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REORGANIZING AMERICA'S INTELLIGENCE COMMUNITY: A VIEW FROM THE INSIDE

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

AUGUST 16, 2004

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REORGANIZING AMERICA'S INTELLIGENCE COMMUNITY: A VIEW FROM THE INSIDE

MONDAY, AUGUST 16, 2004

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in room SD–342 Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Lieberman, Voinovich, Coleman, Sununu, Levin, Durbin, Carper, and Dayton.

Also present: Senators Roberts and Rockefeller

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order. I want to welcome not only our witnesses today and the Members of the Governmental Affairs Committee who have rearranged their schedules to be here, which I very much appreciate in light of the urgency of our task, but I also want to recognize that we are joined today by the Chairman of the Senate Intelligence Committee, the distinguished Senator from Kansas, Senator Roberts. And that we expect shortly the Ranking Member of that committee, Senator Rockefeller, to also join us.

I felt that since the Senate Intelligence Committee has so much expertise in this area, and we are hearing from three former Directors of the CIA, that it would be appropriate for the Chairman and the Ranking Member of that committee to join us today, and I am very pleased that they have done so, and we welcome you, Senator Roberts.

Today, the Governmental Affairs Committee holds its third hearing on the recommendations of the 9/11 Commission calling for a restructuring of the Intelligence Community. At our last hearing, on August 3, we explored the National Counterterrorism Center proposal. The testimony that we heard from experienced intelligence officers and from key Commission staff will help us greatly on that component of our task.

Today, we will focus upon the proposal for a National Intelligence Director. No other component of the Commission's recommendations has received as much comment and debate as the proposed National Intelligence Director. There is considerable, but by no means unanimous, support for the notion that putting in place a National Intelligence Director will help strengthen our intelligence system. There is a considerable range of opinion, however, about the details of that position, including how it should be

structured, where the Director should work and what authority this individual should have.

It is the task of this Committee to draft legislation that would ensure that the NIDs of today, and for years to come, have sufficient authority to do the job effectively, while at the same time being subject to the restraints necessary, the oversight and accountability, to keep the position within the bounds of our constitutional system of checks and balances. In other words, we want to create a position with real, not just symbolic authority, yet not impose just another layer of bureaucracy nor grant so much power that we open the door to abuse.

The details that we must fill in are many, and we have generated vigorous debate, as they should. These are among the questions we will ask. What powers does this new position need to be effective against the threat we face today and the threats we will face in the future? What safeguards should be included to ensure the independence of the National Intelligence Director? For example, where should this new office be located? Should the NID serve a fixed term, as does the FBI Director or serve at the pleasure of the President? Should the Director have deputies that are responsible for leading intelligence efforts elsewhere in government, including some who would answer not only to the Director, but also to a cabinet secretary, the so-called double-hatting question? From where will this new office get the top-notch staff that it needs? And perhaps most important, precisely what authority should the NID have over the entire Intelligence Community in terms of budget, personnel, technology standards, and the allocation of resources.

The expertise and the insight of our distinguished witnesses today will help us in the difficult challenge of answering these questions wisely. Our witness panel brings together three former Directors of Central Intelligence from three different administrations. Their service spanned nearly three decades and witnessed an incredible variety of issues. They will provide us with the perspective of those who have grappled with the challenges facing our Intelligence Community while serving at the highest level.

In addition, former CIA Director Robert Gates has submitted a very thoughtful written statement since he is unable to be with us today.[1]

Chairman COLLINS. Judge Webster, Mr. Woolsey, Admiral Turner, we are very pleased that you have taken the time to be with us today, and we look forward to hearing your testimony shortly.

I would now like to call on the Ranking Member, my partner in this endeavor, Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thank you very much, Madam Chairman. I join you in welcoming Senator Roberts and Senator Rockefeller to our Committee, and I thank the three witnesses today. It would not be stretching even Senatorial hyperbole to say that these are three wise men. They have served our country well and continue to do so in many capacities, and I say so, even knowing from advance

[1] The prepared statement of Mr. Gates appears in the Appendix on page 73.

texts, that they do not share exactly my reaction to all of the recommendations of the 9/11 Commission.

The report of the 9/11 Commission represents an indictment of the status quo in our intelligence community and, in doing so, links the shortcomings the Commission has found directly to the horrific events of September 11. In my own reaction, I found the 9/11 Commission Report so convincing that I would say, not that my mind is totally made up, but that I would put the burden of proof on those who would argue with the major recommendations of the Commission.

Madam Chairman, I thank you again for the pace that this Committee is setting in the consideration of the 9/11 Commission Report. We operate in a time of crisis. The specific ongoing information that we not only receive in classified briefings, but that the public receives in news announcements about continuing terrorist threats just reminds about how urgent it is that we act. Now, of course, we do not want to act so quickly that we do something wrong, but the issues that the Commission has framed are clear, and they are not uncomplicated, but the sooner we face them and thrash them out and hear opposing points of view, the sooner we are going to be able to act wisely. And I think the pace that the Committee has set and now that other committees have set, and we are now joined by the leaders of the Intelligence Committee of the Senate, is a very hopeful sign.

This hearing focuses on the National Intelligence Director. Chairman Kean, Vice Chairman Hamilton before us said that they felt that of the 41 recommendations of the Commission, three were paramount. One was to create the one we are talking about today, the NID; second was the creation of the National Counterterrorism Center; third is the congressional reform, reform of our oversight. So we are focused on one of the top three here today.

In the President's announcement on this question a while back, it was not clear to me—in fact, it was too clear, and then in what Andy Card said afterward—that the President did not have in mind a strong National Intelligence Director, particularly with regard to budget authority.

In statements made last week by National Security Adviser Rice, and in at least one of the newspapers that I read this morning by Commission Member John Lehman, who apparently has been speaking to the White House, there is some reason to believe that the White House may be prepared to clarify its position in the direction of a National Intelligence Director with stronger authority, particularly over the budget. If that is true, it is, in my opinion, a good development. I hope it is true, and I welcome it. But most of all, I look forward to a very open, informed, and beneficial exchange of ideas with these three witnesses who I thank, along with Bob Gates, for submitting a statement.

Thank you very much.

Chairman COLLINS. Thank you.

Senator Roberts, we are very pleased to have you here with us today, and I would invite you to make any opening comments that you would like to make.

OPENING STATEMENT OF SENATOR PAT ROBERTS, A U.S. SENATOR FROM THE STATE OF KANSAS

Senator ROBERTS. I would be happy to, Madam Chairman, and thank you for the invitation, and thank you for having our three witnesses here. I wish to thank you all for your service to our country, for your dedication for taking time out of your very valuable schedule to come and testify before us on such an important matter. The Hon. R. James Woolsey has already testified before our committee earlier, and he gave excellent testimony.

I want to thank also, Senator Lieberman, your Ranking Member, for the opportunity to participate in today's hearing. Senator Rockefeller and I have been very busy over the last 2 weeks or 3 weeks with our 22 professional staff members to try to come up with something that makes sense. And, additionally, I want to thank you, Madam Chairman, for your leadership in this very crucial challenge and task as we work together to try to implement the goals of the 9/11 Commission.

And I want to say a word about Senator Lieberman. It was Senator Coates, the former Senator from Indiana, and Senator Lieberman, who formed up an outfit, a subcommittee, if you will, under the Armed Services Committee, called the Emerging Threats and Capabilities Subcommittee.

Now, not too many people know about that, but that subcommittee did warn, clear back in 1998 and 1999 of a tragedy very similar to what happened in regards to September 11. And it was the foresight in regards to Senator Lieberman that led to the formation of that subcommittee. He was a valuable member of that subcommittee, and I want to thank him for that, and I know with interest we have Senator Durbin, who is a very valuable Member of our Committee, and Senator Levin, who is also a Member of the Intelligence Committee, so we have some very good cross-referencing here in terms of advice and counsel.

Let me begin by saying that Chairman Collins has invited the Senate Committee on Intelligence to provide input to this Committee's work, and we will provide, Madam Chairman, a draft bill, if you will, for your consideration as of this week. We are also working with the 9/11 Commission. In that respect, I am referring to Mr. Zelikow. We are working with the administration. Senator Lieberman indicated that the administration is moving in a direction that I think most Members of the Senate would appreciate and would think would be positive. In the doing of this, we are doing it in terms of advice, and counsel, and suggestions, hopefully worthy of your consideration. We are not sitting still, we meaning the Congress. I know of at least seven hearings that have been conducted, possibly eight, and thirteen more prior to the Congress starting back in September. And so we are taking this very seriously.

That draft bill that we are working with that Senator Rockefeller and I are working on is guided by the 9/11 Commission's Report, which obviously contains some very important recommendations. Translating those important ideas, some of which are long overdue, into legislative language, however, is very complicated. As they say, the devil is in the details.

In addition to the 9/11 Commission's Report, and also the recommendations, the draft bill that will be provided to you is also the result of the discussion and debate over intelligence reform that has gone on over the last several decades. The products of that debate include the recent report of the Senate Committee on Intelligence's U.S. Intelligence Community's prewar assessments in regard to Iraq. Now, I do not think even the Members of the Committee who are here today that have the privilege of serving on the Senate Intelligence Committee could have ever predicted that despite our very strong feelings and our differences, that we would end up with a 17–0 vote in favor of a report that is 511 pages long, 22 of our professional staffers and an interview of over 240 panelists. And we made about nine major recommendations, and it was bipartisan. As I said, it was a 17–0 vote.

Those recommendations cried out for reform, and they are commensurate with the 9/11 Commission's Report, and now we have turned that report over to Senator McCain, former Senator Robb and also Mr. Silberman for further action.

It also includes the many legislative proposals such as Senator Feinstein's bill and the bill introduced by Jane Harman over on the House side and the many commissions and investigations and studies that have been convened over the years. I am talking about the Bremer Commission, the Gilmore Commission, the CSIS study and also the Hart-Rudman Commission.

The draft bill that will be provided to this Committee does provide for a National Intelligence Director or what we now call the NID. That person would be empowered with the authorities to really lead the Intelligence Community, as proposed in the 9/11 Commission's recommendations. Those authorities include the ability to hire and fire, as well as the ability to exercise control over the budgets of those agencies. As Congress does move toward legislating the so-called intelligence reform, guided by the recommendations of the 9/11 Commission Report, and many of the other various proposals for change, Senator Rockefeller and I will keep in mind that we should first do no harm and avoid, as best we can, the law of unintended consequences.

Now, for example, one of the key issues to be resolved is how much control the NID should have over the Department of Defense intelligence estimates. There has been 10 or 11 attempts, dating back to the 1940's, to allegedly reform the intelligence community. In each and every case where we bumped into a real problem or a hurdle we could not jump, it has been in regards to the jurisdiction of the Pentagon and the Defense Department. I am not trying to perjure them by any means. They have many fine programs, and they have programs that should not be damaged in any way.

There are many good things about the way the Department of Defense does conduct its intelligence operations that we must ensure are not undermined by the reform process.

I want to give you an example. Take, for example, a special forces team that is supported by a military intelligence analyst. If that team is operating on the field of battle in Iraq during Operation Iraqi Freedom, it seems very clear to me that the team's intelligence specialist is a tactical asset that needs to be controlled by the local military chain of command. And the NID or the Na-

tional Intelligence Director probably does not want or need to become involved. But move that same team to Afghanistan, outside the no-man's land where Osama bin Laden is hiding, and I would argue the team's intelligence specialist then has become a strategic national asset that may require the support and the leadership of the NID.

Now, that line between the tactical and the strategic military operations gets blurred more and more every day, and it complicates the job of trying to define the NID's authorities. I am confident that you will find, however, that the draft bill that we will provide to this Committee does contain some very innovative ways of addressing that problem.

Sadly, many of the Intelligence Community problems described in the 9/11 Commission's Report are not unique. The Senate Intelligence Committee's report on prewar intelligence assessments in regard to Iraq also describes major problems in the Intelligence Community. The need for significant change is clear; that Congress should focus its efforts on fixing clearly identified problems in our Intelligence Community and not simply legislate change merely for the sake of change. As we consider reform of the Intelligence Community, I feel strongly we must also ensure that we institutionalize change as a continuous process in the Intelligence Community.

