chairman ROBERTS. I'm going to mop up.

Senator WARNER. Well, I think we have had a very good hearing.

Chairman ROBERTS. I thank the gentleman. I thank the distinguished chairman of the Armed Services Committee.

Senator WARNER. Thank you, sir.

I want to just sort of ask a couple of questions here against this background. We're fortunate as a Nation not to have experienced anything approaching the catastrophic consequences of 9/11, so you have to assume that what's in place today is doing a reasonable job. The mission before the legislative branch, the Congress, and the executive branch is to try and make improvements without degrading what's working correctly. Is that a basic assumption, gentlemen?

Governor KEAN. Absolutely.

Senator WARNER. I think each of you have said that the President—and you have joined myself and many others in commending him for taking the steps with Executive Orders and implementing a number of things even before your commission report came out. So the exclusive branch is moving out.

Now it falls upon the Congress. It's far too early to discern any consensus. We've got the Chairman's bill, you've got other bills that will be coming in. So we're going to have quite a lot of activity here, but in due course, you begin to get a synthesis of views.

But I'd just kind of in simplistic terms like to ask my old friend and colleague, Secretary Lehman, what's left if you take away all the budget authority from DOD, all the hiring and firing authority, and yet he is the largest consumer of intelligence—he or she, whoever the Secretary of Defense may be. Is the Secretary of Defense left as just a payroll clerk?

Mr. LEHMAN. We're recommending that, first of all, the budget authority be done in conjunction with the Secretary of Defense for the department—

Senator WARNER. It's a partnership, much like it's being done now? I mean, from the way in which it's being done now—

Mr. LEHMAN. Well, yes, it's not that big a change from what the theory of what's being done now is, but the practice is very different. I mean, in theory, the DCI is submitting the budget and doing the budget for the whole—

Senator WARNER. Correct.

Mr. LEHMAN. But that has never in my memory been the actual case. What happens is that his clerks in the community management staff go around and collect up the books and stack them up and send them to the Hill. There is virtually no real give and take and argument about priorities and so forth. We are not by any means recommending that budget authority and certainly not execution be taken away from the defense agencies. We're talking about sharing so that there is real—

Senator WARNER. Would the word be partnership?

Mr. LEHMAN. Partnership that if there is a real disagreement, it goes to the President. Similarly for dual-hatting. While you were gone, I used the example of your relationship with Admiral Rickover and mine with his successors as a condominium. I think probably the successors are a better example for my case.

Senator WARNER. I'm not going to get on that, because all my time would be gone.

Mr. LEHMAN. That's a dual-hatting.

Senator WARNER. You don't intend to leave the SecDef just as a payroll clerk?

Mr. LEHMAN. No. Certainly not.

Senator WARNER. So there's a strong voice in the budgeting.

Now how about the hiring and firing?

Mr. LEHMAN. Hiring and firing, the Secretary of Defense must agree—they must agree on a new candidate, but we would recommend that either one can fire. Both are needed to hire, each separately to fire, but it is a definite sharing of—

Senator WARNER. Now let's shift, then, to the CIA. I must say, I am like you. When I came into the building 30 years ago that was my initiation with the CIA. I have a very high personal regard for their work through the years. You know as well as I that those agents in various places in the world are taking risks commensurate with any individual in uniform in terms of the execution of their missions.

I am for, frankly, strengthening the director of the CIA so that it can be another voice in here that the President can hear if, for some reason, he wants to get views other than the NID. So we'll see how that works out.

But under the current proposition that you put forward, what's left of the director? He's clearly downgraded in his role within the greater intelligence circles. Am I not correct?

Mr. LEHMAN. He is, first of all, not really downgraded. We are recommending he stay as a level two, not be downgraded to level three, that we believe and it's our very strong view that the job of revivifying both analysis and collection covert operations and the trade-craft of intelligence of recruiting and training, which the most recent DCI said would take another 5 years, that's a full-time job.

To try the to manage the rest of the community just doesn't make sense. So it's a very important job. I think it would make a lot of sense to put what you put in for the chiefs and the service secretaries, the right of access to the President.

Senator WARNER. Thank you for mentioning that, because I am contemplating doing that. I think there has got to be direct access to the President when the second tier, as it is in your chart, feels very strongly about a point. I'm going to look into that.

Lastly, gentlemen, each of you have a familiarity with government. We cannot give here in this opening hearing the total numbers of people involved in intelligence, but it's well over 100,000. I think we all recognize that. Eighty percent of that now is in the DOD. Eighty percent of those people are actually on the Secretary of Defense's payroll.

If you start moving them around, that's a lot of churning in terms of the individual lives, getting adjusted to a new reporting system, new framework of management. At the same time, this Nation is actively engaged in war with the overall terrorist network, specifically in Iraq, specifically in Afghanistan, and we hopefully will maintain such peace as we have on the Korean Peninsula.

But we cannot have too much internal turbulence at the same time that this country has got to keep moving along. Now, how would you like to see this phased in, over what period of time?

Maybe you, Congressman Hamilton.

Mr. HAMILTON. Well, we think the big risk is if you keep it like it is, because keeping it like it is didn't work.

Senator WARNER. I don't come from that standpoint. Let's take that off the table, keeping it like it is.

Mr. HAMILTON. Yes.

Senator WARNER. We are going to move toward—well, the President has already taken a number of initiatives. I'm confident the Congress will be able to. Hopefully within this short legislative session, we can do some things.

I have always felt we can achieve some things in the balance of this Congress, and we may have to leave to the next Congress other parts of it.

Mr. HAMILTON. I think the line we want to try to draw, Senator, is that the Secretary of Defense should have control, budget, personnel, over all of the intelligence that is necessary for the military. But he should not have control over national or strategic intelligence. Now, I understand that the line between those two is not always clear.

Senator WARNER. It never will be. It's not that someone is trying to fuzz it.

Mr. HAMILTON. No. I think where we come down on the report is that, in looking back, we feel that the Defense Secretary has control over an awful lot of intelligence that is not really military intelligence just because of his budget control and the personnel control that he has.

So in a sense, we want to try to balance that a little better. It's not just a matter of protecting the military—that's terribly important—but we feel that the American people were not protected as well as they should have been because of the way we have structured our intelligence community. We did not get to the policymaker the kind of intelligence the policymaker needs to protect the American people. I think we want to be reasonable about this. We recognize it's a genuine problem and a difficult one. But that's our, at least, broad point of view.

With regard to the transition, the change, any time you make major changes, you create some risks. We are at war, so we have to be very, very careful in creating change. But we also have to be careful that we not be frozen and not make any changes that are necessary.

Senator WARNER. Can this be a two-stage process, stage one within this Congress and a new Congress comes in this January to—

Mr. HAMILTON. We have put forward a huge number of very important recommendations. I would be surprised, frankly, if it were all done in one sweep.

Senator WARNER. I thank you for that. I share that view.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Rockefeller.

Vice Chairman ROCKEFELLER. Thank you, Mr. Chairman. I just wanted to get you on record about three quick things and then ask one more question.

I mentioned the intelligence reserve corps, and I don't want to just leave it hanging out there. We are in a position in the intelligence community where we have to shift people from South Amer-

ica, or Afghanistan, or whatever, to go suddenly to do another job. The intelligence reserve corps, I think, is a very sensible suggestion of having a back-up in time of surge needs. I would just be interested if the Commission would be willing to consider that.

Mr. HAMILTON. Well, Senator, we didn't address it. The idea, frankly, is new to me. I can only give you a personal feeling. My personal view is that both that and the university idea make a lot of sense.

Mr. LEHMAN. This is one of the reasons we've strongly recommended that the NID have overall personnel policy authority, because if you look at the services, for instance, Naval intelligence reserve covers virtually all of the stateside command centers on weekends. They augment whenever there is a fleet exercise. There are many of them working in the intelligence centers over in Iraq today. They bring a leavening. They bring a different background. There are doctors and lawyers and Indian chiefs that are constantly coming in and fertilizing and taking new ideas. They have a different attitude.

Every service chief, service secretary, would tell you that the intelligence reserves have been tremendously valuable to the service intelligence effort. It makes all of the sense in the world to do the same thing in the civilian intelligence community. Open the windows up. Bring more lateral entry. Bring more scholars and Silicon Valley people in for 1-year, 3-year, 5-year, short tours—

Vice Chairman ROCKEFELLER. Or people who have simply recently retired.

Mr. LEHMAN [continuing]. —to join the reserve corps and do their weekends like they do in the military reserve.

Vice Chairman ROCKEFELLER. Right.

Mr. LEHMAN. It makes a lot of sense.

Vice Chairman ROCKEFELLER. Thank you. My second had to do with the question I know Senator Levin is interested in, and that is trying to make sure that independence, lack of politicization really is implanted—not just a theory, but is implanted.

That, my suggestion would be, would be through an ombudsman. We know in the CIA that that ombudsman indicated that the pressure that was put upon analysts who came to him in the buildup to the prewar WMD and all of that was greater than anything he had seen in his 32 years.

So an ombudsman obviously is somebody that people will go to and say, "I am being pressured, or I am being asked to change, or I am being whatever," or say, "Look, you just go back and do your job and be strong and don't give in," depending upon what the nature of the request was.

But the ombudsman is important. It's somebody who is objective, who people can go to, to protect objectivity and the integrity of the intelligence-gathering and intelligence-analyzing process. Is that something you would be willing to consider?

Governor KEAN. Again, we didn't talk about that.

Vice Chairman ROCKEFELLER. I know.

Governor KEAN. It's in the spirit of our recommendations. Nothing, though, can substitute for the character in the individual who is appointed to this position. Because if it's not somebody of real stature, everybody on down isn't going to be that much—

Vice Chairman ROCKEFELLER. That would have to be assumed.

Governor KEAN. Yes. So that's why we wanted it Senate-confirmed, that's why we wanted it such an important position, because your consideration of that individual and a really thorough confirmation process may be the best guarantee of all—

Vice Chairman ROCKEFELLER. Excellent.

Governor KEAN [continuing].—of avoiding the kind of problems—

Vice Chairman ROCKEFELLER. Excellent.

The last is the idea of the permanent red team, and that just strikes me as important, again, on the business of it's really important for the national intelligence estimate, frankly, it's really important to make sure that the State Department's INR or the DOE's intelligence gets in on aluminum tubes or whatever it might be, and they're left out because it's controlled by a CIA process.

A red team, which would be used generally under the NID to have a contrary view, not to be negative, but to have a contrary view, to question, to say, "Well, what did the State Department say about it? What did INS say about that?," would that idea be something which you could contemplate?

Mr. HAMILTON. We always have to draw the distinction here between what the Commission did and did not consider, and what it did and did not recommend. The Commission did not consider the question of a red team.

The Commission is very sensitive, I think, to the question of politicization and is open to recommendations like the red team or the ombudsman which try to institutionalize the nonpoliticization of intelligence. It makes sense from that standpoint.

Vice Chairman ROCKEFELLER. Thank you. My time is up.

Chairman ROBERTS. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

I want to go back to the question of accountability because to me it's critical. We had the situation that you investigated and that the Joint Intelligence Committees looked at, the pre-9/11 failures. We saw that the CIA people failed to notify the INS or the FBI that two al-Qa'ida people, that they knew were al-Qa'ida and they knew had attacked the USS COLE and that they had tracked to an al-Qa'ida meeting had entered the United States.

That is just clearly a failure inside of the CIA by CIA personnel. When I challenged the CIA Director at a public meeting, if anyone was going to be held accountable here, his answer was, "I bear responsibility," which means nobody bears responsibility. It's very rhetorical, but it doesn't mean much.

Now, that's not a problem of one part of the intelligence community not doing—the failure to have one person on top of the intelligence community take action; that's a failure inside the CIA.

Same with the FBI. In the Moussaoui case, the report goes to the national headquarters that is supposed to be tracking al-Qa'ida, tracking bin Ladin. The desk—I don't have to tell you, folks, you just wrote it up. We wrote it up. You have the Phoenix folks sending memos to the national office. Nothing happens. They fall in a crack. That's not a problem of nobody's there to impose accountability on the failures of people to do their job. That's inside their own agency. That's the point which Ron Wyden was making.

So we can talk about having someone in charge who can impose accountability. We have someone in charge of the FBI. There has been no accountability. We have someone in charge of the CIA. Inside their own agency there has been no accountability.

So it's fine to do what you're proposing. I don't have any great problem in giving greater powers, by the way, to a director of national intelligence. I don't have any systemic problems or any big issues with it if we do it right, if we take the time to do it right.

But I do have problems when you say that it's the failure to have that person in place that resulted in the people who didn't do their jobs before 9/11 being held accountable. I can't buy that. I just don't buy it. If anything, we can make it worse, because if you have one person above the FBI Director or CIA Director to whom they can buck the issue of accountability, you can actually duck responsibility.

See, I hold the CIA Director for holding accountable the people inside his agency who didn't do their job. I can look right at him, and I did in public. I said, "No one has been held accountable in your agency." And I did the same thing with the FBI Director.

But if you have someone above them to whom they can buck the issue, I'm not sure that you focus accountability particularly. But nonetheless, I disagree with the implication that you've got to have someone above them to hold folks accountable where it's inside an agency where the failure to hold people accountable is.

Mr. LEHMAN. Since I made the statement, could I withdraw it? I think you said it much better.

Senator LEVIN. Well, thank you.

On the budget issues, too, nobody's been able to identify where the inability to control the budget led to the failures before 9/11. No one's been able to do that. I know that Tenet said we're at war.

Well, according to law, he develops the budget. Now you can say that that's not the practice, all they do is staple things. That's pretty discouraging when you tell lawmakers that all people do is staple someone else's budget when we've assigned him by current law, the CIA Director, the responsibility of developing the annual budget for the National Foreign Intelligence Program.

That's his responsibility. If he wants more money for HUMINT or anything else, he can make that argument. I don't know how you can write a law clearer than that. You folks want to give a national intelligence director the budget power. He at least has it when it comes to producing it at this point, unless we add the words, "We really mean it."

Mr. HAMILTON. Senator, on your first point, you drafted our statute. You gave us the mandate. The mandate was to do two things—No. 1, tell the story of 9/11; and No. 2, make recommendations for the future.

Senator LEVIN. Right.

Mr. HAMILTON. In the mandate was not the question of holding individuals accountable.

Senator LEVIN. Except that accountability was pointed out in your report as a critical issue.

Mr. HAMILTON. We followed the mandate that was given to us by the statute.

Senator LEVIN. All right.

Mr. HAMILTON. If you had wanted us to make a list of the——

Senator LEVIN. No, we don't, we don't.

Mr. HAMILTON. Well, that's what I'm hearing from you.

Senator LEVIN. No, no. That nobody's been held accountable is important. We're not saying you should say who should be held accountable. The fact that there has been no accountability, it seems to me, is critically important.

Mr. HAMILTON. No accountability of people?

Senator LEVIN. Yes, anyone being held accountable. It's not up to you to say who should be held accountable.

Mr. HAMILTON. OK. Well, we're in agreement there, then.

Governor KEAN. Senator, we asked some of the same questions you're asking, and we were told that senior management is still looking at the IG findings.

Senator LEVIN. Thank you. Well, the FBI is done with theirs, though.