I do not think we can make the mistake of rearranging the organizational chart to meet the current threat and simply stop there. Rather, we must leave in place a system that will continue to adapt to the new threats that we will face in our Nation. International terrorism is a serious threat to us and our allies, but I am confident it will not be the last threat that this Nation faces. Even today, we can see in the headlines and in the intelligence reports that Nations like Iran and like North Korea do continue to work very busily on their weapons of mass destruction programs.

So I am hopeful that a National Intelligence Director will be able to focus more on running the entire Intelligence Community and thus will be able to spend more time ensuring that the Intelligence Community does continue to adapt to our future threats, otherwise it will fall again to Congress to conduct yet another attempt at reform.

So I thank you, Madam Chairman, for the opportunity to speak. I apologize for the length of my statement, and I do want to thank my dear colleague and friend, Senator Rockefeller, for his help, his advice and his leadership. We both share the same goals. We have been very busy here the last 2 or 3 weeks with our professional staffers, and we should have that legislative draft to you at least by Wednesday.

Chairman COLLINS. Thank you.

Senator Rockefeller, we are very happy to have you join us today, and I would call on you for any comments you might wish to make.

OPENING STATEMENT OF SENATOR ROCKEFELLER IV, A U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator ROCKEFELLER. Thank you, Chairman Collins and Ranking Member Lieberman. You are very nice to do this. You were given the authority of putting forward legislation, and as I explained to both of you in phone conversations we had, we want to

be helpful and supportive. There is some cross-jurisdictional matters with the Intelligence Committee which we have to take very seriously, but I am very happy that you are doing it. This is not a work of turf. This is a work of national necessity.

I find myself in agreement with most of the recommendations of the Commission. Some I have some questions about. Some I think need to be explained a little bit further before I would "render a judgment," at least on my part.

If the Congress and the President cannot reach a successful agreement on constructive reform this year, and I do not preclude a post-election session, we certainly will have failed the American people. It will take, I think, sort of the basic questions that we all face in Washington, but someone we all continue to tread along our separate ways, and that is what it is that makes it so difficult for the Federal bureaucracy and the U.S. Congress to, in fact, do what is in the national interests first and then think about what the effect is upon their particular committee or their particular agency second.

It is kind of a basic civics lesson and one that we have never learned very well because, in a sense, it kind of defines who we are, it defines who they are, and when you compare that to the national, the fact that we are going to be dealing with this crisis on terrorism for the next 20 or 30 years or more, depending upon when we can get some kind of a message of calm and reconciliation out to the Islamic community, across the world, not just the Arab World, we really do have to take this and do it correctly.

If we did this by the end of the year, and everybody wants to do that and I do, too, by the end of this particular session, if we can do that, great. I do not think any of us should be under the illusions that it would have stopped the long time and place planning on the part of al Qaeda to do what it did on September 11 or what it may yet do if one reads the intelligence and looks at the reports. But still that is not the question. Maybe it should be stated this way. What future failures could we avoid and how many lives could we save because we act relatively sooner and create a mind-set change in the Congress and in the bureaucracy, and particularly of course within our Intelligence Community? Nobody would disagree with the fact that we have a 57-year-old model. Its blueprints drawn up from the Cold War. It is not an ideal arrangement for attacking an enemy that does not wear a uniform and an enemy that exists outside the rule of international law, international obligations and an enemy which looks forward to slaughtering men, women, and children where they live and where they work and does so with a religious purpose, mixed in with a hateful purpose.

So the threat to the changes to our country has obviously changed in the last decade. The intelligence community has evolved to be sure to meet that challenge, but the pace has been slow. And the question now is the pace has to be organizationally, and in terms of trained people, which takes a long time, 5 years to train an analyst, 10 years to train an analyst, 5 years to train a linguist, and we are talking, if we start now, some fairly long-term results in order to fight the global war on terrorism which, as I indicated, I think is with us for a long time.

Now, the biggest impediment is that no single person—and Chairman Roberts and everybody else has pointed this out—no person has the responsibility and the budgetary and personnel authority and hands for managing the entire Intelligence Community. That is a very serious error—my point. The Director of Central Intelligence has this titular responsibility, but not the control of the budgetary strings.

I asked George Tenet once, "If you wanted, if you felt like you needed to direct the Intelligence Community, would you," and he said, "No, I will only direct what I have budget authority over." And he said that publicly, and he said that privately, and I think that sums it up very well.

As we know, it is the Secretary of Defense who controls the lion's share of the intelligence budget, and that is going to be the great battle around here, and it is one which is already joined, and again national interest versus committee interest versus institutional interest, all of these things I think come into play there.

Where else in government or corporate America would you find such a split arrangement as we have now. It is more akin to a custody settlement between divorced parents than an effective management plan for a 15-agency multi-billion-entity called the intelligence community.

The President's decision, as has been indicated by Senator Lieberman, to endorse the Commission recommendation to create a National Intelligence Director was a step in the right direction. His decision to deviate from the Commission's recommendation to give this Director real budget and personnel authority was a bigger step, in my mind, backwards. And now worrying about how to make it stronger is not convincing to me until I see a real switch and a real willingness to invest authority in the National Intelligence Director for budget and for personnel and the rest of it.

So we are going to have to break some china around here, otherwise we will fail. We will fail. We will do little bits and pieces, and we will be like Congress has so often been. The American people need real reform. They want our intelligence system to be effectively managed, and for that person and those who serve under him or her to be accountable, which is a Carl Levin favorite. Accountability is a major factor that we are going to have to deal with. Reforming the Intelligence Community is about protecting American soil, American lives, but it also should not be about protecting the turf at the Pentagon or at any of the intelligence agencies. This is about what is best for America, regardless of the players of the agencies.

I call upon the President to endorse this essential element of the 9/11 Commission's plans so we can get about the business of reaching agreement. Chairman Collins and Ranking Member Lieberman, I thank you.

Chairman COLLINS. Thank you for your statement.

It is now my pleasure to introduce my distinguished panel today, and I apologize for being distracted by the Chairman of the Intelligence Committee.

Senator LIEBERMAN. I have been having that experience with Senator Roberts for years now. [Laughter.]

Chairman COLLINS. It is a new one for me.

Senator ROBERTS. It is my job description.

Chairman COLLINS. It is a great pleasure to introduce today's distinguished witnesses. In addition to each serving as Director of Central Intelligence, each of them has served our country with honor in such fields as the judiciary, law enforcement, diplomacy and the military. The views that they offer from the inside perspective, and from many different perspectives, will greatly assist this Committee.

William Webster was Director of Central Intelligence from 1987 to 1991, following 9 years as Director of the Federal Bureau of Investigation. His experience in heading both the CIA and the FBI gives him a unique perspective to help us answer many of the questions today. Earlier he served as a judge on the U.S. Court of Appeals for the Eighth Circuit. Judge Webster has received numerous awards for public service, including the Presidential Medal of Freedom, and we welcome you.

James Woolsey has served under four Presidents, most recently as Director of Central Intelligence from 1993 to 1995. He also served as the Ambassador to the Negotiation on Conventional Armed Forces in Europe from 1989 to 1991, as a delegate to the U.S. Soviet Strategic Arms Reduction Talks from 1983 to 1986, and as Under Secretary of the Navy from 1977 to 1979. He has also been a Member of the National Commission on Terrorism and the Commission to Assess the ballistic missile threat to the United States.

We welcome you, as well.

Stansfield Turner was Director of Central Intelligence from 1977 to 1981. He is a graduate of the U.S. Naval Academy and was promoted to Rear Admiral in 1970 and to the rank of Admiral in 1975, when he was appointed Commander-in-Chief of NATO's Southern flank. Admiral Turner has taught at Yale, at West Point, and at the University of Maryland Graduate School on Public Affairs.

I want to thank each of you. You are very dedicated public servants who have given a great deal to your country. We look forward to hearing your testimony today as we fill in the details and, with your guidance, make the right decisions.

Judge Webster, we will start with you and your statement.

TESTIMONY OF HON. WILLIAM H. WEBSTER,[1] FORMER DIRECTOR, FEDERAL BUREAU OF INVESTIGATION; FORMER DIRECTOR OF CENTRAL INTELLIGENCE; AND SENIOR PARTNER, MILBANK, TWEED, HADLEY & McCLOY, LLP

Judge WEBSTER. Thank you, Senator Collins, Senator Lieberman and Members of the Committee, and also Chairman Roberts and Vice Chairman Rockefeller.

Thank you for the privilege of appearing before you this morning to discuss some very important subjects. As I listened to the introductory remarks from your colleagues and from you, Madam Chairman, I was reminded of reading over the weekend from the extensive writings of Professor Darling, who recorded the first 5 or 6 years of Central Intelligence as an official document, and you will perhaps not be surprised to know that many of the issues that you

[1] The prepared statement of Judge Webster appears in the Appendix on page 51.

raised this morning were raised at the time President Truman had to make his ultimate decision on the balancing act between intelligence and the other departments of the government, but we do of course live in a different world today.

Following an extensively documented and detailed narrative of the events leading up to September 11, 2001, the Commission concluded that coordination, amalgamation, and synthesis of intelligence collected by various components of the Intelligence Community were too loose, and in consequence, the dots were not connected in a way that the 9/11 plot could have been uncovered and prevented. The Commission addressed a new structure intended to reduce the likelihood of another catastrophic attack against the United States and its citizens.

In my view, some of the omissions and errors in conclusions were attributable to human mistakes and misjudgments. Others were attributable in part to constraints, both legislative and administrative, that governed the interagency relationships in the period following the Church and Pike Committee Reports to the 2001 Patriot Act revisions on sharing intelligence. Various proposals for managing "need to share" and preserving "need to know" had to address the almost byzantine system of intelligence control that evolved during that three decade period.

I liken the current status of the Director of Central Intelligence to that of den chief in terms of his ability to control resources and compel effective teamwork throughout the 15 agencies spread throughout the departments of our government. It is remarkable what has been accomplished by consensus building, friendly cajoling and a patriotic effort among so many agencies to make it work. But this is not enough to deal in a timely way with the complexities of the world in which we find ourselves.

There is today a strong consensus that the authority of the Intelligence Community leader must be increased to do the job for which he must be responsible, to provide timely and useful intelligence upon which the President and policymakers can make sound decisions in the interest of our country.

The Intelligence Community does not need a feckless czar with fine surroundings and little authority. That is the wrong way to go. Whether the Congress elects to create a true Director of National Intelligence, as the 9/11 Commission recommends, or to beef up the real—as distinguished from cosmetic—management authorities of the Director of Central Intelligence, as others have proposed, the designated leader must be clearly and unambiguously empowered to act and to decide on issues of great importance to the success of the Intelligence Community and to the country.

There seems to be general agreement that additional authority should repose in the top leader of the Intelligence Community. These authorities, although widely assumed by the American public to exist already, in fact are imprecise, easily frustrated and not in regular use. They are: (1) management of the intelligence budget; (2) authority to name or at least approve the recommendations for presidential appointment of the top leaders of the Intelligence Community; and (3) performance review and evaluation of these community leaders.

These authorities could be granted to (1) the Director of Central Intelligence, who is also Director of the Central Intelligence Agency; or (2) to a Director of Central Intelligence who is separate from and senior to the Director of the Central Intelligence Agency; or (3) a newly-created National Intelligence Director who would replace the present Director of Central Intelligence.

The concept of a National Intelligence Director has the present support of the President, the Democratic candidate for President, and the 9/11 Commission. The NID would have authority to oversee national intelligence centers on specific subjects of interest across the U.S. Government and to manage the national intelligence program and oversee the agencies that contribute to it. It appears that the centers are expanded versions of centers which the DCI has created and operated in the past, but located elsewhere in other departments and agencies.

Under the Commission model, the NID would manage the national intelligence program and oversee the component agencies of the Intelligence Community. The report envisages management through three deputies, each of whom would hold a key position in one of the component agencies. The Director of the CIA would head foreign intelligence. Defense intelligence would be headed by the Under Secretary of Defense for Intelligence. And homeland intelligence would be headed by the FBI's Executive Assistant Director for Intelligence, or the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection. The three deputies would have the job of acquiring the systems, training the people, and executing the operations planned by the National Intelligence Center.

Control of the budget is essential to effective management of the Intelligence Community. The President, in his remarks, has used the term "coordinate," which I understand to mean management. Others have suggested something less. There is obviously some sorting out to be done between the enhanced Intelligence Community organization and its leader and the Department of Defense and its Secretary. If this model is adopted, the Defense Department will need some assurances that tactical, military intelligence will not drift away from its military commanders. On the other hand, with respect to strategic intelligence around the world, defense agencies must be prepared to respond to the management initiatives of the National Intelligence Director.

In all of this I would sincerely hope that this will not be just another layer of government. The Director of Central Intelligence position would simply segue to the new National Intelligence Director at the top of the table of organization reporting to the President. The number of new positions needed to manage the outreach and responsibilities of the NID should be carefully controlled.

A key proposal is to expand the current Terrorist Threat Integration Center as a center for joint operational planning and joint intelligence, and staffed by personnel from the various agencies. While there are a number of questions to be thought through and answered, such as the role of the center in operational activities, I believe the concept has merit for a number of reasons. First, I think it offers a potentially effective vehicle for dealing with the growing threat of international terrorism with full participation

and sharing by agencies across the community. Second—and this is not a pejorative observation—there is a risk that the Nation's preoccupation with terrorism may cause important and significant collections and analytical responsibilities of a nonterrorist nature to be neglected. Challenges, for example, such as the Cold War, major economic changes among "have" and "have not" nations that cause wars, and other matters requiring our best collection and analytical efforts for the benefit of our policymakers must not be neglected nor subsumed. As we have all seen too painfully, sources that have been neglected after the fact can dry up and take years to redevelop when a new crisis emerges. This must not happen.

The Director of Central Intelligence, as distinguished from CIA, has established a number of centers located for convenience at CIA Headquarters. These have made substantial community-wide contributions. I believe they should stay with the intelligence leader, be denominated at his discretion, not legislated, and located where he and his principal advisers think most appropriate.

With respect to covert and paramilitary actions, the Commission would keep responsibility for clandestine and covert operations in the CIA, but place lead responsibility for paramilitary action in the military. I have some doubts about this model. The Commission acknowledged that the combined activities in Afghanistan worked well. I would prefer to keep that model on smaller, turn-of-the-dime activities with the CIA. Larger scale actions that are essentially troop engagements should be in Defense.

With respect to relations with the President, while the leader of the Intelligence Community must be the principal adviser on intelligence to the President, he must work hard, very hard to avoid either the reality or the perception that intelligence is being framed—read "spun"—to support a foreign policy of the administration. My predecessor, Bill Casey, had a different view of this. He served in the Cabinet and participated fully in the formulation of policy. When I became DCI I asked President Reagan not to put me in the Cabinet for the reasons I have noted to you. He told me that he thought about it and had come to the conclusion that I was right. I was very pleased, therefore, to see that President Bush had reached a similar conclusion. The head of the Intelligence Community does not need to be located in the White House, and to avoid these problems, I believe he should not be. The Director of Central Intelligence has had a small suite in the Old Executive Office Building through the years as a matter of convenience for meetings with White House officials and between appointments. I believe that is more than adequate, and that he should be housed where he has access to people with whom he most frequently needs to consult.

With respect to the FBI and Homeland Security, the FBI should be as it has in the past, a part of the efforts to coordinate national intelligence collection efforts with international activities. This is more in the nature of putting the information together, completing the dots and other efforts to avoid information gaps. I think it is important that operationally the FBI should take its guidance from the Attorney General on its dealings with U.S. persons, and the manner in which it collects information in the United States. This has been an important safeguard for the American people, should

not be destructive of effective operations, and avoids the risk of receiving vigilante type instructions, whether from the Intelligence Community or the White House. While, as Justice Jackson once wrote, "the Constitution is not a suicide pact, the Constitution and the rule of law are at the top of our core values and must be safeguarded and respected."

With respect to the trusted information network, the Commission recommends an overhaul of our information system to better process, share and protect intelligence across the agencies. This has considerable merit and will require more work in some agencies than others. As long ago as 2001, I headed a Commission on FBI Internal Security, and we provided four classified appendices to our report dealing with the infirmities of the FBI mainframe, now 13-years-old. Inability to rapidly identify and capture information of value to other agencies aggravated the circumstances leading to the September 11 tragedy.

The 9/11 Commission has issued a special challenge to the Congress to overhaul its oversight systems for dealing with the Intelligence Community. If acted upon, it will materially increase the effectiveness, not only of oversight, but of the performance of the company in its relationship to the Congress. I am told that over 88 separate committees and subcommittees now oversee the Homeland Security Department. This is really intolerable, not to say nonsensical. Consideration should be given to a joint committee on intelligence, selected with care, and including a nonpartisan, highly respected membership.

At this moment in our history I believe we have passed the moment of great fear which often produces unhappy solutions, and we have not yet entered a period of indifference, where it is difficult to take the forward steps that are needed. We need to act, but we must act with great care. The many thousands of dedicated men and women in the Intelligence Community, many of whom have put their lives on the line for the safety of our country, count on you. I know you will not let them down.

Thank you very much, Chairman.

Chairman COLLINS. Thank you, Judge Webster, for an excellent statement. Mr. Woolsey.

TESTIMONY OF HON. R. JAMES WOOLSEY,[1] FORMER DIRECTOR OF CENTRAL INTELLIGENCE; VICE PRESIDENT, BOOZ ALLEN HAMILTON

Mr. WOOLSEY. Thank you. Madam Chairman, Senator Lieberman, Members of the Committee, Senator Roberts, Senator Rockefeller, it is an honor to be able to testify before you today.

Let me say at the outset that—if I could have my whole statement submitted for the record, Madam Chairman.

Chairman COLLINS. Without objection.

Mr. WOOLSEY. I will use it as an outline to speak from, far more briefly.

At the outset let me say that I believe the Commission's Report is quite well written. It is an excellent history of much of what went wrong over the years. We will doubtless see amendments to

[1] The prepared statement of Mr. Woolsey appears in the Appendix on page 62.

it, but it is a fine job, and particularly for an official government document written by a large number of people. It is excellent prose. Its first 300 plus pages I think are an outstanding example of work of a commission of this sort, and I am a veteran of five of these national commissions.

Of the 41 proposals for reform recommendations that it makes in its final two chapters, I agree fully with 35 of them; five, I think, should be adopted in a partial or amended form; one, the proposal to transfer all cover paramilitary work to the Department of Defense, I could not disagree more with.

Let me say a word about the scope of the Commission's Report as a whole. It titles Chapter 12, where it makes the bulk of its recommendations, "A Global Strategy." This may be a case of having a misleading headline on an otherwise perfectly reasonable press story, but I want to stress that this chapter, and indeed the 9/11 Commission Report as a whole, does not present a global strategy for the war in which we are engaged. This Commission's tasking, as I read it from the congressional legislation and from its own foreword, is far more like those commissions that assessed Pearl Harbor during World War II. They did not seek to establish a grand strategy for the fighting of World War II, and this Commission neither should seek, and it certainly does not succeed, in establishing a global strategy for the war that we are in.

For example, the recommendations do not deal at all with Iran, Iraq, Syria, or our oil dependence on the Middle East, and I think it is important to realize that its focus is pretty much exclusively on how to keep an organization like al Qaeda from attacking the United States again the way it did before. This is an understandable focus. That is what it was charged to do. But the next part of a war is not always like the previous part of a war and we should not assume that this report states a global strategy.

Just a word about its recommendations in Chapter 12. There are four sensible recommendations about how to deal with terrorist sanctuaries in other countries, five about essentially alleviating root causes of terrorism, seven are essentially technical, dealing with things like biometric entry/exit screening, and four dealing with first responders' needs. A number of these, or all of these, I think, are quite sound, but none of those 21 really reaches the level of dealing with strategic matters.

Then there are three recommendations that essentially say we should show balance (e.g. share information while safeguarding privacy, and enhance Executive Branch power only when necessary). These are perfectly reasonable recommendations, but they are also quite vague, and they do not give us much help in deciding issues that are important and right now before the country, such as should the Federal Government require birth dates from air passengers in order to better utilize databases to identify individuals who might be terrorists, or should police continue to be barred by local ordinances, as they are in many municipalities, from inquiring of Immigration authorities about the immigration status of someone they have arrested for a State or local offense.

I want to call particularly to Senator Roberts' and Senator Rockefeller's attention, that the next two and a half pages of my testimony, on pages 3, 4, and 5, I wrote before I knew they were

going to be here today. They essentially constitute praise, as I offered before the Senate Select Committee, of the analysis which the Senate Select Committee did of the relationship between al Qaeda and Iraq. I think that it is far more nuanced and far sounder than what we have from the Commission. I also believe it is important for us to understand that we face not just one totalitarian enemy in the Middle East, we face at least three: The secular Ba'athists who are essentially fascists, modeled after the fascists of the 1920's and 1930's; the Islamists from the Shi'ite side of Islam, run and operated, whether they are Hezbollah or Moqtada al Sadr, out of Teheran; and the Islamists from the Sunni side of Islam, such as al Qaeda, its underlying economic sustenance fueled by the oil money of the Gulf, and its ideology fueled by the hatred put forth by the Wahhabis of Saudi Arabia.

I think it is important that we should understand that these three totalitarian groups hate each other, stem from different roots, criticize each other, kill each other from time to time, but still are capable here and there of cooperation against us, just as Hitler and Stalin surprised the world in 1939, including most of the world's intelligence analysts, by forging the Hitler-Stalin Pact. So I believe it is important to pay attention to what the Senate Select Committee says in Chapter 12 about the rather extensive connections, not operational, but connections, particularly with respect to training, between al Qaeda and the Ba'athists of Iraq.

Moving on to page 5, Madam Chairman, and the recommendations of Chapter 13. I concur with the Commission's most publicized recommendation essentially to split the current responsibilities of the Director of Central Intelligence and set up a separate individual to manage the Intelligence Community and serve as the President's chief adviser on intelligence from the individual who would be the head of the CIA and responsible for management of it. I also concur with the establishment of the National Counterterrorism Center reporting to the new NID.

Just a quick word about Senator Rockefeller's interesting analogy to a custody arrangement for the current relationship between the DCI and much of the community. It is in a sense a custody settlement, but the Director of Central Intelligence under the current system is the party who gets only very rare and brief visitation rights. It is a very weak position currently from the point of view of managing either the personnel or the money within the Intelligence Community. And I do believe that it is a job, the current DCI job, that should be divided. It is not impossible for one person to do this job under the current circumstances if that person has a close working relationship with the President, the general support of the Congress, and close working relationships with eight members of the Congress, the four chairmen of the two intelligence committees and the ranking members, and the chairmen of the Defense Appropriation Subcommittees and their ranking members.

But in my case, I did not have a bad relationship with the President I served, I just did not have much of one at all. And with respect to the committee chairmen and ranking members, I had seven good relationships and one bad one, as my testimony summarizes. What that meant was, because of those two circumstances, in 1993 Congress was in session 195 days, and I had 205 appoint-

ments on Capitol Hill—more than one a day for the time Congress was in session. Much of that was because of what has been publicized a number of times, my disagreements with the chairman of the Senate Intelligence Committee at the time, Senator DeConcini, over a range of issues, terminating satellite programs, terminating computers for NSA, terminating funds for Arabic and Farsi language instruction, closing large numbers of CIA stations around the world, transferring all overseas penetration of foreign intelligence services to the FBI, and so forth. Some of these disputes I won, some I lost, but it took a very substantial amount of time.