There is one other issue, and that's the NCTC, and I want to get to that issue, because under your recommendations, you propose that the national counterterrorism center not only should perform joint planning, but in your words the plans would assign operational responsibilities—operational responsibilities—to lead agencies such as State, CIA, FBI, Defense and its combatant commands.

I've got real problems with that. I think Senator Warner raised this issue earlier today, although I wasn't able to listen very carefully, and I wish I had, to what his statement was. But I think he made reference to this.

Whether he did or not, I have real problems with any national intelligence director being able to assign an operational responsibility to a combatant commander. That is an act of war. An operational responsibility could be we want you to capture somebody or kill somebody in a foreign country. That is a huge change in our law.

Mr. HAMILTON. That is not just a military question, however. If the order is to capture Usama bin Ladin or to kill him, it certainly has military implications to it. But it is a huge question with regard to counterterrorism policy overall.

Senator LEVIN. I agree. I agree with you.

Mr. HAMILTON. It is a decision that ought not to be made just by the military authorities. That is a political decision of the highest order.

Senator LEVIN. I couldn't agree with you more. That's where it is now. It's a political decision of the highest order right now. But under your proposal, you would give the head of the national counterterrorism center the power to assign an operational responsibility. It's not just planning you're talking about. It's an operational responsibility to a combatant commander, and I think that's way beyond——

Mr. LEHMAN. Well, it's more to an agency rather than a specific element of the agency.

Senator LEVIN. It says "and its combatant commands."

Mr. Lehman. Well, the combatant commands, of course, would be under the command of the Secretary of Defense. There is no effort to undermine the authority over that combatant commander of the Secretary of Defense.

One of the cases that was in mind was, of course, the issue of the armed Predator, where it was a hot potato being tossed back and forth. Neither Defense nor CIA wanted it. They didn't want to pull the trigger. They didn't want trigger authority. There was nobody there to say, "You've got responsibility for the armed Predator." It's that kind of case. Everything that we're recommending here is to be done under the existing authorities of Title 10 and Title 50.

We certainly don't want an NID going to war with an operational commander. That is not the intention.

Thank you.

Mr. HAMILTON. Remember that the operational plan is developed by the national intelligence director, but the chain of command, of course, goes to the President. The President would approve those things. The execution of the plan would remain, in your case, with the Defense Department.

Senator LEVIN. It was the assignment of responsibility.

Mr. HAMILTON. I understand that. That's part of the overall operational planning. I can see your difficulty there. But I am pointing out that that's not the final level. It goes up.

Mr. LEHMAN. Yes, and it's also the analogy to the Joint Staff. I mean, the Joint Staff kind of decides to recommend to the Secretary of Defense who is going to be the operational commander. This is not line authority by any means. This is planning authority.

Senator LEVIN. It sounds like more than planning authority. But thank you for clarifying.

Mr. LEHMAN. Well, it could be clarified, certainly.

Senator LEVIN. Thank you.

Chairman ROBERTS. Has the Senator finished?

Senator LEVIN. Yes. Thank you very much.

Chairman ROBERTS. I have about four questions that I think either person can answer. Rather than going down and doing a question, then you respond, I think I'm just going to make this a rambling rose and then you can make any comment that you might.

I think this idea about the Director of Central Intelligence and authority has provided some confusion. I said in my opening comment, simply put, "the structure of the U.S. intelligence community is defective". The so-called Director of Central Intelligence—not CIA Director—lacks authority, in statute and in practice, to effectively manage the intelligence activities of the United States. The organization of the intelligence community, with a substantial portion falling under the direct control of the Secretary of Defense prevents the DCI from exercising even those authorities that are granted under the National Security Act.

Now, I'm not trying to perjure anybody here, whether it's the Department of Defense or whether it is the Director of Central Intelligence. But he does not effectively control the creation of the National Foreign Intelligence Program. He lacks the ability to transfer or dismiss the intelligence community personnel. He cannot unilaterally direct any transfer of National Foreign Intelligence Program funds. He cannot mandate intelligence sharing, data fusion or create a community-wide information technology infrastructure.

I think this is a flawed design. Now, you've recommended keeping the day-to-day control of the intelligence community agencies

right where they are today, in the heads of the agencies that will continue to report to the same Secretaries the day after the reorganization is initiated.

The only operational agency that would change in terms of leadership is the CIA. In a management layer on top of the agencies, the Commission places dual-hatted deputies designed to mirror where or how intelligence is gathered and processed. This comes under domestic and foreign and defense.

Now, I think that the distinctions between the domestic, foreign and defense intelligence just do not exist as of today's world. In fact, I think these concepts sometimes cloud what the real dividing line in the world of intelligence is, and that's national intelligence and tactical intelligence or, put another way, military intelligence.

Now, under your recommendation, the control of national intelligence, other than budgetary and personnel decisions, would fall to the same entities and reinforce the alleged distinctions between domestic, foreign and military intelligence. I would just say if you're not in charge you're not going to have any accountability.

Would organizing the intelligence community along functional lines—you take collection, you take analysis, you take research and acquisition, and, yes, you take tactical—under a national intelligence director who not only controls the budget and personnel of the community but also control the day-to-day operations of agencies through empowered assistants also meet your recommendations for a strong national intelligence director?

Obviously, I would hope the answer would be yes. Now, I said I was going to ask, after this rambling rose, you to respond. That's one of the questions you might want to respond to.

Now, if the national intelligence director is given full budget authority from budget creation to execution but he cannot control the actual operations of the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office and other intelligence elements, will he be able to effectively exercise that budget authority?

By the way, the NSA and the NGA and the NRO only have really one consumer, and that is the military. They are going to produce for that consumer, regardless, in regards to the line authority that they have.

I'm concerned because this Committee's history of oversight suggests that without real operational control over the intelligence agencies, the national intelligence director will have budget authority that can only be exercised on an annual basis.

How do we give the new national intelligence director real authority and control over the intelligence agencies without really giving him actual line management and control? That is basically the same question I asked you as No. 1, so really that's just the same question.

If a national intelligence director does not have authority to actually direct the day-to-day operations of the CIA, the National Security Agency and the FBI's Counterintelligence and Counterterrorism Divisions or other intelligence collection agencies, who is in charge of implementing the tasking orders of the National Counterterrorism Center?

If the National Counterterrorism Center and the national intelligence director must rely on the heads of the intelligence community agencies to implement their decisions to task collection and analysis as well as execute operation, is budget and personnel control the only means by which they can control operations? How is this different from the current management construct where the DCI must “beg, borrow and steal” to ensure that his directives and his policies are implemented?

That’s why we planted the flag in regard to a bill that has been deemed by some as radical and others as bold, not as many bold as radical, but we’re gaining on it.

You do it by function. You do it by collection, by analysis and also by the research and the acquisition and then by tactical. Under the tactical you obviously have the Under Secretary of Defense to be the Secretary’s person to safeguard that tactical intelligence. Then you have a four-star to be the liaison with the NID.

So all of those questions are more or less the same. My real concern is, if you just give it budget control and authority without the operational control, you are dual-hatting again, and we are right back in the same situation.

Now, feel free to take that rambling rose and snip it off at the head and see what’s wrong with it. Because the NID train is coming. It’s on the track. It’s what kind of a NID that we have. Now, I don’t know if it’s going to Fulsom Prison or it’s an orange-blossom special.

[Laughter.]

Chairman ROBERTS. It better be an orange-blossom special for full control of the NID, or you’re not going to get the control to make the decisions that we’re trying to get that NID to make.

Mr. HAMILTON. Well, Mr. Chairman, you have raised some very difficult questions, and I guess my plea would be that we have an opportunity to look at them a little more carefully. You create here the assistant national intelligence directors along functional lines.

Chairman ROBERTS. That is correct.

Mr. HAMILTON. You described it yourself. It’s a very bold move. It’s a lot bolder than we made in the Commission.

Chairman ROBERTS. When we did that, I said—and pardon the interruption. You know, I never really thought we would go right up to the vote, but that’s what we are doing at 5:30. I apologize, especially for your patience and your perseverance, But I asked people to step back from the forest. I said, “all right, don’t pay any attention to agencies. Don’t pay any attention to turf. Don’t pay any attention to committees. Don’t pay any attention to boxes.”

What is wrong, then, with trying to create a national intelligence service by function?

Those people who do the collection, you’re under straight-line authority. Those people who do the analyzing, same thing. Those people who do the research and acquisition, same thing. Those people on tactical, obviously, that stays over in the Defense Department. I might add with a \$400 billion budget, that certainly gives the Secretary of Defense more authority than being a payroll master.

By function, those that do it best, and time after time, they have come before this Committee and said, “We do not have the authority,” or “We need the priority changes that we really ask you for.”

Because of the fractured way that we operate up here those don't happen until you get a supplemental. So why not then go by function and let the very best people who do collection do that, the very best people who do the analytical job do that and also the research and the acquisition, and then do what the Secretary of Defense does best in terms of tactical, but under an assistant NID that does give them full-line authority?

Mr. HAMILTON. I understand the point. You pull out all of these agencies from the DOD, and you stick them under the national intelligence director.

Chairman ROBERTS. To serve the DOD and enable them to do the job better in doing it. The same thing with the CIA. We are enabling the CIA to do a better job than they are currently constructed. We don't demolish the CIA, we enhance their ability, the people that work for the CIA, God bless them, to do a better job, because then they have the authority they have been asking for ever since I have been on the Committee.

Mr. HAMILTON. Maybe the question is how much change can the system tolerate. I don't know whether it's correct to say consciously, but we certainly kept in mind throughout that we wanted our recommendations to be achievable and pragmatic.

Now, you instructed your staff in a very different manner, ignoring a lot of these turf questions, as it were, according to your comments a moment ago. The quick answer is, we simply didn't consider the kinds of changes that you put into your bill with regard to the National Security Agency and the NGA and the NRO and all the rest of them. We just didn't look at it that boldly.

What we said was that the NID needs to control the budget of these groups, and we thought that that was sufficient. We did not recommend pulling these agencies out of the DOD because we thought that was too much of a change.

Chairman ROBERTS. But at the same time, I think the public statements by General Clapper and General Hayden, indicating they would not be ill-served by a national intelligence director and that basically their product will go to the basic consumer, which is the DOD, all we're doing is re-ordering from an organizational standpoint line item authority that everybody has been asking for for 8 years and hasn't got it.

I'm afraid if you just give it budget authority, you're only half-way there. It's going to be dual-hatted, and we're going to be right back here, I don't know what timeframe, saying how come this doesn't work.

Now obviously, I am making strong views because we decided to move the debate, if we could, over to what I think is real reform. But that is also subject to a lot of debate and a lot of maybe definition.

I don't see anybody else. Senator Rockefeller, do you have anything else to say after my rambling rose?

Vice Chairman ROCKEFELLER. I can't top it.

Chairman ROBERTS. I think the answer was no.

I don't know if anybody else wants to respond to my comments or not. If not, we want to thank you for your patience, your perseverance and your leadership. We're going to persevere; we're going to get this done.

I might add that this bill that we're going to introduce, you know, myself and the other seven, it is not written in stone. Nobody's coming down from, you know, "Mount Intelligence" with a tablet saying that this is written in stone. We are very flexible, and we are working with the Governmental Affairs Committee and the Armed Services Committee and the administration, and we want to work with you as well.

Vice Chairman ROCKEFELLER. Mr. Chairman.

Chairman ROBERTS. Yes.

Vice Chairman ROCKEFELLER. Can I just ask one last request of the three distinguished panelists in front of us?

More than anything—and the Chairman and I have discussed this, and he agrees with me on this and I agree with him—more than anything, what I really feared when I opened up my statement saying I hope we get right down to it in September, I fear that because of the season that we're in, that we're going to have a series of what I would call dilatory constitutional amendments and votes on you know what which are going to take up our time in September. You know, in October we get out. Seventeen more legislative days to go. This can be done.

It is very interesting to me that when you said that—I think it was you, Chairman Kean, when you said that people have a right to decide how they're going to vote—let's make it just generally—based upon what the Congress does, that's going to have a lot to do with what it is that we're spending our time on in September. I just say we had better be spending our time on intelligence reform, not on rehashing constitutional amendments and things and votes which we've taken many times.

Chairman ROBERTS. I might only add in regards to Mr. Lehman's comment on one hand clapping—sounds like a rap song or something—we've got a 22-member task force to try to figure that out. Now, I'm not sure 22 senators could even decide when to adjourn let alone do this.

You're talking about a sheep-and-cattle war. You're talking about Zane Grey, to the last man. You're talking about authorizers and appropriators. You pull that string on the Appropriations Committee, Lee can tell you, wow, that's really something. I hope we can fix this, and I do thank you for asking us prior to your report on what we think.

But we have 22 people working on that. Jay and I have promised—pardon me—the distinguished Vice Chairman and I have promised that we will try to make this Committee, which under your recommendation is supposed to be the most independent, strongest voice for congressional oversight on intelligence, but which now has the least amount of power, a player. We thank you for that.

Governor KEAN. Thank you.

Mr. HAMILTON. Thank you.

Mr. LEHMAN. Thank you very much.

[Whereupon, at 5:33 p.m., the hearing adjourned.]

SUPPLEMENTAL MATERIALS

CRS Report for Congress

Received through the CRS Web

**Proposals for Intelligence Reorganization,
1949-2004**

Updated September 8, 2004

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Proposals for Intelligence Reorganization, 1949-2004

Summary

Proposals for the reorganization of the United States Intelligence Community have repeatedly emerged from commissions and committees created by either the executive or legislative branches. The heretofore limited authority of Directors of Central Intelligence and the great influence of the Departments of State and Defense have inhibited the emergence of major reorganization plans from within the Intelligence Community itself.

Proposals to reorganize the Intelligence Community emerged in the period immediately following passage of the National Security Act of 1947 (P.L. 80-253) that established the position of Director of Central Intelligence (DCI) and the Central Intelligence Agency (CIA). Recommendations have ranged from adjustments in the DCI's budgetary responsibilities to the actual dissolution of the CIA and returning its functions to other departments. The goals underlying such proposals have reflected trends in American foreign policy and the international environment as well as domestic concerns about governmental accountability.

In the face of a hostile Soviet Union, early intelligence reorganization proposals were more concerned with questions of efficiency. In the Cold War context of the 1950s, a number of recommendations sought aggressively to enhance U.S. covert action and counterintelligence capabilities. The chairman of one committee charged with investigating the nation's intelligence capabilities, Army General James H. Doolittle, argued that sacrificing America's sense of "fair play" was wholly justified in the struggle to prevent Soviet world domination.

Following the failed invasion of Cuba at the Bay of Pigs, the unsuccessful results of intervention in Vietnam, and the Watergate scandal, investigations by congressional committees focused on the propriety of a wide range of heretofore accepted intelligence activities that included assassinations and some domestic surveillance of U.S. citizens. Some forcefully questioned the viability of secret intelligence agencies within a democratic society. These investigations resulted in much closer congressional oversight and a more exacting legal framework for intelligence activities. At the same time, the growth in technical intelligence capabilities led to an enhanced — but by no means predominant — leadership role for the DCI in determining community-wide budgets and priorities.