Should some future DCI, under the current structure, have to spend that type of time and resources dealing with congressional oversight, I think it is easy to see how it would be very difficult for him or her to have enough hours in the day also to manage the CIA. I do think it is important to focus on the precise responsibilities of the new NID, and I favor, over the original White House formulation and over the Commission's formulation, the formulation in Representative Jane Harman's original bill. In her original bill she made the appointments and personnel process for defense intelligence agencies, such as NSA, a joint matter between the NID and the Secretary of Defense, and joint responsibility, of course, with respect to counterterrorism work at the Federal Bureau of Investigation, joint with the Department of Justice.

Her bill also gave responsibility for budget execution essentially to the NID, but left the Secretary of Defense and the Attorney General, in appropriate cases, much more of an opportunity to contest some such decisions before the President than I see in the Commission's bill. I believe the Commission's bill leans, frankly, a bit too heavily toward Czardom, and if there is one term I would like to see if we could get out of this debate, it is in fact "intelligence Czar." As far as I am concerned, a number of centuries of stupidity, rigidity and authoritarianism, followed by the victory of Bolshevism, is not a good model for the management of American intelligence.

With respect to information sharing, sharing is fine as long as one is not sharing with the Walkers, Aldrich Ames, Robert Hanssen, or some blabbermouth who likes to talk to the press about the fact that we have broken bin Laden's satellite telephone communications. The problem is that we do not just need to share, we need to share wisely. And the more one knows about intelligence sources and methods for a particular piece of intelligence, frequently the better one is able to interpret it, and the better job of analysis one is able to do. That is why the President's daily brief has a lot of material in it about sources and methods and why sources and methods are guarded as carefully as they are.

I think the NID needs to have different approaches toward different parts of the intelligence process with respect to the degree of uniformity he or she requires, with respect to the degree of sharing, with respect to the degree of permitting competition and even freelancing. For example, at the front end of the process, development of new collection methods can benefit from competition between agencies. We were competitive at the CIA with the Defense Department in 1993. That is how we developed the Predator.

In tasking collection, customers should be consulted, not just the operators of the collection systems. That is important because it is one reason why we need to move away from the stovepiping that we now see. In processing data also we need to move away from stovepipes.

In analyzing data and producing intelligence, some competition is not a bad thing at all. It is a good idea to have competitive analysis. And in dissemination, I would prefer a system whereby "need to know" is constantly reviewed and enforced technically, rather than one in which, as the Commission suggests, need to know should always take second place to need to share.

Let me close, Madam Chairman, with just one word about paramilitary action being transferred to the Pentagon, which I believe is an extraordinarily bad idea. Covert paramilitary operations are only occasionally necessary for the United States. Covert should connote keeping them secret or denying them, plausibly or otherwise, not only before but after the fact. It was because covert action generally, including covert paramilitary operations, came into question in the mid 1970's that Congress, for good and sufficient reason, decided to place such covert action under the requirement for having presidentially signed findings and submission to the Intelligence Committees of the Congress. I think that was a wise decision, and for covert action, that process should be continued, including paramilitary covert action, which we deny, plausibly or otherwise, after the fact. Sometimes that is necessary. Sometimes one needs to save the face of an enemy as well as that of friends and allies.

But the Pentagon does not do that now. The Pentagon does conduct clandestine military operations which are kept secret ahead of time or which involve deception ahead of time, and that is as old as warfare, considerably older than the Trojan horse. I think it is important that we not move to a situation whereby the Pentagon, because it has responsibility for covert paramilitary operations, also gets brought under the machinery of findings and the rest, under which the CIA covert action now operates under. I think that could cripple our Special Forces in the war against terrorism, and I think it is a very bad idea.

In conclusion, let me just say that as stated above, I think it is quite likely, because of the limited nature of the charge they were given, that is the reason the Commission did not come up with anything approximating a global strategy. But we should not assume that they did so.

Second, since so much attention is being paid to foreign intelligence in the Commission's Report, it may be natural for some to draw the conclusion that with respect to 9/11 foreign intelligence is what principally failed. Many aspects of our government, of our country failed with respect to September 11.

But we should at least note that most of the preparations for September 11 took place in two countries, Germany and the United States, where the foreign intelligence operation of the United States does not really collect intelligence. Satellites are going to tell us very little about terrorists, signal intercepts are going to tell us very little, particularly if we talk about what signal intercepts we are obtaining. And so foreign intelligence reforms generally may

have only a modest effect on the war on terrorism. It may be much more important whether there is a municipal ordinance that bars checking out a tip from a citizen about, say, what a Saudi visitor's immigration status is.

And finally, even within the field of foreign intelligence reform, some substantive reform, such as whether we use Non-Official Cover officers far more than we do now, and rely less on official cover, to my mind probably would make more difference than issues such as the establishment of the NID. But within the framework of the Commission's recommendations and within the framework of this Committee's deliberations, I would support the establishment of an appropriately designed office of NID, and I thank you again, Madam Chairman and Members of the Committee for your attention.

Chairman COLLINS. Thank you very much. Admiral Turner.

TESTIMONY OF HON. STANSFIELD TURNER, FORMER DIRECTOR OF CENTRAL INTELLIGENCE; PROFESSOR, SCHOOL OF PUBLIC POLICY, UNIVERSITY OF MARYLAND

Admiral TURNER. Madam Chairman, Members of the Committee, Chairman Roberts, and Vice Chairman Rockefeller, I much appreciate this opportunity to be with you, and the honor of being here.

I come at this issue of whether we want a National Intelligence Director from the point of view of someone who was a guinea pig National Intelligence Director from 1977 to 1981. President Carter's concept of how our intelligence apparatus should operate was very similar to the recommendation of the 9/11 Commission that we are talking about today. At my very first meeting with the President, before he had actually designated me as his nominee for Director of Central Intelligence, he gave me oral instruction that if I took this job I was to concentrate on being the Director of Central Intelligence, not on being the head of the CIA. As a result, I delegated 80 percent of the responsibilities for the CIA to the Deputy Director of Central Intelligence.

For instance, I would come before committees of the Congress and testify on the overall intelligence budget. Frank Carlucci, the deputy, would then follow with a detailed explanation of the CIA's portion of that budget. This freed me up to concentrate on operating, and managing, the Intelligence Community. In particular, it freed me up to participate very actively in the analytic portion of the intelligence process, which of course, leads to estimates, which are one of the key products of intelligence. The analytic process deserves the personal attention of the Director of Central Intelligence. Moreover, unless the Director personally participates in the analytic process, it is not going to be as good as it should be. Only the Director can adjudicate the differences between the various analytic agencies. So his or her participation is the only way to avoid having consensus intelligence by committee. If he or she does not give that leadership, it will not be there.

President Carter's oral directive to me to concentrate on the community, not only freed me up to help manage it, but he also gave me specific authorities in a Presidential Executive Order. The first one we have discussed a lot today was over budgets. We still had a committee to review the budgets of the entire Intelligence Com-

munity, but in accordance with President Carter's Executive Order there was only one vote on the committee, mine.

This way we could develop a budget that had a theme to it. We could ensure that the budget covered all the bases we wanted to cover with the priorities we wanted to cover. We established a deputy for budgets. The Secretary of State, the Secretary of Defense, and others could, and did, dispute my choices for the budgets of various of their agencies. They took their disputes to the President in an annual meeting we had to review the budgets. Sometimes they won, sometimes they lost, but nonetheless, there still was a theme to the budget even with small perturbations to it.

Second, the President's Executive Order gave me the authority to direct the priorities for the agencies collecting intelligence. We had a deputy here also. When we needed intelligence on some certain problem, the deputy would get together representatives of the various agencies that collect, NSA, NRO, the DO of the CIA, and he or she would say who can help in this aspect of this problem that we have? And then the deputy for collection would assign priorities to these various agencies, including roughly what amount of assets, what kind of resources are we going to give to this problem.

This also was very useful because as they sat around the table looking at individual problems, there was an exchange of intelligence about what they were finding. The clue that a photograph might tell you led to focusing an intercept capability, which led to putting a human agent at the scene.

A third authority the President's Executive Order gave was to task the analytic agencies. This was not a question of what their answers were going to be. It was a question of what topics they analyzed. We tried always to have two, or maybe three, analytic agencies working on the same problem independently and separately until they came up with their opinions. Then we would attempt to fuse them, but we encouraged bringing the diverse views forward.

The 9/11 recommendations are really, in my view, a reincarnation of President Carter's program, and they are not nearly as big a change as people are talking about, and I am not worried about a huge bureaucracy. We have a bureaucracy out there that the DCI has today to manage the Intelligence Community. We are just going to change the name on the door.

The worst result that could happen from this though, in my opinion, is that we create a National Intelligence Director and not give him or her authority. Such a National Intelligence Director without authorities and without specific control of the CIA—and I very much encourage the separation of the National Intelligence Director from the CIA—but without the CIA and without new authorities, this is a job that is going to be impotent.

I would also like to suggest quickly that there are a couple of other authorities that it would be useful for you to ensure are given to the new National Intelligence Director. The report does cover hiring and firing, but I would suggest that should not go as far as the 9/11 Commission Report suggests. The heads of the analytic agencies, the DIA in the Defense Department, the INR in the State Department, the DI in the CIA, they should not be subject to the National Intelligence Director's appointment, hiring and firing. The

secretaries of those departments deserve to have their own intelligence adviser in whom they have personal confidence. If you insist they take somebody they do not like, they would just create a new intelligence operation of their own on the side. I think those are departmental responsibilities.

Second, I think it is very important that we define what is national intelligence, what is in the national intelligence budget. It is ridiculous today that some 80 percent of the intelligence budget, if I understand it, is in programs like the tactical TIARA program or the Joint Military Intelligence program. One of the ways the Defense Department countered President Carter's having designated me as in charge of budgets, was to begin to take things out of my budget and put them into these tactical budgets. I would like to draw a line here. The line is that it is tactical if it is tasked only by a commander in the field.

Third, we need to be sure that new legislation should authorize the National Intelligence Director to direct the dissemination of intelligence. Today individual agency heads, in the name of protecting sources and methods, have all kinds of devices for controlling who receives the intelligence they have. It is perfectly reasonable to try to protect sources and methods, but there has to be a national balance between the importance to the country of exchanging that information, at least on some limited basis, and protecting sources. And the person to make that judgment in the national interest is not the head of the agency who is very concerned with the sources and method. It is the National Intelligence Director we are going to create.

Finally, the key point whether we should increase the authority of the National Intelligence Director at the expense of the Department of Defense is one that only you in the Congress can address at this time. If we are going to act soon, it seems very clear that adjudicating within the Executive Branch and getting the Department of Defense to give up territory, and getting the CIA to accept being separated from direct access to the President is just going to be bureaucratically too difficult.

And I would finally suggest to you, please, if we are serious about the war on terrorism, we have to appreciate that while it was all right in many ways for the Defense Department to control our intelligence operations to the high degree that it has since 1947 during a Cold War, when the threat to this country was a military threat, that has changed. And if it has changed, we deserve to change who controls our intelligence so that it is done not in the military interest but in the national interest.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Admiral Turner.

Judge Webster, the 9/11 Commission documents very well the failure to share information between the FBI and the CIA, and the Commission documents the legal and cultural barriers that prevented that information sharing, and that is one reason that the Commission has proposed that the National Intelligence Director have authority over both the domestic and foreign side of intelligence.

In his written statement submitted to the Committee, former DCI Robert Gates raised some serious concerns about vesting in

the new intelligence director the authority over both domestic and foreign intelligence, and he talks, as you did briefly in your statement, about President Truman's fear that if those two areas were under one person you might create an American KGB, I believe Truman said. Dr. Gates has suggested that we need to put some safeguards, and that one such safeguard might be to restrict the NID to receiving domestic intelligence only with respect to certain categories of threats like terrorism, weapons of mass destruction, and international drug trafficking.

Since you have served as both head of the FBI and the CIA, I would very much like to get your assessment of what safeguards if any we need to include if we are going to give the new Director authority over the foreign and domestic divide?

Judge WEBSTER. Madam Chairman, Dr. Gates's suggestion of categories is an interesting one and deserves further consideration by the Committee.

My earlier remarks had to do with operations, primarily with operations, getting the intelligence and how to get the intelligence, and making sure that we are dealing with U.S. citizens. We did it in a manner that comported with our requirements, our values, and sometimes I liken that to the investigation of the assassination of President Lincoln, when we arrested 2,000 people, all the cast of My American Cousin, did a whole range of things which were commensurate with the forensic skills and capability at the time.

We now have other means of getting information. Some of it requires warrants. Some of it does not. I prefer that the Attorney General be involved in the process of determining how information is obtained and whether or not it requires a warrant or requires whatever restrictions. The Patriot Act liberated a lot of the frustrations with respect to getting, focusing on telephones rather than on individuals in matters of that kind. It has been roundly criticized, but most of those changes, I think, were constructive ones.

There has to be a relationship between international intelligence and domestic intelligence which recognizes the need at the domestic level to provide information to those who are concerned with the overall international aspects. A major problem—and this goes beyond your question a little, but I think it is so fundamental—and that is to pay attention to the information gathering techniques that we have today and how they were constructed. A 13-year-old mainframe simply does not work today to do what you would like to see done. They are trying to improve it. The past jobs, Congress has voted some money for Trilogy and others, still very limiting. The ability to make sure that the information collected in a particular way by the FBI can be transmitted on responsible demand from the NID or whoever has the authority to request that information, can in fact be done and done in a timely way is badly lacking now. I think a lot of those dots could have been connected had they had the ability to respond. They now have the charter to respond.

Bottom line: We could do a lot more. We need better equipment. We need the will. The message is out there. I think that the focus of the Congress should at least be on how the information is collected.

Chairman COLLINS. Thank you.

Mr. Woolsey, a major issue facing this Committee in drafting the bill is how much authority the National Intelligence Director or the Director of the National Counterterrorism Center should have in tasking the collection of information by the various intelligence agencies. I raised a scenario in a previous hearing of what if you had a satellite that was over Iraq and DOD wanted it to stay over Iraq, the CIA wanted it to be shifted to Afghanistan? In your experience, how are those conflicts resolved, and should the Director have tasking authority?

Mr. WOOLSEY. I think that the Director should have more tasking authority than is now implemented, Madam Chairman. The history of this is that going back, there was more collective tasking than there is now. There used to be a committee called Comirex that tasked the satellites, for example, in which the whole community participated.

When I was the head of a panel for Bob Gates in the summer of 1992, looking at restructuring the National Reconnaissance Office, we came up with something they called the needs process, which was relatively straightforward. We had a very experienced intelligence officer analyst make the rounds of the customers, not just the people who operated collection systems, but the customers, including Treasury, State, and so forth, and come back with us with a judgment about what their needs were and whether they were being balanced properly by the official process. I tried to keep something like that going when I was Director of Central Intelligence, but things like that often get bureaucratized rather quickly.

The problem is that today the SIGINT people tend to task SIGINT and the satellite people tend to task satellites, and I think one important positive reform that could come from having the NID or a NCTC Director under him or her is that you could have a process whereby intelligence consumers could have more influence, again, filtered through the balanced judgment of some professionals, but nonetheless, more influence than they have now. So I would regard that as one positive outcome of having the NID or a CTC.

And I must say, with respect to the question that Judge Webster answered, I think another reason to have a NID is that, with the restrictions he mentioned, which are very important, it is a better idea to have someone other than the head of the CIA be the person to whom someone with responsibility in the Justice Department or the FBI reports. I go into this some in my statement, so I will not go into it any further here, but I would much prefer the NID to have some type of limited joint authority over CIA or foreign intelligence and domestic intelligence rather than the individual who is the head of the CIA.

Chairman COLLINS. Thank you.

One very quick final question that I would like all three of you to answer, and we will start with Admiral Turner. Should the NID serve at the pleasure of the President or have a term? Admiral Turner.

Admiral TURNER. Absolutely at the pleasure of the President.

Chairman COLLINS. Mr. Woolsey.

Mr. WOOLSEY. I agree.

Chairman COLLINS. Judge Webster.

Judge WEBSTER. I agree, and I do not think you can do anything about it. People cite the FBI 10-year term as a model. If you read the statute it says not more than 10 years. It was a reaction to 48 years of one director. The Constitution protects the Executive authority to hire and to fire, and I do not believe that—if you had a quasi-legislative thing like the Federal Reserve Board or something like that, yes, but I think constitutionally it would be very difficult to do. They tried to do it with the FBI and concluded they could not do that.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks, Madam Chairman.

I liked your answer, Judge Webster, that progress sometimes is limiting a term that went 41 years to only 10 years, and we move forward. Somebody said to me about those terms—and it is a relevant point as we think about this office—that fortunately we had recent experience with this, that you can have somebody in a term that goes beyond the term of the President, but what happens if the President loses confidence in that individual and simply does not talk to him? That is as bad or worse than the fear of them getting too close.

I thank you all for your testimony. I found it very helpful.

Senator Rockefeller said something in his opening statement I want to quote, which is that we are operating in a system now in the intelligence community that is fundamentally 57 years old, and it was created during a very different time in world history, when we were facing the rising threat of the Soviet Union. Of course it has been changed here and there, but fundamentally it remains the same.

Admiral Turner, you said that at the end of your statement in terms of the balance of authority between the intelligence director and, for instance, the Secretary of Defense, and I think we really have to keep that in mind.

To me it all comes down to the fact that in the war on terrorism, intelligence, which of course has always played a critical role in warfare, plays an even more critical role because we are dealing not with armies massed on a field or navies at sea. They may strike, they may surprise, but then you have the opportunity to come back. These are people who are prepared to kill themselves to kill us, and they will strike in an isolated way as they have continued to do. So intelligence becomes even more critical as a way to stop the attack before it happens, and that is why we are focusing all this attention on our intelligence system and community.

I do want to ask you about the relative balance between Department of Defense and the proposed National Intelligence Director, because obviously, as others have said, this is going to be a critical and most difficult part of our work here. The Defense Department, indicated by some testimony offered last week on the House side, does appear to be concerned about the recommendation that the new intelligence director be given control over intelligence budgets, arguing that might reduce ultimately the intelligence available to combat commanders. They have expressed the fear of exactly what Senator Collins' hypothetical example that NID would favor using national assets like satellites to provide more strategic intelligence

to policymakers on terrorism rather than more operational or tactical intelligence to military commanders.

But I think the 9/11 Commission is saying that is exactly why we need one person with the budget authority to make those judgments, because it may well be more in the national interest to make those assignments to the war on terrorism as opposed to the Department of Defense. And some at the Defense Department have said that they were going to carry on this fight because they had to do it on behalf of the warfighters, although Commissioner Hamilton said he thought it was unimaginable that military intelligence would not continue to be a very high, if not the highest, priority for our Intelligence Community.

I wonder if each of you would give me a response to whether you think the balance of authority here, assuming for a moment that we adopt something like the Commission proposal of the NID with budget authority, whether the balance of authority now has to, not shift away from the Pentagon, but to shift to somebody on top, who as you fascinatingly were during the Carter Administration, who has the authority to make judgments between intelligence, war on terrorism, and the Pentagon. Admiral Turner, why don't you start?

Admiral TURNER. Senator Lieberman, one other aspect of the Carter Executive Order was that we would periodically rehearse the transfer of tasking authority over the collection elements from the Director of Central Intelligence to the Secretary of Defense. This was for the possibility that we would one day be in a really active war, where intelligence was absolutely vital to the Defense Department, and therefore you would not want the Director of Central Intelligence, a nonmilitary person normally, to make those judgments.

And so from time to time, for a week or something like that, say, my deputy for collection tasking would take his instructions from Harold Brown over in the Defense Department, rather than from me. This gave the Defense Department a fall-back position. They could go to the President and say, "Sir, we think the time has come under this crisis that we are in right now, that we ought to take this away from Admiral Turner out there and do it ourselves." That was I think a good compromise.

Senator LIEBERMAN. There is some language in the 9/11 Commission Report that suggest that they see the same kind of dispute resolution mechanism here either through the National Security Adviser or obviously ultimately the President. Mr. Woolsey.

Mr. WOOLSEY. Senator Lieberman, I believe one of the older statutes already essentially permits transfer of tasking authority in wartime to the Defense Department. To my mind, tasking is readily dealt with through Executive Order. You do not need legislation about tasking, I do not think. I think that the NID ought to have more authority than the DCI has now, and it ought to be more collectively done with an eye toward consumers, including the Defense Department, and I think that is one thing that we have learned from the 9/11 Commission Report and from the war on terrorism.

Particularly important though, is fusing foreign and domestic tasking and intelligence. That is really what is new, and I do not think the 9/11 Commission Report or anything else that I have seen demonstrates that the Defense Department is the principal

problem with what went wrong with respect to September 11. We have had also some important successes over the course of the last two decades in utilizing not just tactical systems, but national systems, directly and immediately on the battlefield, and that has had a lot to do with the Secretary of Defense's hand in managing many aspects of the defense agencies in intelligence.

To go back to Senator Rockefeller's analogy about the child custody, which I am intrigued by, I think the most important thing is not to have a divorce between the Secretary of Defense and the NID. When I was DCI, I had excellent relations with first Les Aspin and then with Bill Perry as Secretaries of Defense, and we worked together on things quite collaboratively. We had a single baseball cap with "Chairman" on it, and we would co-chair meetings, and sometimes I would put it on and sometimes he would put it on. We just worked it out.

So I think the Harman formulation, frankly, is superior to both that of the Commission and that of the original version I heard from the White House, because I think it strikes a balance requiring joint appointments of individuals such as the Director of NSA, and it gives the Secretary of Defense a word in budget execution, although it leaves the principal authority to move money around in the hands of the NID. I think that is a better solution than what I have heard from either the Commission or initially from the White House.

Senator LIEBERMAN. Thank you. Judge Webster.

Judge WEBSTER. I think I am largely in agreement with that. With 80 percent of the budget in defense, the elephant is in the room, and how you create a relationship between the NID and the Secretary of Defense becomes very important. There has always been a principle of reclama on serious issues of disagreement, and they worked well in my 4½ years at CIA. The Secretary of Defense only exercised that one time, and that provided two of us in chairs in the Oval Office with the President, and he made the decision.

I agree that this problem did not affect the missing of the dots. I see nothing in there to think that was the problem.

During the Gulf War, we pulled satellites that were dedicated to watching the Soviet Union closely and moved them into the Middle East and worked closely with them. That worked very well.

We had one unexpected issue which was, again, resolved by the deliberative process with the National Security Adviser acting at the instruction of the President, where our analysts disagreed with what we saw about the number of tanks that had been destroyed and scud launchers that had been destroyed, which was the key to the President's authorization to begin the land war. Those things do not happen very often, but I think, in retrospect, looking back on it, while I think that CIA was right, it would have been better for the military to have had that choice and made that final judgment.

Senator LIEBERMAN. Thank you. And my time is up. Can I ask for one answer from all of you? I am following the Chairman's precedent.

I am curious whether you briefed the President yourself personally, and if not, generally speaking, how often you spoke to him? We have just come through a period where the Director, and now

the Acting Director of CIA, is giving the President daily intelligence briefings.

Did you do that, Judge Webster?

Judge WEBSTER. Yes, I did, Senator, most days. I had a briefer there ever morning, so I did not feel an obligation to it, but this was the first time in a long time that the President, then-President Bush, took his briefing directly from CIA. It had previously been through the National Security Adviser.

Senator LIEBERMAN. Mr. Woolsey.

Mr. WOOLSEY. A handful of times early in the administration, President Clinton had me and the briefer in. Normally, thereafter, he almost always read the daily briefing. Other than that, I had two substantive meetings with him in 2 years—one a year.