With the end of the Cold War, emerging security concerns, including transnational terrorism, narcotics trafficking, and proliferation of weapons of mass destruction, faced the United States. Some statutory changes were made in the mid-1990s, but their results were not far-reaching. In the aftermath of the September 11, 2001 attacks and the Iraq War, some observers urge reconsidering the intelligence organization. The 9/11 Commission has specifically recommended the establishment of a National Intelligence Director to manage the national intelligence program. Current intelligence organization issues can be usefully addressed with an awareness of arguments *pro* and *con* that were raised by earlier investigators. This report will be updated as circumstances warrant.

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Major portions of this report previously appeared as a separate section of the 1996 Staff Study published by the House Permanent Select Committee on Intelligence, *IC21: Intelligence Community in the 21st Century*. That report was prepared by Richard A. Best, Jr. and Herbert Andrew Boerstling.

Proposals for Intelligence Reorganization, 1949-2004

Introduction

The National Security Act of 1947 (P.L. 80-253) established the statutory framework for the managerial structure of the United States Intelligence Community, including the Central Intelligence Agency (CIA) and the position of Director of Central Intelligence (DCI). A fundamental intent of this legislation was to coordinate, and to a certain extent centralize, the nascent intelligence efforts of the United States as an emergent superpower in the face of a hostile Soviet Union. In addition, the act provided the CIA with the ability to assume an operational role by charging it with:

Perform[ing] such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.¹

In 1947, the foundation of the present-day Intelligence Community consisted only of the relatively small intelligence components in the Armed Services, the Departments of State and the Treasury, the Federal Bureau of Investigation (FBI), and the fledgling CIA. Since 1947, however, the Intelligence Community “has greatly expanded in size and acquired a much broader range of responsibilities in the collection, analysis, and dissemination of foreign intelligence.”²

The U.S. Intelligence Community is defined in the National Security Act as amended. It currently includes the following:

Central Intelligence Agency
National Security Agency
Defense Intelligence Agency
National Geospatial-Intelligence Agency
National Reconnaissance Office
Intelligence elements of the Army, Navy, Air Force, Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard
Bureau of Intelligence and Research, Department of State

¹ Section 102(d)(5), National Security Act of 1947, P.L. 80-253; hereafter cited as National Security Act of 1947.

² CRS Report 89-414 F, *Intelligence Community Leadership: Development and Debate Since 1947*, by Alfred B. Prados, June 27, 1989, p. 1; hereafter cited as Prados, 89-414 F. (Out of print report; available upon request from the author.)

Elements of the Department of Homeland Security concerned with analyses of foreign intelligence information
Coast Guard³

Beginning in January 1948, numerous independent commissions, individual experts, and legislative initiatives have examined the growth and evolving mission of the Intelligence Community. Proposals by these groups have sought to address perceived shortcomings in the Intelligence Community's structure, management, role, and mission. These proposals have ranged in scope from basic organizational restructuring to the dissolution of the CIA.

In 1948 and 1949, two executive branch commissions examined the intelligence and operational missions of the CIA, and identified fundamental administrative and organizational loopholes in P.L. 80-253. By the 1950s, however, the physical growth and evolving mission of the Intelligence Community led subsequent commissions to broaden the scope of their proposals to include the enhancement of the DCI's community-wide authority, and the establishment of executive and legislative branch intelligence oversight committees. Unlike the intelligence investigations of the 1970s and 1980s, these early studies were primarily concerned with questions of efficiency and effectiveness rather than with issues of legality and propriety.

Following the Vietnam War and "Watergate," investigatory bodies became increasingly critical of the national intelligence effort. Beginning in the mid-1970s, the impetus shifted to the legislative branch where investigatory committees led by Senator Frank Church and Representative Otis G. Pike issued a broad range of proposals, including the separation of the DCI and CIA Director positions, dividing the CIA's analytical and operational responsibilities into two separate agencies, and the establishment of congressional oversight committees. In 1976 and 1977, respectively, recommendations by these committees led to the establishment of the Senate Select Committee on Intelligence (SSCI) and the House Permanent Select Committee on Intelligence (HPSCI). These committees were heavily involved in the investigations into the Iran-Contra affair of the mid-1980s.

With the end of the Cold War, and in the wake of the Aldrich Ames espionage case, both the executive and legislative branches undertook studies to determine the future roles, capabilities, management, and structure of the Intelligence Community. These studies include such issues as the need to maintain the CIA as a separate entity, the extent and competence of U.S. counterintelligence (CI) efforts, and the managerial structure of intelligence components in the armed services and the Department of Defense (DOD). A comprehensive examination of the DCI's roles, responsibilities, authorities, and status was also undertaken. In an era of budgetary constraints and shifting policy concerns, these studies also examined personnel issues, allocation of resources, duplication of services, expanded use of open source intelligence (OSCINT), and the need for maintaining a covert action (CA) capability. The results of this effort were reflected in organizational adjustments made by the Intelligence Authorization Act for FY 1997 (P.L. 104-293), but some observers have subsequently concluded that this legislation did not go far enough and that, in the

³ 50 USC 401a(4)

light of the events of September 11, 2001 and the Iraq War, intelligence organization questions need to be reevaluated.

The history of these investigations has witnessed the gradual transformation of intelligence from a White House asset to one that is shared between the executive and legislative branches. Congress not only has access to intelligence judgments but to most information that intelligence agencies acquire as well as to the details of intelligence activities. Congress has accepted some responsibility as a participant in the planning and conduct of covert actions. In significant measure, this process has been encouraged by these external intelligence investigations.

This report provides a chronological overview and examination of the major executive and legislative branch intelligence investigations made from January 1949 to date. Major proposals are listed in chronological order with a brief discussion of their respective results. Proposals specifically relating to congressional oversight of the Intelligence Community are not included in this report.

Intelligence Reform Proposals Made by Commissions and Major Legislative Initiatives

The Truman Administration, 1945-1953

Following the Second World War, the United States emerged as a global political, military, and economic leader. In the face of Soviet aggressiveness, the U.S. sought to enhance its national defense capabilities to curb the international spread of communism and to provide security for the nation itself.

The National Security Act (P.L. 80-253), signed July 26, 1947, established the statutory framework for the managerial structure of the United States Intelligence Community, including the Central Intelligence Agency (CIA) and the position of Director of Central Intelligence (DCI). The act also created a semi-unified military command structure under a Secretary of Defense, and a National Security Council (NSC) to advise the President "with respect to the integration of domestic, foreign, and military policies relating to the national security."⁴ The fundamental intent of this legislation was to coordinate U.S. national defense efforts, including intelligence activities, in the face of a Soviet Union intent upon expanding and leading a system of communist states.

In response to the rapid growth and changing role of the Federal government following the Second World War, several studies were conducted to examine the structure and efficiency of the executive branch, including the intelligence agencies.⁵ Between 1948 and 1949, two important investigations of the national intelligence

⁴ Section 101(a), National Security Act of 1947.

⁵ For a comprehensive examination of similar Commissions see CRS Report RL31446, *Reorganizing the Executive Branch in the Twentieth Century: Landmark Commissions*, by Ronald C. Moe, June 10, 2002.

effort were conducted. The first, the Task Force on National Security Organization of the First Hoover Commission, was established by a unanimous vote in Congress. The second, known as the Dulles-Jackson-Correa Report, was initiated by the NSC at the request of President Harry S. Truman.

The First Hoover Commission, 1949

The Commission on Organization of the Executive Branch of the government was established pursuant to P.L. 80-162 of July 27, 1947.⁶ Under the chairmanship of former President Herbert Hoover, the twelve member bipartisan commission conducted a comprehensive review of the federal bureaucracy, including the intelligence agencies. The commission's Task Force on National Security Organization was headed by Ferdinand Eberstadt, a strong advocate of a centralized intelligence capability who had been instrumental in drafting the National Security Act of 1947.⁷

Hearings conducted by the task force began in June 1948. On January 13, 1949, the Hoover Commission submitted the task force's 121 page unclassified report to Congress.⁸ Known as the Eberstadt Report, it found the "National Security Organization, established by the National Security Act of 1947, [to be] soundly constructed, but not yet working well."⁹ The report identified fundamental organizational and qualitative shortcomings in the national intelligence effort and the newly created CIA.

A principal concern of the task force was the adversarial relationship and lack of coordination between the CIA, the military, and the State Department. It suggested that this resulted in unnecessary duplication and the issuance of departmental intelligence estimates that "have often been subjective and biased."¹⁰ In large measure, the military and State Department were blamed for their failure to consult and share pertinent information with the CIA. The task force recommended "that positive efforts be made to foster relations of mutual confidence between the [CIA] and the several departments and agencies that it serves."¹¹

⁶ The report was reprinted as *The Hoover Commission Report on Organization of the Executive Branch of the Government* (Westport, CT: Greenwood Press, 1970).

⁷ For background on Eberstadt, see Jeffrey M. Dorwart, *Eberstadt and Forrestal: A National Security Partnership, 1909-1949* (College Station, TX: Texas A & M University Press, 1991).

⁸ The Commission on Organization of the Executive Branch of the Government, *Task Force Report on National Security Organization*, Appendix G, January 1949; hereafter cited as the Eberstadt Report.

⁹ Eberstadt Report, p. 3.

¹⁰ Eberstadt Report, p. 76.

¹¹ Eberstadt Report, p. 16, paragraph d.

In short, the report stressed that the CIA “must be the central organization of the national intelligence system.”¹² To facilitate community coordination in the production of national estimates, a founding intent of CIA, the task force recommended the creation within CIA “at the top echelon an evaluation board or section composed of competent and experienced personnel who would have no administrative responsibilities and whose duties would be confined solely to intelligence evaluation.”¹³ To foster professionalism and continuity of service, the report also favored a civilian DCI with a long term in office.¹⁴

In the arena of covert operations and clandestine intelligence, the Eberstadt Report supported the integration of all clandestine operations into one office within CIA, under NSC supervision. To alleviate concerns expressed by the military who viewed this proposal as encroaching upon their prerogatives, the report stated that clandestine operations should be the responsibility of the Joint Chiefs of Staff (JCS) in time of war.¹⁵

In examining the daily workings of the CIA, the task force found the agency’s internal structure and personnel system “not now properly organized.”¹⁶ This led to recommendations for the adoption of clearer lines of departmental responsibilities, and the establishment of proper personnel selection and training systems.¹⁷ In response to legislative concerns regarding intelligence budgets, the report supported establishing a legal framework for budgetary procedures and authorities, and in maintaining the secrecy of the CIA budget in order to provide the “administrative flexibility and anonymity that are essential to satisfactory intelligence.”¹⁸ The report also addressed, and rejected, the possibility of placing the FBI’s counterintelligence responsibilities in the CIA.¹⁹

Of particular concern was the level of professionalism in military intelligence, and the glaring inadequacies of medical and scientific intelligence, including biological and chemical warfare, electronics, aerodynamics, guided missiles, atomic weapons, and nuclear energy.²⁰ The report declared that the failure to appraise scientific advances in hostile countries (i.e., the Soviet Union) might have more immediate and catastrophic consequences than failure in any other field of

¹² Arthur B. Darling, *The Central Intelligence Agency: An Instrument of Government to 1950* (University Park, PA: Pennsylvania State University Press, 1990), p. 293. This is a reprint of an official CIA history prepared in the early 1950’s.

¹³ Eberstadt Report, p. 16.

¹⁴ Darling, introduction to Chapter VIII.

¹⁵ Darling, introduction to chapter VIII.

¹⁶ Eberstadt Report, p. 76.

¹⁷ Darling, pp. 295-298.

¹⁸ Darling, p. 297.

¹⁹ Darling, p. 289.

²⁰ Eberstadt Report, p. 77; Darling, p. 296.

intelligence. Accordingly, the report stressed that the U.S. should establish a central authority “to collect, collate, and evaluate scientific and medical intelligence.”²¹

Intelligence Survey Group (Dulles-Jackson-Correa Report), 1949

On January 8, 1948, the National Security Council established the Intelligence Survey Group (ISG) to “evaluate the CIA’s effort and its relationship with other agencies.”²² Commissioned at the request of President Truman, the group was composed of Allen W. Dulles, who had served in the Office of Strategic Services (OSS) during the Second World War and would become DCI in 1953, William Jackson, a future Deputy DCI, and Matthias Correa, a former assistant to Secretary of Defense James V. Forrestal when the latter had served as Secretary of the Navy during the war. Under the chairmanship of Dulles, the ISG presented its findings, known as the Dulles-Jackson-Correa Report, to the National Security Council on January 1, 1949.

The 193-page report, partially declassified in 1976, contained fifty-six recommendations, many highly critical of the CIA and DCI.²³ In particular, the report revealed problems in the agency’s execution of both its intelligence and operational missions. It also criticized the quality of national intelligence estimates by highlighting the CIA’s — and, by implication, the DCI’s — “failure to take charge of the production of coordinated national estimates.”²⁴ The report went on to argue that the CIA’s current trend in secret intelligence activities should be reversed in favor of its mandated role as coordinator of intelligence.²⁵

The Dulles Report was particularly concerned about the personnel situation at CIA, including internal security, the high turnover of employees, and the excessive number of military personnel assigned to the agency.²⁶ To add “continuity of service” and the “greatest assurance of independence of action,” the report argued that the DCI should be a civilian and that military appointees be required to resign their commissions.²⁷

²¹ Eberstadt Report, p. 20.

²² Mark M. Lowenthal, *U.S. Intelligence: Evolution and Anatomy* (Westport, CT: Praeger, 1992), p. 20.

²³ “The Central Intelligence Agency and National Organization for Intelligence: A Report to the National Security Council,” January 1, 1949. Hereafter cited as the Dulles-Jackson-Correa Report; the declassified report remains highly sanitized. A version was reprinted in William M. Leary, ed., *The Central Intelligence Agency: History and Documents* (University, AL: University of Alabama Press, 1984).

²⁴ Lowenthal, p. 20; Dulles-Jackson-Correa Report, p. 5, 11.

²⁵ Dulles-Jackson-Correa Report, p. 39.

²⁶ DCI Hillenkoetter disputed these findings by producing evidence that CIA’s employee turnover was no different than in other government agencies and that only two percent of CIA personnel were active duty military. Darling, p. 327.

²⁷ Dulles-Jackson-Correa Report, p. 138.

As with the Eberstadt Report, the Dulles Report also expressed concern about the inadequacies in scientific intelligence and the professionalism of the service intelligence organizations, and urged that the CIA provide greater coordination.²⁸ This led to a recommendation for increased coordination between the DCI and the Director of the Federal Bureau of Investigation (FBI) in the arena of counterespionage. In turn, the report recommended that the Director of FBI be elevated to membership in the Intelligence Advisory Committee (IAC), whose function was to help the DCI coordinate intelligence and set intelligence requirements.²⁹

The principal thrust of the report was a proposed large-scale reorganization of the CIA to end overlapping and duplication of functions. Similar to the Eberstadt Report, the Dulles study suggested incorporating covert operations and clandestine intelligence into one office within CIA. In particular, the report recommended that the Office of Special Operations (OSO), responsible for the clandestine collection of intelligence, and the Office of Policy Coordination (OPC), responsible for covert actions, be integrated into a single division within CIA.³⁰

Accordingly, the report recommended replacing existing offices with four new divisions for coordination, estimates, research and reports, and operations. The heads of the new offices would be included in the immediate staff of the DCI so that he would have "intimate contact with the day-to-day operations of his agency and be able to give policy guidance to them."³¹ These recommendations would become the blueprint for the future organization and operation of the present-day CIA.

Summary of the Truman Administration Intelligence Investigations

The Task Force on National Security Organization was almost immediately eclipsed by the Dulles-Jackson-Correa Report, that found a sympathetic ear in the White House. On July 7, 1949, the NSC adopted a modified version of the Dulles Report, and directed DCI Roscoe H. Hillenkoetter to begin implementing its recommendations, including the establishment of a single operations division at CIA. In 1953, the OSO and OPC were merged within the CIA to form the Directorate of Plans (DP). (DP was designated the Directorate of Operations (DO) in 1973.)

Although the Eberstadt Report was not as widely read among policymakers as the Dulles study, it did play a principal role in reorganization efforts initiated by DCI Walter Bedell Smith in 1950. The two reports, and the lessons learned from fall of China to the Communists and the unexpected North Korean invasion of South Korea in June 1950, prompted Smith to create an intelligence evaluation board called the Board of National Estimates (BNE). Designed to review and produce National

²⁸ Dulles-Jackson-Correa Report, pp. 3-4, 149.

²⁹ Dulles-Jackson-Correa Report, p. 58. Although the DCI served as chairman of the IAC, he was not given budgetary or administrative authority over the other intelligence agencies.

³⁰ Dulles-Jackson-Correa Report, pp. 129, 134.

³¹ Dulles-Jackson-Correa Report, p. 11.

Intelligence Estimates (NIEs), the BNE was assisted by an Office of National Estimates (ONE) that drew upon the resources of the entire community.³²

The Eisenhower Administration, 1953-1961

The Eisenhower Administration witnessed the Soviet Union solidify its hold over Eastern Europe, crushing the Hungarian revolution, and the rise of Communist insurgencies in Southeast Asia and Africa. This was a period in which extensive covert psychological, political, and paramilitary operations were initiated in the context of the threat posed by Soviet-led Communist expansion. However, between 1948, when a covert action program was first authorized through NSC Directive 10/2, and 1955 there was no formally established procedure for approval.

Between 1954 and 1956, this prompted three investigations into U.S. intelligence activities, including the CIA. The first, the Task Force on Intelligence Activities of the Second Hoover Commission on Organization of the Executive Branch of the Government, was sponsored by Congress. The second, the Doolittle Report, was commissioned at the request of President Dwight D. Eisenhower in response to the Second Hoover Commission. The third, the Bruce-Lovett Report was initiated by the President's Board of Consultants on Foreign Intelligence Activities (PBCFIA), and reported to President Eisenhower.

Second Hoover Commission, 1955

The Commission on Organization of the Executive Branch of the Government, also chaired by former President Hoover, was created pursuant to P.L. 83-108 of July 10, 1953. Known as the Second Hoover Commission, it contained a Task Force on Intelligence Activities under the chairmanship of General Mark W. Clark. In May 1955, the task force submitted both classified and unclassified reports. The classified version was sent directly to President Eisenhower, and has not been declassified according to available information. The unclassified version was sent to Congress.

The unclassified report's seventy-six pages contained nine recommendations and briefly described the evolution of the Intelligence Community and its then-current functioning. The report initiated the official use of the term "Intelligence Community."³³ Until that time, the U.S. had sought to apply increasing coordination to departmental intelligence efforts, without the concept of a "community" of departments and agencies.

The task force began by expressing the need to reform the CIA's internal organization, including the recommendation that the DCI concentrate on intelligence issues facing the entire community by leaving the day-to-day administration of the

³² The work of the BNE is described in Donald P. Steury, ed., *Sherman Kent and the Board of National Estimates: Collected Essays* (Washington: Center for the Study of Intelligence, 1994).

³³ Commission on Organization of the Executive Branch of the Government, A Report to the Congress, *Intelligence Activities*, June 1955, p. 13, hereafter cited as Clark Task Force Report.

CIA to an executive officer or chief of staff.³⁴ It foresaw the need for better oversight of intelligence activities and proposed a small, permanent, bipartisan commission, including Members of Congress and other “public-spirited citizens,” to provide independent oversight of intelligence activities that were normally kept secret from other parts of the government.³⁵ The full commission’s report elaborated on this by recommending the establishment of both a congressional oversight committee and a presidential advisory panel.

The task force also expressed concern about counterintelligence and recommended systematic rechecking of all personnel every five years “to make sure that the passage of time has not altered the trustworthiness of any employee, and to make certain that none has succumbed to some weakness of intoxicants or sexual perversion.”³⁶

In addition, the task force recommended that the CIA replace the State Department in the “procurement of foreign publications and for collection of scientific intelligence.”³⁷ Finally, there were a number of “housekeeping” recommendations such as the need to construct an adequate CIA headquarters, to improve linguistic training, and to raise the salary of the DCI to \$20,000 annually.³⁸

The Doolittle Report, 1954

In response to the establishment of the Second Hoover Commission’s Task Force on Intelligence Activities, President Eisenhower sought and secured an agreement for a separate report to be presented to him personally on the CIA’s Directorate of Plans, that now had responsibility for both clandestine intelligence collection and covert operations. Accordingly, in July 1954, Eisenhower commissioned Lieutenant General James Doolittle (USAF) to report on the CIA’s covert activities and to “make any recommendations calculated to improve the conduct of these operations.”³⁹

On September 30, 1954, Doolittle submitted his 69-page classified report directly to Eisenhower. Declassified in 1976, the Doolittle Report contained forty-two recommendations. The report began by summarizing contemporary American Cold War attitudes following the Korean War:

³⁴ Clark Task Force Report, pp. 70-71. For a more detailed account of the evolution of the DCI’s roles and responsibilities, see Herbert Andrew Boerstling, “The Establishment of a Director of National Intelligence,” unpublished Master of Arts Policy Paper, Boston University, August 1995.

³⁵ Clark Task Force Report, p. 71.

³⁶ Clark Task Force Report, p. 74.

³⁷ Clark Task Force Report, p. 74.

³⁸ Clark Task Force Report, pp. 72-76.

³⁹ The Report on the Covert Activities of the Central Intelligence Agency, September 30, 1954, Appendix A, p. 54; hereafter cited as the Doolittle Report.

It is now clear that we are facing an implacable enemy whose avowed objective is world domination by whatever means and at whatever cost. There are no rules in such a game...If the United States is to survive, long-standing American concepts of "fair play" must be reconsidered. We must develop effective espionage and counterespionage services and must learn to subvert, sabotage and destroy our enemies by more clever, more sophisticated and more effective methods than those used against us. It may become necessary that the American people be made acquainted with, understand and support this fundamentally repugnant philosophy.⁴⁰

The report went on to recommend that "every possible scientific and technical approach to the intelligence problem" be explored since the closed society of the Eastern Bloc made human espionage "prohibitive" in terms of "dollars and human lives."⁴¹

In examining the CIA, Doolittle found it to be properly placed in the organization of the government. Furthermore, the report found the laws relating to the CIA's functions were sufficient for the agency to meet its operational needs, i.e. penetration of the Soviet Bloc.⁴² The report went on to issue several recommendations calling for more efficient internal administration, including recruitment and training procedures, background checks of personnel, and the need to "correct the natural tendency to over classify documents originating in the agency."⁴³ It also called for increased cooperation between the clandestine and analytical sides of the agency, and recommended that the "Inspector General ... operate on an Agency-wide basis with authority and responsibility to investigate and report on all activities of the Agency."⁴⁴ Finally, the report mentioned the need to provide CIA with accommodations tailored to its specific needs, and to exercise better control (accountability) of expenditures in covert projects.

Shortly after submitting the written report, General Doolittle voiced his concern to President Eisenhower over the potential difficulties that could arise from the fact that the DCI, Allen Dulles, and the Secretary of State, John Foster Dulles, were brothers and might implement policies without adequate consultation with other administration officials.⁴⁵

Bruce-Lovett Report, 1956

In 1956, PBCFIA's chairman, James Killian, president of the Massachusetts Institute of Technology, directed David Bruce, a widely experienced diplomat, and Robert Lovett, a prominent attorney, to prepare a report for President Eisenhower on

⁴⁰ Doolittle Report, pp. 6-7.

⁴¹ Doolittle Report, pp. 7-8.

⁴² Doolittle Report, p. 10.

⁴³ Doolittle Report, p. 14.

⁴⁴ Doolittle Report, p. 17.

⁴⁵ John Ranelagh, *The Agency: the Rise and Decline of the CIA* (New York: Simon and Schuster, 1987), p. 278.

the CIA's covert action programs as implemented by NSC Directive 10/2. The report itself has not been located by either the CIA's Center for the Study of Intelligence or by private researchers. Presumably, it remains classified. However, Peter Grose, biographer of Allen Dulles, was able to use notes of the report prepared years earlier by historian Arthur M. Schlesinger, Jr.⁴⁶

According to Grose's account of the Schlesinger notes, the report criticized the CIA for being too heavily involved in Third-World intrigues while neglecting the collection of hard intelligence on the Soviet Union. Reportedly, Bruce and Lovett went on to express concern about the lack of coordination and accountability of the government's psychological and political warfare program. Stating that "no charge is made for failure," the report claimed that "No one, other than those in CIA immediately concerned with their day-to-day operation, has any detailed knowledge of what is going on."⁴⁷ These operations, asserted Bruce and Lovett, were in the hands of a "horde of CIA representatives (largely under State or Defense cover),...bright, highly graded young men who must be doing something all the time to justify their reason for being."⁴⁸

As had Doolittle, Bruce and Lovett criticized the close relationship between Secretary of State John Foster Dulles and his brother DCI Allen W. Dulles. Due to the unique position of each brother, the report apparently expressed concern that they could unduly influence U.S. foreign policy according to their own perceptions.⁴⁹

The report concluded by suggesting that the U.S. reassess its approach to covert action programs, and that a permanent authoritative position be created to assess the viability and impact of covert action programs.⁵⁰

Summary of the Eisenhower Administration Intelligence Investigations

As a result of the Second Hoover Commission's Report and General Doolittle's findings, two new NSC Directives, 5412/1 and 5412/2, were issued pertaining to covert activities in March and November 1955, respectively. Together, these directives instituted control procedures for covert action and clandestine activities. They remained in effect until 1970, providing basic policy guidelines for the CIA's covert action operations.

⁴⁶ Peter Grose, *Gentleman Spy: The Life of Allen Dulles*, (Boston: Houghton Mifflin, 1994), pp. 445-448; also the CIA's Center for the Study of Intelligence *Newsletter*, Spring 1995, Issue No. 3, pp. 3-4. In writing this book, Grose reported using notes Arthur M. Schlesinger, Jr. discovered in the Robert Kennedy Papers before they were deposited at the John F. Kennedy Library; p. 598, n. 33 and n. 34. Reportedly, the JFK Presidential Library has unsuccessfully searched the RFK papers for the report.

⁴⁷ Grose, p. 446; from excerpts of the Schlesinger notes.

⁴⁸ Grose, p. 446; this observation is also taken from excerpts of the Schlesinger notes.

⁴⁹ Grose, p. 447.

⁵⁰ Grose, pp. 447-448; from excerpts of the Schlesinger notes.

In 1956, in response to the Clark Task Force, and to preempt closer congressional scrutiny of intelligence gathering, President Eisenhower created the President's Board of Consultants on Foreign Intelligence Activities (PBCFIA) to conduct independent evaluations of the U.S. intelligence program. PBCFIA became the President's Foreign Intelligence Advisory Board (PFIAB) in 1961. Permanent intelligence oversight committees were not established in Congress until the mid-1970s.

When the Bruce-Lovett Report was first issued in the autumn of 1956, its immediate impact was muted due to the contemporaneous Suez Canal crisis and the Soviet invasion of Hungary. However, it did establish a precedent for future PBCFIA investigations into intelligence activities.

The Kennedy Administration, 1961-1963

In the 1950s, the Eisenhower Administration had supported covert CIA initiatives in Iran (1953) and Guatemala (1954) to overthrow governments unfriendly to the United States. These operations were planned to provide the United States with a reasonable degree of plausible deniability. During the last Eisenhower years, revolution in Cuba resulted in a Communist government under Fidel Castro. In the context of the Cold War, a communist Cuba appeared to justify covert U.S. action to secure a change in that nation's government. In April 1961 an ill-fated U.S. backed invasion of Cuba led to a new chapter in the history of the Intelligence Community.

On April 17, 1961, some 1,400 Cuban exiles of the Cuban Expeditionary Force (CEF), trained and supported by the CIA, landed at the Bay of Pigs in Cuba with the hope of overthrowing the communist regime of Fidel Castro. Known as Operation Zapata, the invasion was a complete disaster. Over the first two days, Castro succeeded in defeating the invasion force and exposing direct U.S. involvement.

The fiasco led to two official examinations of U.S. involvement and conduct in Operation Zapata. The first, the Taylor Commission, was initiated by President John F. Kennedy in an attempt to ascertain the overall cause of the operation's failure. The second, the Kirkpatrick Report, was an internal CIA investigation to determine what had been done wrong.

The Taylor Commission

On April 22, President Kennedy asked General Maxwell Taylor, former Army Chief of Staff, to chair a high-level body composed of Attorney General Robert Kennedy, former Chief of Naval Operations Admiral Arleigh Burke, and DCI Allen Dulles to ascertain the reasons for the invasion's failure. Known as the Taylor Commission, the study group's 53-page classified report was submitted to President Kennedy on June 13, 1961.

Declassified in 1977, the report examined the conception, development, and implementation of Operation Zapata. The commission's final report focused on

administrative rather than operational matters, and evenly leveled criticism at the White House, the CIA, the State Department, and the Joint Chiefs of Staff.⁵¹

The report found that the CIA, at White House direction, had organized and trained Cuban exiles to enter Cuba, foment anti-Castro sentiment, and ultimately overthrow the Cuban government. Originally intended by the Eisenhower Administration as a guerrilla operation, Zapata was supposed to operate within the parameters of NSC Directive 5412/2, that called in part for plausible U.S. deniability. However, in the Kennedy Administration, the operation grew in size and scope to include a full-scale military invasion involving “sheep-dipped” B-26 bombers, supply ships and landing craft.⁵² The report found that “the magnitude of Zapata could not be prepared and conducted in such a way that all U.S. support of it and connection with it could be plausibly disclaimed.”⁵³

In large measure, the report blamed the operation’s planners at the CIA’s Directorate of Plans for not keeping the President fully informed as to the exact nature of the operation. However, the report also criticized the State Department, JCS, and the White House for acquiescing in the Zapata Plan, that “gave the impression to others of approving it” and for reviewing “successive changes of the plan piecemeal and only within a limited context, a procedure that was inadequate for a proper examination of all the military ramifications.”⁵⁴

The Taylor Commission found the operation to be ill-conceived with little chance for ultimate success. Once underway, however, the report cited President Kennedy’s decision to limit overt U.S. air support as a factor in the CEF’s defeat.⁵⁵ This decision was apparently reached in order to protect the covert character of the operation. The report criticized this decision by stating that when an operation had been approved, “restrictions designed to protect its covert character should have been accepted only if they did not impair the chance of success.”⁵⁶

The failure in communication, breakdown in coordination, and lack of overall planning led the Taylor Commission to conclude that:

The Executive Branch of government was not organizationally prepared to cope with this kind of paramilitary operation. There was no single authority short of the President capable of coordinating the actions of CIA, State, Defense and USIA [U.S. Information Agency]. Top level direction was given through *ad hoc*

⁵¹ Grose, p. 532.