Admiral TURNER. President Carter preferred to read the President's daily brief. I had a half-hour session with him three times a week for the first several years to bring him up on other intelligence aspects.

Senator LIEBERMAN. That is very interesting. Thank you all very much.

Chairman COLLINS. Thank you.

Senator ROBERTS. Yes. Thank you, Madam Chairman.

I would like to cut to the chase again like everybody else has. We hear the idea of having a NID is good only if it comes with some greater power than currently resides in the Office of the DCI. If we do not, it is argued we run the risk of really creating an intelligence czar and causing more harm to the community than good. In other words, you have two hats, and you shift the deck chairs on the "Good Ship Intelligence," and then we are back again in 6 months having, I guess, more hearings.

But at any rate, I think I hear from you all three saying that you agree that if a NID is created, we must empower it; that you agree that greater control over DOD NFIP budgets—that is the National Foreign Intelligence program—should be included in these broader powers.

Well, here is the question, and here is the question that faces or the challenge or the frustration that faces Senator Rockefeller, Senator Durbin, and Senator Levin and myself. As you have said before—I think Admiral Turner said it—that the Defense Department controls 80 percent of the funding, and the Intelligence Committee then controls 20 percent. That adds up to 10 percent of the total DOD funding in regards to the money that they control. And then we try to make some sense out of the difference, and pardon these acronyms, but the Intelligence Community absolutely devours them, and then they change them every once in a while.

One is TIARA. When you are talking about TIARA, other than the one that we are going to give to the distinguished Chairman, that is tactical. Everybody pretty well figures out where the four services is with the Department of Defense and that commander in the field would have that capability. One is called JMIP. Now, that is the satellites. That is the collection. That is tremendously important, where we have to maintain our technology, and then there is the NFIP, which is what I have explained, the National Foreign Intelligence Program. That is the strategic and the counterterrorism.

The whole idea is how do you meld these together under a NID so that it works.

Right now, under the Defense Department, you have the Defense Intelligence Agency, you have NSA, the NRO, and NIMA. I am sorry. They have changed that acronym. It is NGIA. And then you have the four services. Nine of the 15 are controlled literally by the Defense Department.

Now, this leads to something that I have called "torn between two masters." Let me give you two examples:

When we had an urgent need, at the request of many Senators, more especially Senator Levin, who was an absolute tiger on this, when the Iraq Survey Group went to Iraq to look for the weapons of mass destruction, there was an effort all communitywide to say, "OK, who has experience in regards to Iraq?" And the State Department, they have a small arm of intelligence, and the request came to the State Department—I won't get into the number that was requested—Secretary Powell said, "No, I am sorry, you cannot go. I am shorthanded. I need you here."

David Kay, from orders on high, said, "No, we need you with the Iraq Survey Group." Does that analyst that has 20 years of experience and possibly a Ph.D., who does he work for or who does she work for? Does he or she work for Secretary Powell or does he or she work for the new NID or does he or she work for the Secretary of Defense?

Let me give you another example. There is the Defense Intelligence Agency, obviously under the Secretary of Defense. The NID says, "You know, we have got a real problem in surge capacity in Colombia. We need 300 DIA agents now. Move them, please."

And the Secretary of Defense says, "No, I am sorry, we still need them in regards to Afghanistan. We are about to have an election there if we possibly can. We are not going to do it."

Now, if you are torn between two masters, it seems to me that is the problem. I am assuming that all three of you indicate that the NID must be empowered, must have greater control over the DOD budgets. Where we get into problems is do you move all nine of these agencies? You would not move nine. You would not move the services, I am sure. That is tactical. But there are five others here. Would you move them over to the NID's authority or would you not or would you try to work out something in which case the Under Secretary for Intelligence for Defense, Steve Cambone now, would meet with, say, a four-star, if that is the way to do it, or some kind of intermediary functionary to try to work this out on a better basis. That seems to me to be the big problem or challenge as we have as trying to forge a bill.

Would any of you have any comments?

Mr. WOOLSEY. Mr. Chairman, I think that this is one where the Washington version of the Golden Rule that whoever has the gold makes the rules will apply. If budget execution authority is given to the NID, he will or she will have a much better ability to say to the Secretary of State or the Secretary of Defense, "Look, I sympathize. I understand. I know this fluent Arabic language linguist is a very rare asset, but you did not hear me. I really need her or him."

I do not think one needs to, in legislation, or perhaps even Executive Order, get into the business of precisely who assigns. The Intelligence Community works in a collaborative way a lot of the time, but the hardest cases are precisely the ones you mentioned because experienced and talented people are much harder to find than dollars or just bodies to fill slots, and so I am not surprised that Secretary Powell or the Secretary of Defense in other circumstances would struggle against having one of their very best people detailed. I think this will follow reasonably from a solution generally in favor of what the NID needs, will follow from the NID having the kind of enhanced budget authority that is being talked about, even if it is not total budget authority of the sort that is in the Commission bill or Commission recommendations.

Senator ROBERTS. Admiral Turner, do you have anything to say?

Admiral TURNER. I would just come back to my comment that we have to make up our minds is terrorism No. 1, or is it not? And if it is, then the NID should have the ability to say, "I am sorry, Secretary Powell, I really need that group of people or whatever it is in this other capacity."

Judge WEBSTER. My former deputy, Richard Kerr, made an interesting observation the other day that is worth repeating, that intelligence is really a service industry, a service to many other departments, fields and needs. And I think that the NID, as a head of that, has a duty to listen, and he has to listen understandably. And then he has a duty to decide. And if the Congress wants to put a reclama provision in there or to suggest that if the Department is not satisfied, he can take it up higher, that would be fine. It tends not to work that way very often in that nobody wants to do that until they really think they need it. So I think that kind of a system can still work.

Senator ROBERTS. My time has expired, Madam Chairman, and I thank you for the time, but I think that is one of the very crucial decisions we have to make is, I think, one of the witnesses said something about breaking the china. I can assure you there is another committee in the Congress upon which I am privileged to serve who has quite a bit of feeling about this. They are having hearings this afternoon and tomorrow, which I will attend.

And I think the decision, Madam Chairman, is do we really transfer all of those agencies over to the NID or is there some kind of transformational authority whereby—I do not want to say force, but that they certainly work together in better fashion than they do now, and that is an absolute and very important question.

I thank you for your time.

Chairman COLLINS. Thank you. Senator Rockefeller.

Senator ROCKEFELLER. Thank you, Madam Chairman. I want to ask kind of a generic or philosophical question. Throughout all of the hearings that have taken place so far, there has been this undercurrent of nervousness about the so-called 80/20 relationship, and that cannot help but feed into the strength of the personality of the Secretary of Defense, the strength of the personality of the Vice President, who was Secretary of Defense, and perhaps a tendency of Condoleezza Rice to lean a bit in that direction.

Now, it could be that we are making ourselves walk around too many corners or twisting ourselves up on all of this unless there

is some absolute reason that a Secretary of Defense has to have budget authority. In other words, if the NID has budget authority, that becomes a direct threat to the Secretary of Defense and, thus, the committees begin to fight, and the bureaucracies begin to fight, and the press begins to take sides, and it is not healthy. Because, as Admiral Turner said, what counts is the national interests.

You have 15 different intelligence agencies. We have just created another one, homeland security, and you could, I suppose, let us say, take out NSA, NRO, the National Geospatial Intelligence Agency, you could take some of those out and say, well, let the Secretary of Defense and the CIA or the NID work that out on a common basis. You remember when George Tenet was testifying before the 9/11 Commission, and he was asked about his relationship with Rumsfeld, Secretary Rumsfeld, and the answer was, well, it is terrific, and things in Washington do depend upon relationships, as well as laws or Executive Orders or whatever. The problem was, I think we all had the feeling at that time that Director Tenet was not going to be around a great deal of time, so his answer did not make much difference, that he got along well with the Secretary of Defense.

Now, you can do this whole cloth. You can NID it and give absolute budget authority, period. You can do it in a partial manner that you can share on NSA, NRO, the National Geospatial Intelligence Agency, etc., but if you do that, you have already changed the game. And in a town where rules are rules, what President Carter said to you was just fascinating. Senator Lieberman and I were whispering about it. It is fascinating that he said go ahead and do this, go ahead and do this. Run the Intelligence Community and then if there are problems we will work them out.

I think that was then. This is now. As Senator Lieberman said, intelligence is now the tip of the spear. It comes first. It comes before war fighting, unless it is a sneak attack, and then it still comes before war fighting because it is meant to anticipate that.

My question is, is this just a kind of a traditional fight in Washington where the Secretary of Defense has what the Secretary of Defense has, and the CIA is tasked to do three different things, but can only do one of them, in fact—well, he has a relationship with the President or she has a relationship with the President—but it is not clear.

So, what I am saying is this—some people give up on this legislation, on the 9/11 Commission legislation, because they say it will never work. One of you said it a moment ago because it will not happen. Congress will not pass it. The city will not allow it. The cultures will not allow it. I want to hear that I am wrong on that, but I would like your views.

Admiral TURNER. I am a military professional, and I think I understand the military's obsession with being sure they have access to the best intelligence. Every military commander wants every asset under his control that he or she needs to prosecute whatever assignment he or she is given. It is a natural tendency.

I keep coming back to the fact that military defense is not the primary priority for the country today, but we do want to have a system that ensures that that military commander gets the best support we can possibly afford to give within the limits of also put-

ting No. 1 priority on terrorism. I do not know that you can write that into a law. I think that has to be ironed out by Presidents and Secretaries of Defense and National Intelligence Directors as to how they balance that out individually. But the overall national interest is to err on the side of giving the National Intelligence Director more authority rather than less.

Senator ROCKEFELLER. So you would come down on the idea of doing something about it in law rather than depend upon the well-meaning nature of those who protect us?

Admiral TURNER. There are well-meaning people in our government at all levels, but the bureaucracies tend to keep them from doing well-meaning things frequently.

Senator ROCKEFELLER. Yes. Thank you, sir.

Mr. WOOLSEY. Senator Rockefeller, you may be right. The personalities involved here may be one issue, but I have known reasonably well every Secretary of Defense since Mel Laird, and none of them is a "Casper Milquetoast." The job tends to attract reasonably strong-willed people and understandably so.

I think there are three issues for the NID, and I have not looked into which of these needs to be sorted out in legislation and which could be done by, let us say, report language which suggests an Executive Order working with the White House—whatever—but it seems to me there are three issues.

First is tasking; second is the power of appointment over the defense agencies, such as the Director of NSA; and the third is budget execution.

I think with respect to tasking, the NID needs to exercise more authority than he or she now does and than the DCI now does. We need to move toward this business of taking intelligence consumers' judgments into account much more than just having these individual agencies that have these individual collection assets decide what to do with them. I think that is the first thing.

How that is accomplished—how the NID is given that higher degree of authority—I have not made a careful enough study to know.

With respect to appointment, I believe that it would be a major step up over what the DCI now have for the NID to be given joint appointment authority with the Secretary of Defense for let us say the Director of NSA or the Director of the NRO—not all of these service appointments and perhaps not DIA. But I think that would work.

With respect to budget execution, exactly where the appropriation goes, whether it goes to the Secretary of Defense or the NID, I think is less important than the fact that the NID needs more authority than the DCI now has over moving money around, reprogramming, and so forth. But I think Congresswoman Harman's position is the correct one, that the Secretary of Defense needs some type of outlet there; he needs a reclama; he needs the ability to say the NID has moved too much away from this data link that is vital to our combatant forces in such-and-such place, and if they cannot work it out, the President needs to decide it.

So I think that is a reasonable increase in authority over what the DCI now has in those three areas, but I do not have any good suggestion to the Committee about what parts of those need to be done by legislation and what parts can be accomplished otherwise.

Senator ROCKEFELLER. Judge Webster.

Judge WEBSTER. I made reference at the beginning of my testimony to Professor Darling's rather thick and fulsome account of the first 5 years. It is interesting that this issue that you are asking about now, he defined as how it "raged" before President Truman finally decided it.