⁵² “Sheep-dipped” is a colloquial intelligence term used for administrative arrangements designed to ensure that the origin of a person or object is non-traceable.

⁵³ The report was published as *Operation Zapata: The “Ultrasensitive” Report and Testimony of the Board of Inquiry on the Bay of Pigs* (Frederick, MD: University publications of America, Inc., 1981), p. 40; hereafter cited as the Taylor Report.

⁵⁴ Taylor Report, p. 43.

⁵⁵ Taylor Report, p. 38.

⁵⁶ Taylor Report, p. 40.

meetings of senior officials without consideration of operational plans in writing and with no arrangement for recording conclusions reached.⁵⁷

The lessons of Operation Zapata led the report to recommend six courses of action in the fields of planning, coordination, effectiveness, and responsibility in overall Cold War strategy. The report recommended the creation of a Strategic Resources Group (SRG) composed of representatives of under-secretarial rank from the CIA and the Departments of State and Defense. With direct access to the President, the SRG would act as a mechanism for the planning and coordination of overall Cold War strategy, including paramilitary operations. The report recommended including the opinions of the JCS in the planning and implementation of such paramilitary operations. In the context of the Cold War, the report also recommended a review of restraints placed upon the United States in order to make the most effective use of the nation's assets, without concern for international popularity. The report concluded by reaffirming America's commitment to forcing Castro from power.⁵⁸

The Kirkpatrick Report

Concurrent with the Taylor Commission, DCI Dulles instructed the CIA's Inspector General, Lyman B. Kirkpatrick, Jr., to conduct an internal investigation to determine what the CIA had done wrong in the Cuban operation. Completed in five months, the report was viewed by the few within CIA who read it as professionally shabby.⁵⁹ Whereas the Taylor Report had more of the detached perspective of a management-consultant, the Kirkpatrick Report was viewed as a personal attack against the CIA and DCI Dulles.

The 170-page report remains classified. However, in 1972, Kirkpatrick published an article in the *Naval War College Review* that apparently reflected the findings of his report.⁶⁰ In particular, Kirkpatrick criticized the Zapata planners at the Directorate of Plans for not having fully consulted the CIA's Cuban analysts before the invasion. The article also criticized the operation's internal security, that Kirkpatrick claimed was virtually nonexistent. Calling the operation frenzied, Kirkpatrick accused the CIA of "playing it by ear" and misleading the President by failing to inform him that "success had become dubious."⁶¹ In Kirkpatrick's view, the CIA bore most of the blame, and the Kennedy Administration could be forgiven for having trusted the advice of the operation's planners at the Agency.

⁵⁷ Taylor Report, p. 39.

⁵⁸ Taylor Report, pp. 44-53.

⁵⁹ Ranelagh, p. 380.

⁶⁰ Lyman B. Kirkpatrick, Jr., "Paramilitary Case Study - Bay of Pigs," *Naval War College Review*, (November-December 1972). By the same author, see *The U.S. Intelligence Community: Foreign Policy and Domestic Activities* (New York: Hill and Wang, 1973).

⁶¹ Evan Thomas, *The Very Best Men, Four Who Dared: The Early Years of the CIA*, (New York: Simon & Schuster, 1995), p. 268. Thomas was given special permission to review the report for use in his book even though it remains classified.

Summary of the Kennedy Administration Intelligence Investigations

On May 4, 1961, following the Bay of Pigs, President Kennedy reconstituted the PBCFIA as the President's Foreign Intelligence Advisory Board (PFIAB). Although little is known of the Kirkpatrick Report's impact, the Taylor Report influenced Kennedy's desire to improve the overall management of the intelligence process. In 1962, this prompted the President to instruct the new DCI, John McCone, to concentrate on his community-wide coordination role:

As [DCI], while you will continue to have overall responsibility for the Agency, I shall expect you to delegate to your principal deputy, as you may deem necessary, so much of the detailed operation of the Agency as may be required to permit you to carry out your primary task as [DCI].⁶²

The Johnson Administration, 1963-1969

No major investigations of the Intelligence Community were conducted under President Lyndon B. Johnson. In large measure, this was due to America's growing preoccupation with the Vietnam conflict and the strain that this placed on the community's resources. The only major investigation during the Johnson Administration was the Warren Commission on the assassination of President Kennedy. Former DCI Allen Dulles served on the commission.

The Nixon Administration, 1969-1974

During the Vietnam War, the Intelligence Community devoted enormous attention in both manpower and resources towards achieving U.S. policy objectives in Southeast Asia. As the U.S. effort in Vietnam and Laos wound down, and attention turned towards strategic weapons concerns with the Soviet Union, some members of the Nixon Administration believed that the community was performing less than adequately. In 1970, President Richard M. Nixon and National Security Advisor Henry A. Kissinger undertook a review of the Intelligence Community's organization.

The Schlesinger Report, 1971

In December 1970, President Nixon commissioned the Office of Management and Budget (OMB) to examine the Intelligence Community's organization and recommend improvements, short of legislation. In March 1971, the report, "A Review of the Intelligence Community," was submitted by Deputy OMB Director James R. Schlesinger, a future DCI.

Known as the Schlesinger Report, the study's forty-seven pages noted the community's "impressive rise in...size and cost" with the "apparent inability to achieve a commensurate improvement in the scope and overall quality of intelligence

⁶² Memorandum for the Director of Central Intelligence, January 16, 1962; quoted in Prados, 89-414F, p. 45.

products.”⁶³ The report sought to uncover the causes of this problem and identify areas in which constructive change could take place.

In examining the Intelligence Community, Schlesinger criticized “unproductively duplicative” collection systems and the failure in forward planning to coordinate the allocation of resources.⁶⁴ In part, the report cited the failure of policymakers to specify their product needs to the intelligence producers.⁶⁵ However, the report identified the primary cause of these problems as the lack of a strong, central Intelligence Community leadership that could “consider the relationship between cost and substantive output from a national perspective.”⁶⁶ Schlesinger found that this had engendered a fragmented, departmental intelligence effort.

To correct these problems, Schlesinger considered the creation of a Director of National Intelligence (DNI), enhancing the DCI’s authority, and establishing a Coordinator of National Intelligence (CNI) who would act as the White House-level overseer of the Intelligence Community to provide more direct representation of presidential interest in intelligence issues.⁶⁷ In the end, the report recommended “a strong DCI who could bring intelligence costs under control and intelligence production to an adequate level of quality and responsiveness.”⁶⁸

Summary of the Nixon Administration Intelligence Investigation

The Schlesinger Report led to a limited reorganization of the Intelligence Community under a Presidential directive dated November 5, 1971. In part, the directive called for:

An enhanced leadership role for the [DCI] in planning, reviewing, and evaluating all intelligence programs and activities, and in the production of national intelligence.⁶⁹

Consequently, two boards were established to assist the DCI in preparing a consolidated intelligence budget and to supervise community-wide intelligence production. The first, was the ill-fated Intelligence Resources Advisory Committee (IRAC), that replaced the National Intelligence Resources Board (NIRB) established

⁶³ *A Review of the Intelligence Community*, March 10, 1971, p. 1; hereafter cited as the Schlesinger Report.

⁶⁴ Schlesinger Report, pp. 8-9.

⁶⁵ Schlesinger Report, p. 9.

⁶⁶ Schlesinger Report, p. 13.

⁶⁷ Schlesinger Report, pp. 25-33.

⁶⁸ U.S. Congress, Senate, 94th Congress, 2nd session, Select Committee to Study Governmental Operations with Respect to Intelligence Activities Intelligence, *Final Report*, 1976, Book I, p. 66; hereafter cited as the Church Committee Report.

⁶⁹ “Reorganization of the U.S. Intelligence Community,” *Weekly Compilation of Presidential Documents*, November 4, 1971, pp. 1467-1491, 1482.

in 1968 under DCI Richard Helms. The IRAC was designed to advise the DCI on the preparation of a consolidated budget for the community's intelligence programs. However, IRAC was not afforded the statutory authority necessary to bring the intelligence budget firmly under DCI control. The second, and the only long lasting result of the Nixon directive, was the establishment of the Intelligence Community Staff (ICS) in 1972. Created by DCI Helms, the ICS was meant to assist the DCI in guiding the community's collection and production of intelligence. However, the ICS did not provide the DCI with the statutory basis necessary for an expanded community-wide role.⁷⁰ In 1992, DCI Robert Gates replaced the ICS with the Community Management Staff (CMS).

The Era of Public Investigations, 1974-1981

In the late 1940s and throughout the 1950s, there had been widespread public agreement on the need for an effective national security structure to confront Soviet-led Communist expansion. However, by the late 1960s, the war in Vietnam had begun to erode public consensus and support for U.S. foreign policy. The controversy surrounding the Watergate Investigations after 1972, and subsequent revelations of questionable CIA activities involving domestic surveillance, provided a backdrop for increasing scrutiny of government policies, particularly in such fields as national security and intelligence.

Between 1975 and 1976, this led the Ford Administration and Congress to conduct three separate investigations that examined the propriety of intelligence operations, assessed the adequacy of intelligence organizations and functions, and recommended corrective measures. A fourth panel, convened earlier to look more broadly at foreign policy, also submitted recommendations for intelligence reform.

Murphy Commission (Commission on the Organization of the Government for the Conduct of Foreign Policy), 1975

The Commission on the Organization of the Government for the Conduct of Foreign Policy, created pursuant to the Foreign Relations Authorization Act for FY1973 (P.L. 92-352) of July 13, 1972, was headed by former Deputy Secretary of State Robert D. Murphy. It looked at national security formulation and implementation processes rather than the government as a whole. As such, the Murphy Commission was more focused than either of the two Hoover Commissions and devoted greater attention to intelligence issues. Although it made reference to the need to correct "occasional failures to observe those standards of conduct that should distinguish the behavior of agencies of the U.S. Government,"⁷¹ the commission's approach was marked by an emphasis of the value of intelligence to national security policymaking and was, on the whole, supportive of the Intelligence Community.

⁷⁰ Prados, 89-414F, p. 46.

⁷¹ U.S., Commission on the Organization of the Government for the Conduct of Foreign Policy, *Report*, June 1975, p. 92.

Many of the Murphy Commission's recommendations addressed problems that have continued to concern successive intelligence managers. The commission noted the fundamental difficulty that DCIs have line authority over the CIA but "only limited influence" over other intelligence agencies.⁷² Unlike other observers, the Murphy Commission did not believe that this situation should be changed fundamentally: "[It] is neither possible nor desirable to give the DCI line authority over that very large fraction of the intelligence community that lies outside the CIA." At the same time, it recommended that the DCI have an office in close proximity to the White House and be accorded regular and direct contact with the President. The commission envisioned a DCI delegating considerable authority for managing the CIA to a deputy while he devoted more time to community-wide responsibilities. The commission also recommended that the DCI's title be changed to Director of Foreign Intelligence.⁷³

The commission provided for other oversight mechanisms, *viz.*, a strengthened PFIAB and more extensive review (prior to their initiation and on a continuing basis thereafter) of covert actions by a high-level interagency committee. It argued that although Congress should be notified of covert actions, the President should not sign such notifications since it is harmful to associate "the head of State so formally with such activities."⁷⁴ It was further recommended that intelligence requirements and capabilities be established at the NSC-level to remedy a situation in which "the work of the intelligence community becomes largely responsive to its own perceptions of what is important, and irrelevant information is collected, sometimes drowning out the important."⁷⁵ It also recommended that this process be formalized in an officially approved five-year plan. A consolidated foreign intelligence budget should also be prepared, approved by an inter-agency committee and OMB and submitted to Congress.

Although the importance of economic intelligence was recognized, the commission did not see a need for intelligence agencies to seek to expand in this area; rather, it suggested that the analytical capabilities of the Departments of State, Treasury, Commerce, Agriculture, and the Council of Economic Advisers should be significantly strengthened.

The commission noted the replacement of the Board of National Estimates by some eleven National Intelligence Officers (NIOs) who were to draw upon analysts in various agencies to draft National Intelligence Estimates (NIEs). This practice was criticized because it laid excessive burdens on chosen analysts and because NIEs had in recent years been largely ignored by senior officials (presumably Secretary of State Kissinger) who made their own assessments of future developments based on competing sources of information and analysis. Thus, the commission recommended a small staff of analysts from various agencies assigned to work with NIOs in

⁷² Commission on Organization of the Government, p. 98

⁷³ Commission on Organization of the Government, pp. 98-99.

⁷⁴ Commission on Organization of the Government, pp. 100-101.

⁷⁵ Commission on Organization of the Government, p. 101.

drafting NIEs and ensure that differences of view were clearly presented for the policymakers.

Rockefeller Commission (Commission on CIA Activities within the United States), 1975

Prior to the mid-1960s, the organization and activities of the Intelligence Community were primarily the concern of specialists in national security and governmental organization. The Murphy Commission, although working during a subsequent and more politically turbulent period, had approached intelligence reorganization from this perspective as well. The political terrain had, however, been shifting dramatically and the Intelligence Community would not escape searching criticism. During the era of the Vietnam War and Watergate, disputes over national security policy focused attention on intelligence activities. In 1975, media accounts of alleged intelligence abuses, some stretching back over decades led to a series of highly publicized congressional hearings.

Revelations of assassination plots and other alleged abuses spurred three separate investigations and sets of recommendations. The first was undertaken within the Executive Branch and was headed by Vice President Nelson A. Rockefeller. Other investigations were conducted by select committees in both houses of Congress. The Senate effort was led by Senator Frank Church and the House committee was chaired by Representative Otis Pike. These investigations led to the creation of the two permanent intelligence committees and much closer oversight by the Congress. In addition, they also produced a number of recommendations for reorganization and realignment within the Intelligence Community.

Established by Executive Order 11828 on January 4, 1975, the Commission on CIA Activities within the United States was chaired by Vice President Rockefeller and included seven others appointed by President Ford (including then-former Governor Ronald Reagan). The commission's mandate was to investigate whether the CIA had violated provisions of the National Security Act of 1947, precluding the CIA from exercising internal security functions.

The Rockefeller Commission's 30 recommendations⁷⁶ included a number of proposals designed to delimit CIA's authority to collect foreign intelligence within the United States (from "willing sources") and proscribe collection of information about the domestic activities of U.S. citizens, to strengthen PFIAB, to establish a congressional joint intelligence committee, and to establish guidelines for cooperation with the Justice Department regarding the prosecution of criminal violations by CIA employees. There was another recommendation to consider the question of whether the CIA budget should be made public, if not in full at least in part.

⁷⁶ *Report to the President by the Commission on CIA Activities Within the United States*, June 1975.

The commission recommended that consideration should be given to appointing DCIs from outside the career service of the CIA and that no DCI serve longer than 10 years. Two deputies should be appointed; one to serve as an administrative officer to free the DCI from day-to-day management duties; the other a military officer to foster relations with the military and provide technical expertise on military intelligence requirements.

The CIA position of Inspector General should be upgraded and his responsibilities expanded along with those of the General Counsel. Guidelines should be developed to advise agency personnel as to what activities are permitted and what are forbidden by law and executive orders.

The President should instruct the DCI that domestic mail openings should not be undertaken except in time of war and that mail cover operations (examining and copying of envelopes only) are to be undertaken only on a limited basis "clearly involving matters of national security."