I would make a plea on the side of shifting the presumptions so that the NID is presumed to have the authority, and the burden is on those who want to dispute it to make the effort.

The same thing follows from having a role in selecting the key people in the intelligence community. And I would like to see performance review done by the NID, because in some quarters, whoever writes the report card is the one who gets the attention, just to shift that presumption of where the authority is and then let the others come to legitimately question it—because these are human beings that we are talking about.

Senator ROCKEFELLER. Thank you, sir. Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Senator Rockefeller. Senator Voinovich.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Again, thank you for your service to our country and thank you for being here today.

[The prepared statement of Senator Voinovich follows:]

PREPARED STATEMENT OF SENATOR VOINOVICH

Thank you, Madam Chairman, for holding this morning's hearing. I look forward to hearing the views of the three former Directors of Central Intelligence who are with us today concerning the recommendations of the 9/11 Commission, and I thank each of them for their service to our nation and for testifying before this Committee. Congress faces enormous challenges as we seek to reform the national security establishment to better protect the United States from any and all threats.

While the Bush Administration has broadly accepted the two recommendations being considered by this Committee; the first to establish a National Intelligence Director and the second to establish a National Counterterrorism Center, there is great uncertainty at this point as to how these recommendations would be implemented. I hope these hearings will help guide this Committee as we seek to fill in the details.

At the same time, we must not lose sight of the internal operations of the agencies and structures we seek to reform. I have many questions in this regard. First and foremost, are we adequately compensating our people in these critical national security positions? Are there enough employees at agencies such as the FBI which have been given new missions since 9/11? Is the security clearance process, which can take up to a year and is handled by several different agencies, organized as efficiently as possible? How damaging is it to our national security that people have to wait for months to start working in critical positions because they have not yet been cleared, or because agencies conduct their own investigations of individuals who have already been cleared by other agencies? And as the 9/11 Commission noted, the process by which the Senate approves nominees for key national security positions simply takes too long—it must be improved.

I look forward to hearing the testimony of today's witnesses and addressing these and other questions with them. Thank you, Madam Chairman.

Senator VOINOVICH. It is interesting that there is a consensus among you. Mr. Woolsey, you are talking about the fact that we have secular Baathists, we have Shi'ites, we have Islamic Sunni. I would like to refer to this as the "fourth world war." We had the Third World War—the Cold War—and this is the Fourth World War. It is really important for us to understand that this is a dif-

ferent kind of war than we have ever fought before in this Nation's history. Would you agree with that, that this is a different type of war that we are not accustomed to?

Mr. WOOLSEY. Very different in many ways. It has some more parallels to the Cold War, I think, Senator, than it does toward World War I or World War II, because we fought sometimes in the Cold War but not the whole time, and in the Cold War, eventually, ideology turned out to be extremely important. We won in no small measure because we convinced people like Lech Walesa and Vaclav Havel and Andrei Sakharov that we were on the same side. We have to do that with hundreds of millions of good and decent Muslims in the world, I think.

Senator VOINOVICH. So intelligence and, I would also say, diplomacy has become paramount in terms of waging this fourth world war that we find ourselves in; would you agree with that?

Mr. WOOLSEY. In a lot of ways—diplomacy of a very difficult sort, more difficult in a way than it was during the Cold War.

Senator VOINOVICH. I would like to get to the issue of the authority of the NID. Mr. Woolsey, you were saying that you thought that the issue of the appointments in NSA and others, these intelligence agencies, should be a shared responsibility. Who is going to be held responsible for the director of NSA—is it the Secretary of Defense? Would the NID go to the Secretary of Defense and say, "Whoever it is you have over there is not getting the job done"? Who is going to conduct performance evaluations? Should it be the NID?

Mr. WOOLSEY. This is a somewhat complex idea, but I would have to say that my experience was one of very close collaboration with the Defense Department, and I think the NID and the Secretary of Defense could work this out. I think both should probably write performance evaluations. I think if either wants an individual dismissed, they would go to the President—it would be a Presidential appointment in many cases, anyway—and it would produce perhaps a conflict and a disagreement which the President would have to determine.

But the way the situation works now for, say, the Director of NSA is that the Secretary of Defense really does the appointment, and if the DCI has some reason to object—and normally, they are not going to because this is a career military officer that they probably have not known or worked with before—the DCI can object. But in fact the Director of NSA believes that he reports to the Secretary of Defense, and that needs to get adjusted in a way so that the NID, the head of the Intelligence Community, has something on the order of half the responsibility and authority over the Director of NSA. Exactly how to arrange that, I know it is a somewhat different concept, but it seems to me to reflect reality much better than having the NID have full authority over the Director of NSA, since a huge share of what NSA does is work for battlefield commanders.

Senator VOINOVICH. On the issue of the budget, would they work out the budget issue, too? In other words, the NID looks at the whole national intelligence budget , and says "We are going to rearrange the way these things are being funded" and ends up having a battle with the Secretary of Defense over the amount of resources that are going to be put in there?

Mr. WOOLSEY. In the Executive Branch, you are always working on three budgets simultaneously. You are working on the one you are putting together to submit to OMB in the fall. You are working on the one that Congress is holding hearings on now. And you are working on the one that you are executing.

The DCI under the current system has some substantial authority, at least in theory, over what is being put together and submitted, but in practical terms, since he has so little real power outside the CIA, he is sometimes listened to and can sometimes influence what goes on. As I said, the way I did this was I had a cap made up that said "Chairman," and when the Secretary of Defense or the Deputy Secretary of Defense and I would co-chair meetings, if we thought we were going to have a disagreement, we would step out and resolve it. We kept the hat between us most of the time and worked on these things together.

Senator VOINOVICH. But you would give the NID the power under this reorganization in terms of the budget with the understanding that their interpersonal relationships would have something to do with how it finally got worked out?

Mr. WOOLSEY. Theoretically, I had more power with respect to the budget being assembled, and he had more power with respect to the budget that was being executed. In the real world, the DCI has rather little power over money as a whole outside the CIA. I think the NID needs a bit of a leg up.

Senator VOINOVICH. The NID in the budgetary process would be working with OMB and saying, "Hey, this is what I need to do to get the job done." So you think it would be given a higher priority than it might under the current situation—or should be given it?

Mr. WOOLSEY. Well, yes. This gets very involved in the way the classified budget is put together. Back in the mid-nineties during my tenure, there was not a so-called passback to the Intelligence Community. The money all went back to the Defense Department, and frankly, I preferred it that way because I thought I would be hit with much deeper cuts if the intelligence budget were separate. I regarded the defense budget in those times as something of a sanctuary that would require that I be cut less than the big cuts I was already seeing.

So during my tenure, I was delighted to be under the envelope of defense with respect to dealing with OMB, because I thought—and I think I was right—I would have gotten fewer cuts as part of the defense budget.

Senator VOINOVICH. Under the new set-up, if we agree that the fourth world war is different than the Third World War, or the First or Second World War, it seems that there should be a different allocation of resources. However, you may bump into the typical lobbying that is done in the Defense Department for hardware and all the other stuff that is supported by every lobbyist in this country and every defense manufacturer. It seems to me that if we are going to have the money to get the job done in the diplomacy and intelligence area, we may have to cut back on some of the other things that we have been supporting here that seem to be sacrosanct, if we are going to be responsible in terms of these resources.

What is your comment on that?

Mr. WOOLSEY. Well, Senator, the way I see it, in the early 1960's in the Kennedy Administration, before Vietnam, the country was spending about 9 percent of GDP on defense and intelligence together. That would be the equivalent today of an approximately trillion-dollar defense and intelligence budget—on the order of double what we are spending now.

Now, admittedly, in those days, old people were not taken care of through government funding, through Medicare and Medicaid, etc., so that domestic part of the government has grown. But that is a decision within society about whether to take care of old people in their own homes or through the government.

As far as resources allocated to national security, we are at about half the level of burden today than we were during the Kennedy Administration.

Now, I am an old Scoop Jackson Democrat—I do not mind spending money. I think it is fine for us to fund whatever we need—indeed, imperative to fund whatever we need—on national security, and we ought to do some decent things on the domestic side, too, and I am willing to pay the taxes to do it.

Anyway, for better or for worse, those would be my judgments.

Senator VOINOVICH. Admiral or Judge Webster, do you want to comment on that?

Judge WEBSTER. I cannot comment on that; I think I agree. But one thing I would like to mention, because I have not heard it, is that the problem today in reprogramming is enormous. Under existing authorities, it takes about 5 months to move money around in the Intelligence Community.

Mr. Turner. No comment.

Senator VOINOVICH. Thank you.

Chairman COLLINS. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Madam Chairman.

I would like to just pick up where Senator Voinovich left off, relative to the budget first of all. Under the current law as I read it, the power to develop and present the annual budget to the President is in the DCI, so already, the DCI does the developing and presenting of the budget under the existing law. That would presumably not change under the proposal of the 9/11 Commission, except that there would be a new DNI—but putting that aside.

Second, the issue then becomes supervising the execution of the defense budget. That is where the issue, it seems, becomes the real one. And currently, that supervising of the execution of that budget rests basically in the Defense Department.

However, under the Carter Administration, as I understand you, Admiral Turner, that was with the DCI rather than with the Defense Department. Is that correct?

Admiral TURNER. Yes, sir.

Senator LEVIN. Which means that with the stroke of a pen—an executive pen, an Executive Order—that shift could go back to the DCI, and that does not require legislation. Would that be correct, Admiral?

Admiral TURNER. I believe so, yes, sir.

Senator LEVIN. Because we have to sort out what requires legislation and what can be done by Executive Order, and that is a very key issue, because the difference in terms of execution of the budget, which includes reprogramming, is one which can be addressed by Executive Order, clearly, and does not need to be addressed through legislation, because history has shown that it has been addressed through Executive Order rather than legislation.

Now, in terms of the intelligence failures—first, would all of you agree with what Admiral Turner just said?

Mr. WOOLSEY. Senator Levin, I have not made a——

Senator LEVIN. I am not talking about wisdom. I am talking about whether that can be done.

Mr. WOOLSEY. I have not made a study of whether that can be done by Executive Order or would require legislation. This is kind of the arcana of budget execution. It certainly, in my time, was in the hands of the Defense Department. And also, Congresswoman Harman's bill, I think, may leave some aspect of execution authority in the hands of the Secretary of Defense but give the NID a lot more authority over reprogramming.

These are just details of the way this works that I am a bit stale on.

Senator LEVIN. All right, but these are critical issues.

Mr. WOOLSEY. Certainly.

Senator LEVIN. Judge, would you agree with Admiral Turner on that?

Judge WEBSTER. That an Executive Order can do it?

Senator LEVIN. That we can go back to the Carter approach in terms of budget execution, which was an Executive Order approach. If you do not have an opinion, that is fine.

Judge WEBSTER. I do not have an opinion.

Senator LEVIN. All right. Now, the question of execution of budget authority has been raised, and it is an important one obviously for us. The question in my mind is what is the relationship between that location of budget authority execution and the intelligence failures before September 11 and before Iraq. We had major intelligence failures prior to September 11 and prior to Iraq. The reports of the Intelligence Committee in the Senate showed that. The joint intelligence committees of the House and Senate report showed that, and surely, the 9/11 Commission Report showed that.

Now, what is the relationship—do you have examples, for instance, from your experience, of where the issue of budget execution made a significant difference, because I do not see it in the report. I do not see in the report how the issue over budget execution relates to the failures which were so dramatically laid out by the 9/11 Commission.

Can you help us on that? Judge Webster, we will start with you and go down the line.

Judge WEBSTER. I think you are correct, Senator. In broad generalities, what the 9/11 Commission Report says is that agencies were going their own way, and information was not finding itself in a place where the warning and the danger would be clear.

The conclusion of the report was that the leader of the Intelligence Community should be held responsible and given the authorities to make sure that did not happen again. Now, that is

broadly stated. So I think that is really the connection, and he needs to have the authorities as well as be called the leader.