The commission was specifically concerned with CIA infiltration of domestic organizations and submitted a number of recommendations in this area. Presidents should refrain from directing the CIA to perform what are essentially internal security tasks and the CIA should resist any effort to involve itself in improper activities. The CIA "should guard against allowing any component ... to become so self-contained and isolated from top leadership that regular supervision and review are lost." Files of previous improper investigations should be destroyed. The agency should not infiltrate American organizations without a written determination by the DCI that there is a threat to agency operations, facilities, or personnel that cannot be met by law enforcement agencies. Other recommendations were directed at CIA investigations of its personnel or former personnel, including provisions relating to physical surveillance, wire or oral communications, and access to income tax information.

As a result of efforts by some White House staff during the Nixon Administration to use CIA resources improperly, a number of recommendations dealt with the need to establish appropriate channels between the agency and the Executive Office of the President.

Reacting to evidence that drugs had been tested on unsuspecting persons, the commission recommended that the practice should not be renewed. Also, equipment for monitoring communications should not be tested on unsuspecting persons within the United States. An independent agency should be established to oversee civilian uses of aerial photography to avoid any concerns over the improper domestic use of a CIA-developed system.

Concerned with distinguishing the separate responsibilities of the CIA and the Federal Bureau of Investigation (FBI), the commission urged that the DCI and the Director of the FBI prepare and submit to the National Security Council a detailed agreement setting forth the jurisdictions of each agency and providing for effective liaison between them.

The commission also recommended that all intelligence agencies review their holdings of classified information and declassify as much as possible.

Church Committee (Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities), 1976

Established in the wake of sensational revelations about assassination plots organized by the CIA, the Church Committee had a much wider mandate than the Rockefeller Commission, extending beyond the CIA to all intelligence agencies.⁷⁷ It too, however, concentrated on illegalities and improprieties rather than organizational or managerial questions *per se*. After extensive and highly publicized hearings, the committee made some 183 recommendations in its final report, issued April 26, 1976.⁷⁸

The principal recommendation was that omnibus legislation be enacted to set forth the basic purposes of national intelligence activities and defining the relationship between intelligence activities and the Congress. Criticizing vagueness in the National Security Act of 1947, the committee urged charters for the several intelligence agencies to set forth general organizational structures and procedures, and delineate roles and responsibilities. There should also be specific and clearly defined prohibitions or limitations on intelligence activities. The effort to pass such legislation would consume considerable attention over a number of years, following the completion of the work of the Church Committee.

A number of recommendations reflected the committee's views on the appropriate role of the National Security Council in directing and monitoring the work of the intelligence agencies. The apparent goal was to encourage a more formal process, with accountability assigned to cabinet-level officials. The committee concluded that covert actions should be conducted only upon presidential authorization with notification to appropriate congressional committees.

Attention was given to the role of the DCI within the entire Intelligence Community. The committee recommended that the DCI be recognized by statute as the President's principal foreign intelligence advisor and that he should be responsible for establishing national intelligence requirements, preparing the national intelligence budget, and for providing guidance for intelligence operations.

The DCI should have specific responsibility for choosing among the programs of the different collection and production agencies and departments and to insure against waste and unnecessary duplication. The DCI should also have responsibility

⁷⁷ An informed account of the Church Committee's work is Loch K. Johnson, *A Season of Inquiry: Congress and Intelligence*, 2nd. ed. (Chicago: Dorsey Press, 1988).

⁷⁸ U.S. Congress, Senate, 94th Congress, 2nd session, Select Committee to Study Governmental Operations with respect to Intelligence Activities, Foreign and Military Intelligence, *Final Report*, Book I, S.Rept. 94-755, April 26, 1976; hereafter cited as the Church Committee Report.

for issuing fiscal guidance for the allocation of all national intelligence resources. The authority of the DCI to reprogram funds within the intelligence budget should be defined by statute.⁷⁹

Monies for the national intelligence budget would be appropriated to the DCI rather than to the directors of the various agencies. The committee also recommended that the DCI be authorized to establish an intelligence community staff to assist him in carrying out his managerial responsibilities. The staff should be drawn "from the best available talent within and outside the intelligence community."⁸⁰ Further, the position of Deputy DCI for the Intelligence Community should be established by statute (in addition to the existing DDCI who would have responsibility primarily for the CIA itself). It also urged consideration of separating the DCI from direct responsibility over the CIA.

The DCI, it was urged, should serve at the pleasure of the President, but for no more than ten years.

The committee also looked at intelligence analysis. It recommended a more flexible and less hierarchical personnel system with more established analysts being brought in at middle and upper grades. Senior positions should be established on the basis of analytical ability rather than administrative responsibilities. Analysts should be encouraged to accept temporary assignments at other agencies or on the NSC staff to give them an appreciation for policymakers' use of intelligence information. A system should be in place to ensure that analysts are more promptly informed about U.S. policies and programs affecting their areas of responsibility.

In addressing covert actions, the committee recommended barring political assassinations, efforts to subvert democratic governments, and support for police and other internal security forces engaged in systematic violations of human rights.

The committee addressed the questions of separating CIA's analysis and production functions from clandestine collection and covert action functions. It listed the pros and cons of this approach, but ultimately recommended only that the intelligence committees should give it consideration.

Reflecting concerns about abuses of the rights of U.S. citizens, the committee made a series of recommendations regarding CIA involvement with the academic community, members of religious organizations, journalists, recipients of government grants, and the covert use of books and publishing houses. A particular concern was limiting any influence on domestic politics of materials published by the CIA overseas. Attention was also given to proprietary organizations CIA creates to conduct operations abroad; the committee believed them necessary, but advocated stricter regulation and congressional oversight.

⁷⁹ Church Committee Report, pp. 434-435.

⁸⁰ Church Committee Report, p. 435.

The committee recommended enhanced positions for CIA's Inspector General (IG) and General Counsel (GC), urging that the latter be made a presidential appointee requiring Senate confirmation.

In looking at intelligence agencies other than the CIA, the committee recommended that the Defense Intelligence Agency (DIA) be made part of the civilian Office of the Secretary of Defense and that a small J-2 staff provide intelligence support to the Joint Chiefs of Staff. It was urged that the directors of both DIA and the National Security Agency (NSA) should be appointed by the President and confirmed by the Senate. The committee believe that either the director or deputy director of DIA and of NSA should be civilians. Turning to the State Department, the committee urged the Administration to issue instructions to implement legislation that authorized ambassadors to be provided information about activities conducted by intelligence agencies in their assigned countries. It also stated that State Department efforts to collect foreign political and economic information overtly should be improved.

Funding for intelligence activities has been included in Defense Department authorization and appropriations legislation since the end of World War II. The Church Commission advocated making public, at least, total amounts and suggested consideration be given as to whether more detailed information should also be released. The General Accounting Office (GAO) should be empowered to conduct audits at the request of congressional oversight committees.

Tests by intelligence agencies on human subjects of drugs or devices that could cause physical or mental harm should not occur except under stringent conditions.

The committee made a number of recommendations regarding procedures for granting security clearances and for handling classified information. It also recommended consideration of new legislative initiatives to deal with other existing problems. Finally, the Committee recommended the creation of a registry of all classified executive orders, including NSC directives, with access provided to congressional oversight committees.

Pike Committee (House Select Committee on Intelligence), 1976

The House Select Committee on Intelligence, chaired by Representative Otis G. Pike, also conducted a wide-ranging survey of intelligence activities. In the conduct of its hearings, the Pike Committee was far more adversarial to the intelligence agencies than the Senate Committee. Publication of its final report was not authorized by the House, although a version was published in a New York tabloid. The Pike Committee's recommendations, however, were published on February 11, 1976.⁸¹ There were some twenty recommendations, some dealing with congressional

⁸¹ U.S. Congress, House of Representatives, 94th Congress, 2nd session, Select Committee on Intelligence, *Recommendations of the Final Report of the House Select Committee on Intelligence*, H.Rept. 94-833, February 11, 1976.

oversight, with one dealing, anomalously, with the status of the Assistant to the President for National Security Affairs.

The Pike Committee recommended that covert actions not include, except in time of war, any activities involving direct or indirect attempts to assassinate any individual. The prohibition was extended to all paramilitary operations. A National Security Council subcommittee would review all proposals for covert actions and copies of each subcommittee member's comments would be provided to congressional committees. The committee further recommended that congressional oversight committees be notified of presidential approval of covert actions within 48 hours. According to the proposal, all covert actions would have to be terminated no later than 12 months from the date of approval or reconsidered.

The committee recommended that specific legislation be enacted to establish NSA and define its role in monitoring communications of Americans and placed under civilian control.

The Pike Committee further recommended that all "intelligence related items" be included as intelligence expenditures in the President's budget and that the total sum budgeted for intelligence be disclosed.

The committee recommended that transfers of funds be prohibited between agencies or departments involved in intelligence activities. Reprogramming of funds within agencies would be dependent upon the specific approval of congressional oversight and appropriations committees. The same procedures would be required for expenditures from reserve or contingency funds.

The Pike Committee also looked at the role of the DCI. Like many others who have studied the question, it recommended that the DCI should be separate from managing any agency and should focus on coordinating and overseeing the entire intelligence effort with a view towards eliminating duplication of effort and promoting competition in analysis. It advocated that he should be a member of the National Security Council. Under this proposal the DCI would have a separate staff and would prepare national intelligence estimates and daily briefings for the President. He would receive budget proposals from agencies involved in intelligence activities. (The recommendations did not indicate the extent of his authority to approve or disapprove these recommendations.) The DCI would be charged with coordinating intelligence agencies under his jurisdiction, eliminating duplication, and evaluating performance and efficiency.

The committee recommended that the GAO conduct a full and complete management and financial audit of all intelligence agencies and that the CIA internal audit staff be given complete access to CIA financial records.

The committee recommended that a permanent foreign operations subcommittee of the NSC, composed of cabinet-rank officials, be established. This subcommittee would have jurisdiction over all authorized activities of intelligence agencies (except those solely related to intelligence gathering) and review all covert actions, clandestine activities, and hazardous collecting activities.

It was recommended that DIA be abolished and its functions divided between the Office of the Secretary of Defense and the CIA. The intelligence components of the military services would be prohibited from undertaking covert actions within the U.S. or clandestine activities against U.S. citizens abroad.

Relations between intelligence and law enforcement organizations were to be limited. Intelligence agencies would be barred from providing funds to religious or educational institutions or to those media with general circulation in the United States.

The committee recommended that specific legislation be considered to deal with the classification and regular declassification of information.

It was also recommended that an Inspector General for Intelligence be nominated by the President and confirmed by the Senate with authority to investigate potential misconduct of any intelligence agency or personnel. He would make annual reports to the Congress.

The committee also made recommendations regarding the organization and operations of the FBI and its role in investigating domestic groups.

In an additional recommendation, Representative Les Aspin, a member of the committee, urged that the CIA be divided into two separate agencies, one for analysis and the other for clandestine collection and covert operations. A similar recommendation was made by Representative Ron Dellums, who also served on the committee.

Clifford and Cline Proposals, 1976

In 1976 hearings by the Senate Committee on Government Operations, Clark Clifford (who had served as President Johnson's final Secretary of Defense and, in an earlier position in the Truman Administration, had been involved in legislation creating the CIA) proposed the creation of a post of Director General of Intelligence to serve as the President's chief adviser on intelligence matters and as principal point of contact with the congressional intelligence committees. There would be a separate director of the CIA whose duties would be restricted to day-to-day operations.⁸²

In the same year, Ray Cline, a former Deputy Director of the CIA, made a number of recommendations.⁸³ He recommended that the DCI exert broad supervisory powers over the entire intelligence community and the CIA be divided into two agencies, one to undertake analytical work and the other for clandestine services. He also proposed that the DCI be given cabinet rank, a practice that would find support in both the Reagan and Clinton administrations.

⁸² U.S. Congress, Senate, 94th Congress, 2nd session, Committee on Government Operations, *Oversight of U.S. Government Intelligence Functions*, Hearings, Jan. 21-Feb. 6, 1976, pp. 203-204.

⁸³ In his book *Secrets, Spies, and Scholars* (Washington: Acropolis Books, 1976).

Proposed Charter Legislation, 1978-1980

Subsequent to the establishment of permanent intelligence oversight committees in the Senate in 1976 and the House of Representatives in 1977, attention in Congress shifted to consideration of charter legislation for intelligence agencies.⁸⁴ It was envisioned that the charter legislation would include many of the recommendations made earlier by the Church and Pike Committees. Introduced by Senator Walter Huddleston and Representative Edward Boland, the draft National Intelligence Reorganization and Reform Act of 1978 (S. 2525/H.R. 11245, 95th Congress) would have provided statutory charters to all intelligence agencies and created a Director of National Intelligence (DNI) to serve as head of the entire Intelligence Community. Day-to-day leadership of CIA could be delegated to a deputy at presidential discretion. The draft legislation contained numerous reporting requirements (regarding covert actions in particular) to Congress and an extensive list of banned or restricted activities. The draft legislation of more than 170 pages was strongly criticized from all sides in hearings; some arguing that it would legitimize covert actions inconsistent with American ideals and others suggesting that its complex restrictions would unduly hamper the protection of vital American interests. The bills were never reported out of either intelligence committee, although the Foreign Intelligence Surveillance Act of 1978 (P.L. 95-511) provided a statutory base for electronic surveillance within the United States.

Charter legislation was also introduced in the 96th Congress. It contained many of the provisions introduced in the earlier version, but also loosened freedom of information regulations for intelligence agencies and the requirements of the Hughes-Ryan amendments of 1974 requiring that some eight committees be notified of covert actions. This legislation (S. 2284, 96th Congress) came under even heavier criticism from all sides than its predecessor. It was not reported by the Senate Intelligence Committee, but other stand-alone legislation did pass and a shorter bill reducing the number of committees receiving notification of covert actions — and “significant anticipated intelligence activities” — was introduced and eventually became law in October 1980 as part of the FY1981 Intelligence Authorization Act (P.L. 96-450).

The Executive Branch Response, 1976-1981

Concurrent with, and subsequent to, these legislative initiatives, the Executive Branch, in part to head off further congressional action, implemented some of the more limited recommendations contained in their respective proposals. Presidents Gerald Ford, Jimmy Carter, and Ronald Reagan each issued detailed Executive Orders (E.O.) setting guidelines for the organization and management of the U.S. Intelligence Community.

⁸⁴ The effort to pass intelligence charter legislation is described in John M. Oseth, *Regulating U.S. Intelligence Operations: A Study in Definition of the National Interest* (Lexington, KY: University Press of Kentucky, 1985); also, Frank J. Smist, Jr., *Congress Oversees the United States Intelligence Community, Second Edition, 1947-1994* (Knoxville, TN: University of Tennessee Press, 1994).

Issued by President Ford on February 18, 1976, prior to the release of the Church and Pike Committee findings, Executive Order 11905 undertook to implement some of the more limited recommendations of the Rockefeller and Murphy Commissions. In particular, E.O. 11905 identified the DCI as the President's primary intelligence advisor and the principal spokesman for the Intelligence Community and gave him responsibilities for developing the National Foreign Intelligence Program (NFIP). It also delineated responsibilities of each intelligence agency, provided two NSC-level committees for internal review of intelligence operations, and established a separate three-member Intelligence Oversight Board to review the legality and propriety of intelligence activities. It placed restrictions on the physical and electronic surveillance of American citizens by intelligence agencies.⁸⁵

On January 24, 1978, President Carter issued Executive Order 12036, that superseded E.O. 11905.⁸⁶ Carter's Executive Order sought to define more clearly the DCI's community-wide authority in areas relating to the "budget, tasking, intelligence review, coordination and dissemination, and foreign liaison."⁸⁷ In particular, it formally recognized the establishment of the National Foreign Intelligence Program budget and the short-lived National Intelligence Tasking Center (NTIC), that was supposed to assist the DCI in "translating intelligence requirements and priorities into collection objectives."⁸⁸ E.O. 11905 also restricted medical experimentation and prohibited political assassinations.

President Reagan continued the trend towards enhancing the DCI's community-wide budgetary, tasking, and managerial authority. On December 4, 1981, he issued Executive Order 12333, detailing the roles, responsibilities, missions, and activities of the Intelligence Community. It supplanted the previous orders issued by Presidents Ford and Carter. E.O. 12333 remains the governing executive branch mandate concerning the managerial structure of the Intelligence Community.

E.O. 12333 designates the DCI "as the primary intelligence advisor to the President and NSC on national foreign intelligence."⁸⁹ In this capacity, the DCI's duties include the implementation of special activities (covert actions), liaison to the nation's foreign intelligence and counterintelligence components, and the overall protection of the community's sources, methods, and analytical procedures.⁹⁰ It grants

⁸⁵ Executive Order 11905, February 18, 1976, United States Foreign Intelligence Activities, as summarized in Alfred B. Prados, *Intelligence Reform: Recent History and Proposals*, CRS Report 88-562 F, August 18, 1988, p. 18; hereafter cited as Prados, 88-562 F. (Out of print report; available upon request from the author.)

⁸⁶ Executive Order 12036, January 24, 1978, United States Intelligence Activities; hereafter cited as Executive Order 12036.

⁸⁷ Lowenthal, p. 107.

⁸⁸ Bruce W. Watson, Susan M. Watson, and Gerald W. Hoppole, *United States Intelligence: An Encyclopedia* (New York: Garland Publishing, 1990), p. 231.

⁸⁹ Section 1.5(a), Executive Order 12333, December 4, 1981, *United States Intelligence Activities*.

⁹⁰ Executive Order 12333, Section 1.5 (d,e,h).

the DCI “full responsibility for [the] production and dissemination of national foreign intelligence,” including the authority to task non-CIA intelligence agencies, and the ability to decide on community tasking conflicts.⁹¹ The order also sought to grant the DCI more explicit authority over the development, implementation, and evaluation of NFIP.⁹²

To a certain extent, E.O. 12333 represented a relaxation of the restrictions placed upon the community by Carter. Although it maintained the prohibition on assassination, the focus was on “authorizations” rather than “restrictions.” “Propriety” was removed as a criterion for approving operations. Arguably, the Reagan Administration established a presumption in favor of government needs over individual rights.⁹³ However, in the absence of legislation, the DCI continued to lack statutory authority over all aspects of the Intelligence Community, including budgetary issues.

The Turner Proposal, 1985

In 1985, Admiral Stansfield Turner, DCI in the Carter Administration, expressed his views on the need for intelligence reform⁹⁴. In part, Turner recommended reducing the emphasis on covert action and implementing a charter for the Intelligence Community. The most important recommendation involved the future of the DCI of which Turner maintained:

The two jobs, head of the CIA and head of the Intelligence Community, conflict. One person cannot do justice to both and fulfill the DCI’s responsibilities to the President, the Congress, and the public as well.⁹⁵

Turner went on to propose the separation of the two jobs of DCI and head of the CIA with the creation of a Director of National Intelligence, separate and superior to the CIA. Turner also recommended placing less emphasis on the use of covert action than the Reagan Administration.

Iran-Contra Investigation, 1987

During highly publicized investigations of the Reagan Administration’s covert support to Iran and the Nicaraguan Resistance, the role of the Intelligence Community, the CIA, and DCI Casey were foci of attention. Much of the involvement of National Security Council staff was undertaken precisely because legislation had been enacted severely limiting the role of intelligence agencies in Central America and because efforts to free the hostages through cooperation with

⁹¹ Executive Order 12333, Section 1.5(k,h).

⁹² Lowenthal, p. 107.

⁹³ See Oseth, *Regulating U.S. Intelligence Operations*, especially p. 155.

⁹⁴ In his book *Secrecy and Democracy: The CIA in Transition* (Boston: Houghton Mifflin, 1985).

⁹⁵ *Secrecy and Democracy*, p. 273.

Iranian officials had been strongly opposed by CIA officials. The executive branch's review, chaired by former Senator John Tower, expressed concern that precise procedures be established for restricted consideration of covert actions and that NSC policy officials had been too closely involved in the preparation of intelligence estimates.⁹⁶ The investigation of the affair by two congressional select committees resulted in a number of recommendations for changes in laws and regulations governing intelligence activities.

Specifically the majority report of the two congressional select committees that investigated the affair made a number of recommendations regarding presidential findings concerning the need to initiate covert actions. Findings should be made prior to the initiation of a covert action, they should be in writing, and they should be made known to appropriate Members of Congress in no event later than forty-eight hours after approval. Further, the majority of the committees urged that findings be far more specific than some had been in the Reagan Administration. Statutory inspector general and general counsels, confirmed by the Senate, for the CIA were also recommended.⁹⁷ Minority members of the two committees made several recommendations regarding congressional oversight, urging that on extremely sensitive matters that notifications of covert actions be made to only four Members of Congress instead of the existing requirement for eight to be notified.⁹⁸

These recommendations were subsequently considered by the two intelligence committees. A number of provisions was enacted dealing with covert action findings in the Intelligence Authorization Act for FY1991 (P.L. 102-88).

Boren-McCurdy, 1992

A major legislative initiative, reflecting the changed situation of the post-Cold War world, began in February 1992, when Senator David Boren, the Chairman of the Senate Select Committee on Intelligence, and Representative Dave McCurdy, the Chairman of the House Permanent Select Committee on Intelligence, announced separate plans for an omnibus restructuring of the U.S. Intelligence Community, to serve as an intelligence counterpart to the Goldwater-Nichols Department of Defense Reorganization Act of 1986. The two versions of the initiative (S. 2198 and H.R. 4165, 102nd Congress) differed in several respects, but the overall thrust of the two bills was similar. Both proposals called for the following:

⁹⁶ U.S., President's Special Review Board, *Report*, 1987, pp. V-5 — V-6.

⁹⁷ U.S. Congress, 100th Congress, 1st session, Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition and U.S. House of Representatives Select Committee to Investigate Covert Arms Transactions with Iran, *Report of the Congressional Committees Investigating the Iran-Contra Affair with Supplemental, Minority, and Additional Views*, S.Rept. 100-216/H.Rept. 100-433, November 17, 1987, pp. 423-427; hereafter cited as the Iran-Contra Report.

⁹⁸ Iran-Contra Report, pp. 583-586.

- Creating a Director of National Intelligence (DNI) with authority to program and reprogram intelligence funds throughout the Intelligence Community, including the Defense Department, and to direct their expenditure; and to task intelligence agencies and transfer personnel temporarily from one agency to another to support new requirements;
- Creating two Deputy Directors of National Intelligence (DDNIs); one of whom would be responsible for analysis and estimates, the other for Intelligence Community affairs;
- Creating a separate Director of the CIA, subordinate to the new DNI, to manage the agency's collection and covert action capabilities on a day-to-day basis;
- Consolidating analytical and estimative efforts of the Intelligence Community (including analysts from CIA, and some from DIA, the Bureau of Intelligence and Research (INR) at the State Department, and other agencies) into a separate office under one of the Deputy DNIs (this aspect of the proposal would effectively separate CIA's analytical elements from its collection and covert action offices);
- Creating a National Imagery Agency within the Department of Defense (DOD) to collect, exploit, and analyze imagery (these tasks had been spread among several entities; the House version would divide these efforts into two new separate agencies); and
- Authorizing the Director of DIA to task defense intelligence agencies (DIA, NSA, the new Imagery Agency) with collection requirements; and to shift functions, funding, and personnel from one DOD intelligence agency to another.

This major restructuring effort would have provided statutory mandates for agencies where operational authority was created by executive branch directives. Both statutes and executive branch directives provided the DCI authority to task intelligence agencies outside the CIA and to approve budgets and reprogramming efforts; in practice, however, this authority had never been fully exercised. This legislation would have provided a statutory basis for the DCI (or DNI) to direct collection and analytical efforts throughout the Intelligence Community.

The Boren-McCurdy legislation was not adopted, although provisions were added to the FY1994 Intelligence Authorization Act (P.L. 102-496) that provided basic charters for intelligence agencies within the National Security Act and set forth in law the DCI's coordinative responsibilities *vis-à-vis* intelligence agencies other than the CIA. Observers credited strong opposition from the Defense Department and concerns of the Armed Services Committees with inhibiting passage of the original legislation.

Commission on the Roles and Capabilities of the U.S. Intelligence Community (Aspin/Brown Commission), 1995-1996

Established pursuant to the Intelligence Authorization Act for FY1995 (P.L. 103-359) of September 27, 1994, the Commission on the Roles and Capabilities of the U.S. Intelligence Community was formed to assess the future direction, priorities, and structure of the Intelligence Community in the post-Cold War environment. Originally under the chairmanship of Les Aspin, after his sudden death the commission was headed by former Secretary of Defense Harold Brown. Nine members were appointed by the president and eight nominated by the congressional leadership.

The Report of the Aspin/Brown Commission⁹⁹ made a number of recommendations regarding the organization of the Intelligence Community. Structural changes in the NSC staff were proposed to enhance the guidance provided to intelligence agencies. Global crime — terrorism, international drug trafficking, proliferation of weapons of mass destruction, and international organized crime — was given special attention with recommendations for an NSC Committee on Global Crime. The Commission also recommended designating the Attorney General to coordinate the “nation’s law enforcement response to global crime,” and clarifying the authority of intelligence agencies to collect information concerning foreign persons abroad for law enforcement purposes. It urged that the sharing of relevant information between the law enforcement and intelligence communities be expanded, and their activities overseas be better coordinated.¹⁰⁰

The Commission noted that it considered many options for dealing with limitations in the DCI’s ability to coordinate the activities of all intelligence agencies. The Aspin/Brown Commission recommended the establishment of two new deputies to the DCI — one for the Intelligence Community and one for day-to-day management of the CIA. Both would be Senate-confirmed positions and the latter for a fixed six-year term. The DCI would concur in the appointment of the heads of “national” intelligence elements within DOD and would evaluate their performance in their positions as part of their ratings by the Secretary of Defense. “In addition, the DCI would be given new tools to carry out his responsibilities with respect to the intelligence budget and new authority over the intelligence personnel systems.”

The Aspin/Brown Commission recommended the realignment of intelligence budgeting procedures with “discipline” (i.e. sigint, imagery, humint, *etc.*) managers having responsibilities for managing similar efforts in all intelligence agencies. “The DCI should be provided a sufficient staff capability to enable him to assess tradeoffs between programs or program elements and should establish a uniform, community-

⁹⁹ Report of the Commission on the Roles and Capabilities of the United States Intelligence Community, *Preparing for the 21st Century: An Appraisal of U.S. Intelligence* (Washington: Government Printing Office, 1996).

¹⁰⁰ *Ibid.*, p. xix.

wide resource data base to serve as the principal information tool for resource management across the Intelligence Community.”¹⁰¹

Responding to a longstanding criticism of intelligence budget processes, the Commission recommended that the total amounts appropriated for intelligence activities be disclosed — a recommendation that was implemented by the Clinton Administration for Fiscal Years 1997 and 1998. Subsequently, however, figures were not made public.

In regard to congressional oversight, the Aspin/Brown Commission recommended that appointments to intelligence committees not be made for limited numbers of years but treated like appointments to other congressional committees.

IC21: Intelligence Community in the 21st Century, 1996

In addition to the Aspin/Brown Commission, in 1995-1996 the House Intelligence Committee undertook its own extensive review of intelligence issues. Many of the conclusions of the resultant IC21 Staff Study were consistent with those of the Commission.¹⁰² The “overarching concept” was a need for a more “corporate” intelligence community, i.e. a collection of agencies that recognize that they are parts of “a larger coherent process aiming at a single goal: the delivery of timely intelligence to policy makers at various levels.” Accordingly, “central management should be strengthened, core competencies (collection, analysis, operations) should be reinforced and infrastructure should be consolidated wherever possible.”¹⁰³

Specific IC21 recommendations provided for a radically restructured community and included

- the DCI should have a stronger voice in the appointment of the directors of NFIP defense agencies;
- the DCI should have greater programmatic control of intelligence budgets and intelligence personnel;
- a Committee on Foreign Intelligence should be established within the National Security Council;
- two DDCIs should be established; one to direct the CIA and managing analysis and production throughout the Community and the other responsible for IC-wide budgeting, requirements and collection management and tasking, infrastructure management and system acquisition;

¹⁰¹ Ibid., p. xxi.

¹⁰² U.S. Congress, 104th Congress. House of Representatives, Permanent Select Committee on Intelligence, Staff Study, *IC21: Intelligence Community in the 21st Century*, April 9, 1996.

¹⁰³ Ibid., p. 9.

- establishment of a Community Management Staff with IC-wide authority over, and coordination of, requirements, resources and collection;
- there should be a uniformed officer serving as Director of Military Intelligence with authority to manage/coordinate defense intelligence programs (JMIP and TIARA);
- the Clandestine Service, responsible for all humint, should be separated from the CIA, reporting directly to the DCI;
- a Technical Collection Agency should be established to create an IC-wide management organization responsible for directing all collection tasking by all agencies and ensuring a coherent, multi-discipline approach to all collection issues;
- there should be common standards and protocols for technical collection systems, from collection through processing, exploitation and dissemination;
- a Technology Development Office should be established to perform community research and development functions; and
- congressional oversight should be strengthened by the establishment of a joint intelligence committee; alternatively the House intelligence committee should be made a standing committee without tenure limits.

The Response to Aspin/Brown and IC21: The Intelligence Authorization Act for FY1997

Congressional Response. The recommendations of the Aspin/Brown Commission and the IC21 Study led to extensive congressional consideration of intelligence organization issues. The House Intelligence Committee considered separate legislation on intelligence organization (H.R. 3237, 104th Congress); the Senate included extensive organizational provisions as part of the intelligence authorization bill for FY1997 (S. 1718, 104th Congress). In addition, the Defense Authorization Act for FY1997 (P.L. 104-201) included provisions establishing the National Imagery and Mapping Agency (NIMA)¹⁰⁴ that combined elements from intelligence agencies as well as the Defense Mapping Agency which had not been part of the Intelligence Community.¹⁰⁵

¹⁰⁴ In 2003 NIMA was renamed the National Geospatial-Intelligence Agency (NGA).

¹⁰⁵ For the creation of NIMA, see Anne Daugherty Miles, "The Creation of the National Imagery and Mapping Agency: Congress's Role as Overseer," Occasional Paper Number Nine, Joint Military Intelligence College, April 2001.

The conference version of the FY1997 intelligence authorization legislation, eventually enacted as P.L. 104-293, included as its Title VIII, the “Intelligence Renewal and Reform Act of 1996.” The act established within the NSC two committees, one on foreign intelligence and another on transnational threats. The former was to identify intelligence priorities and establish policies. The latter was to identify transnational threats and develop strategies to enable the U.S. to respond and to “develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community.
...¹⁰⁶

Two deputy DCI positions were established, one for Deputy DCI and the other for a Deputy DCI for Community Management, both Senate-confirmed positions. While the Deputy DCI would have responsibilities coterminous with those of the DCI, the Deputy DCI for Community Management would focus on the coordination of all intelligence agencies. Congress did not attempt to establish a position for a head of the CIA separate from that of the DCI.

In addition to the two deputy DCIs, the legislation provided for three assistant DCIs — for Collection, for Analysis and Production of Intelligence, and for Administration. The statute calls for all three assistant DCI positions to be filled by, and with, the advice and consent of the Senate. The statute is clear that the positions were envisioned as being designed to enhance intelligence capabilities and coordination of the efforts of all intelligence agencies. In addition, the legislation required that the DCI concur in the appointment of three major defense intelligence agencies — NSA, the NRO, and NIMA (later renamed the National Geospatial-Intelligence Agency). If the DCI failed to concur, the nominations could still be forwarded to the President, but the DCI’s non-concurrence had to be noted. The act required that the DCI be consulted in the appointment of the DIA director, the Assistant Secretary of State for Intelligence and Research, and the director of the Office of Nonproliferation and National Security of the Energy Department¹⁰⁷. The FBI director is required to give the DCI timely notice of an intention to fill the position of assistant director of the FBI’s National Security Division.

The act gave the DCI authority to develop and present to the President an annual budget for the National Foreign Intelligence Program and to participate in the development by the Secretary of Defense of the Joint Military Intelligence Program (JMIP) and the Tactical Intelligence and Related Activities Program (TIARA). Moreover, the DCI gained authority to “approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national

¹⁰⁶ Codified at 50 USC 402(i)(4)(F); transnational threats were defined as “any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.” 50 USC 402(i)(5)(A).

¹⁰⁷ Subsequently modified in 2001 by P.L. 107-108 to substitute the Director of the Office of Intelligence and the Director of the Office of Counterintelligence of the Department of Energy. More recently, legislation signed in 2003 added the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury (P.L. 108-381).

collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President.”¹⁰⁸

Presidential Statement. President Clinton signed the legislation on October 11, 1996, but in so doing he stated concerns about provisions that “purport to direct” the creation of two new NSC committees. “Such efforts to dictate the President’s policy process unduly intrude upon Executive prerogatives and responsibilities. I would note that under my Executive authority, I have already asked the NSC to examine these issues.” Furthermore, he criticized provisions requiring the DCI to concur or be consulted before the appointment of certain intelligence officials. This requirement, he argued, “is constitutionally questionable in two areas: regarding limitations on the President’s ability to receive the advice of cabinet officers; and regarding circumscription of the President’s appointment authority.”

The statement also noted the “strong opposition” by DCI John Deutch to provisions establishing three new assistant DCIs, each requiring Senate confirmation. President Clinton added: “I share his concerns that these provisions will add another layer of positions requiring Senate confirmation without a corresponding gain in the DCI’s authority or ability to manage the Intelligence Community. I understand that the DCI intends to seek repeal or significant modification of these provisions in the 105th Congress. I will support such efforts.”¹⁰⁹

Implementation. George Tenet, nominated to succeed John Deutch, responded to a question from Senator Robert Kerrey during his Senate confirmation hearing in May 1997, that “I may have some changes in the law in my own mind, if I’m confirmed, that allows us to meet your objectives. And I want to come work with you on it.” Tenet also indicated that he believed that the DCI’s statutory responsibilities for coordinating the work of all intelligence agencies was adequate.¹¹⁰

In May 1998, the Senate Intelligence Committee held a hearing on the nomination of Joan A. Dempsey as the first Deputy DCI for Community Management. In opening remarks, Chairman Shelby noted discussions with the executive branch regarding the positions established by P.L. 104-293:

we have reached an accommodation with the Director of Central Intelligence on these positions, and we expect that the President to put forward a nominee for the position of Assistant Director of Central Intelligence for Administration, or ADCI, soon. We have agreed to allow the DCI to fill the positions of ADCI for Collection and ADCI for Analysis and Production without exercising the

¹⁰⁸ 50 USC 403-3(c)(1)(3).

¹⁰⁹ Statement on Signing the Intelligence Authorization Act for Fiscal Year 1997, October 11, 1996, *Weekly Compilation of Presidential Documents*, October 14, 1996, p. 2039.

¹¹⁰ U.S. Congress, 105th Congress, 1st session, Senate, Select Committee on Intelligence, *Nomination of George J. Tenet to be Director of Central Intelligence*, S. Hearing 105-314, May 6, 1997, pp. 64, 89.

Senate's right for advice and consent for up to one year while we assess the new management structure.¹¹¹

Dempsey in her testimony succinctly set forth the fundamental problem of intelligence organization:

It's somewhat amusing to me — and I've spent most of my career in the Department of Defense ... and when I was in DOD there was always this fear that a very powerful DCI with a full-time emphasis on intelligence and managing the community would fail to support the DOD the way it needed to be supported with intelligence. Since I've come over to the Central Intelligence Agency side of the intelligence community, I've found the same fear, but this time directed at what DOD is going to do to subvert the role of the DCI.

She noted, however, the establishment of coordinative mechanisms such as the Defense Resources Board and the Intelligence Program Review Group and “constant accommodations made by Secretaries of Defense and DCIs to work together to find solutions to problems.” In general, she argued, “the relations have been good.”¹¹²

The following February, the Senate Intelligence Committee met to consider the nomination of James Simon as Assistant DCI for Administration. At the hearing, the Vice Chairman, Senator Robert Kerrey, noted that the DCI had taken the interim steps of appointing Acting Assistant Directors for collection and for analysis. He added: “I expect Presidential nominations for these positions will be forthcoming soon.”¹¹³ He noted, however, that “Once the 1997 Authorization Act was passed, the Community resisted mightily the appointment of Assistant Directors of Central Intelligence for collection and analysis.”¹¹⁴

Simon testified that he would be responsible for “the creation of a process to ensure that the needs of all customers — strategic and tactical, intelligence and battlefield surveillance, traditional and novel — are articulated, validated, and made manifest in our programs.”¹¹⁵ Simon noted in passing the importance of a highly capable staff to perform coordination missions; he referred to the former Intelligence Community Staff as having had “a certain percentage of people there who, frankly, had retired in place or were considered to be brain dead and wanted a quiet place where they could make it to retirement without being bothered. A greater proportion

¹¹¹ U.S. Congress, 105th Congress, 2d session, Senate, Select Committee on Intelligence, Hearing, *Nomination of Joan A. Dempsey to be Deputy Director of Intelligence for Community Management*, Senate Hearing 105-1056, May 21-22, 1998, p. 1.

¹¹² *Ibid.*, p. 40.

¹¹³ U.S. Congress, 106th Congress, 1st session, Senate, Select Committee on Intelligence, Hearing, *Nomination of James M. Simon, Jr., to be Assistant Director of Central Intelligence for Administration*, Senate Hearing 106-394, February 4, 1999, p. 3.

¹¹⁴ *Ibid.*, p. 4.

¹¹⁵ *Ibid.*, p. 41.

were those that their agencies either didn't want or that they felt were not progressing acceptably within their own agency. . . .¹¹⁶

Both Dempsey and Simon were confirmed by the Senate and served for several years in their respective positions. In July 2003 Dempsey, having left the DDCI position, was appointed Executive Director of the President's Foreign Intelligence Advisory Board; Simon retired in 2003. Only in July 2004 was Larry Kindsvater confirmed by the Senate as DDCI for Community Management; nominations for assistant DCI positions have not been submitted. The statutory provisions remain in place, however.

Despite the effort that went into the FY1997 legislation, the efforts intended to enhance the DCI's community-wide role have not been fully implemented.¹¹⁷ The FY1997 Act established four new Senate-confirmed positions having responsibilities that extend across all intelligence agencies. Since enactment, the Senate has received nominations for only two individuals to these positions (both were duly confirmed and sworn in) but both left office in 2003 and replacements have not yet been nominated. Some observers also believe that the DCI's authorities in the preparation of budgets for all intelligence agencies have not been fully exercised.¹¹⁸ Observers suggest that there is little likelihood that serious efforts will be made, however, to seek repeal of the provisions at a time when intelligence agencies are under scrutiny for their abilities to "connect the dots" on international threats.

Joint Inquiry on the Terrorist Attacks of September 11, 2001; Additional Views of Senator Shelby, 2002

In the aftermath of the September 11, 2001 attacks on the World Trade Center and the Pentagon, the two congressional intelligence committees agreed to conduct a Joint Inquiry into the activities of the Intelligence Community in connection with the attacks. The Joint Inquiry undertook an extensive investigation and conducted a number of public and closed hearings. The two Committees' recommendations were published in December 2002 some of which addressed issues of Intelligence Community organization. The unclassified version of the Inquiry's report was published in mid-2003.

¹¹⁶ *Ibid.*, p. 43.

¹¹⁷ A somewhat pessimistic academic assessment of the effects of the IC21 study can be found in Abraham H. Miller and Brian Alexander, "Structural Quiescence in the Failure of IC21 and Intelligence Reform," *International Journal of Intelligence and Counterintelligence*, Summer 2001. Management of ISR programs is discussed in CRS Report RL32508, *Intelligence, Surveillance, and Reconnaissance (ISR) Programs: Congressional Oversight Issues*.

¹¹⁸ See U.S. Congress, 107th Congress, 2d session, Senate Committee on Intelligence and House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001*, S.Rept. 107-351, H.Rept. 107-792, December 2002, pp. 347-348.

Principally, the two committees urged that the National Security Act be amended to create a statutory Director of National Intelligence, separate from the head of the CIA. This DNI would have the “full range of management, budgetary and personnel responsibilities needed to make the entire U.S. Intelligence Community operate as a coherent whole.” These would include “establishment and enforcement” of collection, analysis, and dissemination priorities; authority to move personnel between Intelligence Community elements; and “primary management and oversight of the execution of Intelligence Community budgets.”

The committees also recommended that Congress consider legislation, similar to the Goldwater-Nichols Act of 1986 which reorganized the Defense Department, to instill a sense of jointness throughout the Intelligence Community, including joint education, joint career specialties, and more “joint tours” in other agencies that would be designated as “career-enhancing.”

The then-Vice Chairman of the Senate Intelligence Committee, Senator Richard Shelby, submitted additional views that also advocated organizational changes in the Intelligence Community.¹¹⁹ Shelby argued that “The fragmented nature of the DCI’s authority has exacerbated the centrifugal tendencies of bureaucratic politics and has helped ensure that the IC responds too slowly and too disjointedly to shifting threats.” Accordingly, the “office of the DCI should be given more management and budgetary authority over IC organs and be separated from the job of the CIA Director.”¹²⁰

Further, Shelby argued that the basic structure of the National Security Act needs to be re-examined to separate “central” analytical functions from “resource-hungry collection responsibilities that make agencies into self-interested bureaucratic ‘players.’” Shelby acknowledged that, “Creating a *true* DCI would entail removing dozens of billions of dollars of annual budgets from the Defense Department, and depriving it of ‘ownership’ over ‘its’ ‘combat support organizations.’ In contemporary Washington bureaucratic politics, this would be a daunting challenge; DOD and its congressional allies would make such centralization an uphill battle, to say the least.”¹²¹ Shelby also recalls the Goldwater-Nichols precedent in urging that the Intelligence Community be restructured, but cautions that the Intelligence Community should not be reformed solely to meet the terrorist threat: “*we need an Intelligence Community agile enough to evolve as threats evolve, on a continuing basis. Hard-wiring the IC in order to fight terrorists, I should emphasize, is precisely the wrong answer, because such an approach would surely leave us unprepared for the next major threat, whatever it turns out to be.*”¹²²

¹¹⁹ “September 11 and the Imperative of Reform in the U.S. Intelligence Community,” Additional Views of Senator Richard C. Shelby, Vice Chairman, Senate Select Committee on Intelligence, December 10, 2002.

¹²⁰ *Ibid.*, p. 3.

¹²¹ *Ibid.*, p. 16.

¹²² *Ibid.*, p. 18 (italics in original).

National Commission on Terrorist Attacks Upon the United States (The 9/11 Commission), 2004

Established by the Intelligence Authorization Act for FY2003 (P.L. 107-306), the 9/11 Commission, chaired by former New Jersey Governor Thomas H. Kean, undertook a lengthy investigation of the “facts and circumstances relating to the terrorist attacks of September 11, 2001.” Although the Commission’s mandate extended beyond intelligence and law enforcement issues, a number of principal recommendations, made public on July 22, 2004 address the organization of the Intelligence Community. The Commission argues that with current authorities the DCI is:

responsible for community performance but lacks the three authorities critical for any agency head or chief executive officer: (1) control over purse strings, (2) the ability to hire or fire senior managers, and (3) the ability to set standards for the information infrastructure and personnel.¹²³

The 9/11 Commission recommends the establishment of a National Counterterrorism Center (NCTC), responsible for both joint operational planning and joint intelligence, and the position of a Director of National Intelligence. In addition to overseeing various intelligence centers, the DNI would manage the National Foreign Intelligence Program and oversee the agencies that contribute to it. The Community Management Staff would report to the DNI. The DNI would manage the agencies with the help of three deputies, each of whom would also hold a key position in one of the component agencies. A deputy for foreign intelligence would be the now-separate head of the CIA, a deputy for defense intelligence would be the Under Secretary of Defense for Intelligence, and the deputy for homeland intelligence would be either an FBI or Department of Homeland Security (DHS) official. The DNI would not have responsibilities for intelligence programs affecting only Defense Department consumers. The report does not describe how the person serving simultaneously as the DNI’s assistant for defense intelligence and as an Under Secretary of Defense would resolve any differing guidance from the DNI and the Secretary of Defense. The 9/11 Commission also recommends a separate intelligence appropriation act the total of which would be made public.¹²⁴

¹²³ U.S., National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, July 2004, p. 410.

¹²⁴ For further background on the 9/11 Commission proposals, see CRS Report RL32506, *The Position of Director of National Intelligence: Issues for Congress*.

Conclusion

The efforts of committees, commissions and individuals to encourage restructuring of the U.S. Intelligence Community have led to numerous changes through internal agency direction, presidential directives and executive orders, and new statutes. The general trend has been towards more thorough oversight both by the executive branch and by congressional committees. The position of the DCI has been considerably strengthened and DCIs have been given greater staff and authority to exert influence on all parts of the Community. They have not, however, been given "line" authority over agencies other than the CIA, and the influence of the Defense Department remains pervasive. Some have argued that, in the light of the Intelligence Community's inability to provide warning of the September 2001 attacks on the World Trade Center and the Pentagon and inaccurate intelligence estimates about Iraqi weapons of mass destruction, the need for reorganizing the Intelligence Community has become self-evident. Others argue that many of the reforms that have been proposed could make matters worse. The issue appears to be moving higher on the congressional agenda. Specific legislation to reorganize the nation's intelligence effort is currently under consideration and the 9/11 Commission's recommendations are receiving widespread interest.