Senator LEVIN. Then, after September 11, we created the Terrorist Threat Integration Center, where presumably, we brought together all of the intelligence so that we did not have intelligence that was not shared, and we could connect the dots. And I think that is an important change, and I am not sure that this new center which is being proposed, the National Counterterrorist Center, does much different in terms of coordination than we have already done with TTIC, except for these additional authorities which are handed to the center.

But my question is the budget execution issue. Do you see any relationship between where that was located prior to September 11 or prior to Iraq and the failure of intelligence prior to September 11 and prior to Iraq?

Mr. Woolsey.

Mr. WOOLSEY. I do not really see that there is a substantial relationship, Senator Levin. There were failures within the foreign Intelligence Community, but I do not see those as principally having been communication between elements in the foreign intelligence community—some were, but most were not. Most of the failures were legal limitations such as Rule 6(e) of the Federal Rules of Criminal Procedure that prohibited the FBI, if they obtained material pursuant to grand jury subpoena, from sharing it with the Intelligence Community. There were policy limitations, some within the Justice Department. There were policies that had been adopted, for example, in late 1995—and I do not hesitate to stress that I resigned in early 1995—in the CIA to limit the ability to penetrate groups by recruiting people with violence in their background. There were FAA policies about cooperating with hijackers.

There were a lot of things that contributed to this, but I do not see that the heart of the matter is this budget execution authority vis-a-vis defense and DCI now, or perhaps in NID in the future.

Senator LEVIN. Can I interrupt you there, because I have got to get to Admiral TURNER.

Mr. WOOLSEY. Yes.

Senator LEVIN. Do you have anything more to add on that, Admiral Turner?

Admiral TURNER. Very quickly, I think there is a connection, Senator.

Senator LEVIN. OK.

Admiral TURNER. We are now saying that we did not have enough HUMINT, and that was one of the reasons we failed. Well, if the NID has budget execution authority, he or she could move money into HUMINT or SIGINT or wherever.

Senator LEVIN. Was there any effort to do that which was thwarted?

Admiral TURNER. I do not know.

Senator LEVIN. All right. The final question—and I think, Judge, you have commented on this issue. The 9/11 Commission recommends establishing the National Intelligence Director in the Executive Office of the President. My own concern about that is that the individual then would be so close to the President and his policy advisors that it could make it even more difficult for the Na-

tional Intelligence Director to be independent of the policy pressures of the White House, thus increasing the risk of intelligence being shaped to support policy, as appears to have been done prior to the war in Iraq, rather than keeping the intelligence objective and independent, and also—and this part has not really been discussed publicly as much—that it might make it more likely for executive privilege to be invoked or suggested, thus making effective congressional oversight more difficult.

Judge, you have commented on this issue in your testimony, and you have indicated that you believe that it is important in order to avoid the reality or the perception of intelligence "being framed, read 'spun'" to support a foreign policy of the administration, that position be outside of the Executive Office of the President.

I need a quick answer from the other two witnesses. Do you believe that the National Intelligence Director should be inside or outside the Executive Office of the President?

Mr. Woolsey—inside or outside—because I am out of time.

Mr. WOOLSEY. I think the key thing is that they report to the President. I care much less about whether they are inside or outside the Executive Office than that it be an individual who is willing to be the skunk at the garden party.

Senator LEVIN. Thank you. Admiral Turner.

Admiral TURNER. I agree wholly with Jim.

Senator LEVIN. Thank you both for very helpful answers.

Thank you, Madam Chairman.

Chairman Collins. Thank you. Senator Coleman.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Madam Chairman. Thank you, gentlemen, for extraordinary testimony, and thank you for your service to our country.

Director Woolsey, you raised an issue about the focus of this report, and the reason I want to raise this is whatever we do, whatever we put in place now, has to suffice not just to respond to what happened yesterday but to what may happen tomorrow. It is kind of like you take a poll, and you are always getting somebody's opinion on yesterday, yet the issue may be tomorrow.

We know that Hezbollah is a terrorist organization that has missile capacity. We know that there are deep concerns about the Iranians developing nuclear capacity and what they will do with that. We have deep concerns about Syria funding terrorism.

So my concern is as we look at this report, and we look at the concept of a National Intelligence Director, and we look at the Counterterrorism Center, I will quote a comment that appeared in a series of thoughts in the August 1 edition of *The Washington Post,* asking a number of folks—Admiral Turner, I think you responded to this—for their reflections on where do we go with the report. This comment came from John Deutsch, former Director of Central Intelligence from 1995 to 1996.

He noted that, "Moreover, the proposal for the civilian-led, unified, joint command for counterterrorism works better for counterterrorism than for managing intelligence regarding other security issues that may arise in the Taiwan Straits, in the Palestine-Israel conflict, or the Indian subcontinent."

So my question becomes for all of you gentlemen—the structures that we are talking about now that are reflected in this 9/11 Commission Report—a National Intelligence Director, a Joint Counterterrorism Center—do you have a sense of confidence that this structure relates to some of the other concerns about terrorism, some of the other concerns about Hezbollah, about Iran, about Syria?

That would be one question, and the second is if not, if we are missing something in this report and these recommendations to deal with those emerging issues, what would it be?

Admiral Webster—excuse me—Judge Webster.

Judge WEBSTER. Thank you. I was never more than lieutenant, senior grade, sir.

The Intelligence Community leader has as his responsibility knowing what problems there are in the world, not just what is on the mind of a department head or on what seems to be for the moment a particular problem, and strategically, what problems are out there. I mentioned "have" and "have not" countries can create wars. We need to be on the alert for that, and we should not give up that responsibility because of the inadequacy of the authority of the community leader. That is my first point on that. Maybe I can come back.

Senator COLEMAN. Director Woolsey.

Mr. WOOLSEY. Senator Coleman, I would say that, yes, tomorrow's threats may be very unlike this one. We could have a crisis in the Taiwan Straits and be looking at a serious confrontation with China, for example. And we do not want to structure our intelligence in such a way that the Secretary of Defense's ability to have a major hand in our intelligence resources is taken away.

I do not think the Secretary of Defense is the main enemy here as we try to figure out what went wrong before September 11 and fix it. And I also think that the 9/11 Commission's Report, in its recommendations and really in its discussion, has almost nothing to say about threats like Hezbollah in Iran and Syria. That was not its focus. Its focus was al Qaeda's attack on September 11. And I think we want to be very careful that we not structure the Intelligence Community and its reforms in such a way as to fight only that war. We have a lot of worldwide responsibilities, and the Department of Defense is a major player in how we respond.

Senator COLEMAN. My hope would be—and that is my concern—Chairman Roberts talked about wanting to make sure we did not do something that had unintended consequences. There are other threats out there, and I think, Director Woolsey, you said that you have been through five of these commissions, and if, God forbid, something terrible happens, there is going to be a sixth or seventh commission. So if there is something that, as we look to the future, we do here that you think would limit our ability to deal with those responses, I would hope that you would bring it to our attention and put it in the record.

Admiral Turner.

Admiral TURNER. I am a little concerned, Senator, at the diagram I see in the report where, on the one hand, we have a National Counterterrorism Center, and then, down at the bottom right-hand corner of the chart, we have a whole group of individual

threat centers—I forget their exact title. I worry that we are going to find that those are the only places we are focusing our intelligence effort, and that there will be another one we'll develop that we have not thought of. I am nervous about this. I have not fully understood those charts.

Senator COLEMAN. I share your nervousness. One of the issues that I have raised in the past is, being a former chief executive and mayor, you really want and need that skunk at the party; you need some dissenting voices. Is it your sense—and I would appreciate all of your responses—that the structure that is being proposed here with the National Intelligence Director and with the Counterterrorism Center that we have—is that going to allow for dissenting voices to get to the President, to get to the Commander in Chief?

Director Woolsey.

Mr. WOOLSEY. Senator Coleman, I think that is largely a matter of individual propensity. I have known the men on my right and left for many years, each of them, and they both call it absolutely straight. I do not think when they were in the job, or now, or ever have they been in a position of trying to tell people on something important what they want to hear. And I think that comes down not so much to the organizational relationship—even whether somebody is in the Cabinet, although I generally agree with Bill on keeping the NID out of the Cabinet—I think the key thing is the individual. You have to have people who do not want too much to be liked.

Senator COLEMAN. Admiral Turner.

Admiral TURNER. I would agree with Jim on that very much.

Senator COLEMAN. Judge Webster.

Judge WEBSTER. I agree.

Senator COLEMAN. The question about the relationship with the President—and we have had discussion—I take it that all of you gentlemen agree that this position should not be in the Cabinet. I think Judge Webster said that, and Admiral Turner is shaking his head.

Judge WEBSTER. Yes.

Admiral TURNER. Yes.

Mr. WOOLSEY. Yes.

Senator COLEMAN. Help me understand how we structure this. There has been some discussion about whether it is in the Office or out. The bottom line is that the ability to do the job depends on the confidence of the President. I take it we all agree on that. Is there any disagreement with that?

Judge WEBSTER. I agree.

Mr. WOOLSEY. I agree.

Admiral TURNER. Agreed.

Senator COLEMAN. So this issue of having terms beyond the President's term, I think from my perspective, would not be a good idea if your power is going to depend on your relationship with the President. Can we structure that, or is this something that we have to leave to—we elect a President, and they are going to lead us in the direction—Director Woolsey, perhaps in a direction that you as head of intelligence say we should not go, but our country is going to go where the President says we go. Is this something that we

can structure, or do we simply have to leave it to the—not the whims, but the realities of human relationships and strength coming from that relationship.

Mr. WOOLSEY. I think there is no guarantee, Senator Coleman, and I think there should not be any greater difficulty in having a NID who is willing to speak independently and to reflect his analysts' views and his own views than there is for having a DCI. And generally, over the years, I think DCIs have called it pretty straight, sometimes to the extent of not pleasing the boss. But I do not see how these changes make that problem any harder than it is now.

Judge WEBSTER. I agree. I think that anything you can do, anything in the culture that gives the leadership in the Intelligence Community the intellectual independence to call it the way it is seen by the experts and the analysts—setting forth alternative points of view if necessary. Their job is not to influence a policy or to make a policy happen. And again and again I repeated to everyone, said it publicly, said it to the Cabinet, we will do our very best to give you the best intelligence and analysis of that intelligence that we can have. Then, it is up to you. You can use it, you can ignore it, you can tear it up and throw it again. The one thing you cannot do or ask us to do is change it. And I think we have held to that. Then, the job of defining the policy that flows from that is up to other people.

Senator COLEMAN. Thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Durbin.

OPENING STATEMENT OF SENATOR DURBIN

Senator DURBIN. Thank you very much, Madam Chairman.

I suppose the questions I am about to ask reflect the fact that I have taken a lot more history courses than management courses, but I hope you will bear with me.

There is a legendary saloon keeper in Chicago named Paddy Bauler. He ran an old saloon and was kind of a ward boss. So they had a reform candidate running against him, and they went to Paddy Bauler and asked him, "What do you think about this guy running against you?"

He said, "This city ain't ready for reform." He was right.

The question is whether the intelligence community is ready for reform. And I think the 9/11 Commission has shaken us up, and they should. They did a great job, did great service to this country. But if we are often accused of being guilty of fighting the last war, it appears that in the case for reforming the Intelligence Community, we are basing it on the second last war, because since September 11, we have had another event occur, and that was the invasion of Iraq. I think the invasion of Iraq made it clear to us in 2002—after, I should say, our vote in 2002, our invasion in 2003—that intelligence failed us a second time.

I wonder what an Iraq invasion intelligence commission's recommendations might be a year later, after September 11; would they be any different? Certainly, I think it calls into question whether there is any power of self-healing within the Intelligence Community. We failed on September 11. The Intelligence Community did not do as good a job as it should have done. A year later,

they were tested again and, by the report of the Senate Intelligence Committee, they failed again. On September 11, they had to look at the whole world and figure out who our enemy was, and they did not get it—they did not get it right. When it came to the invasion of Iraq, they had to look at one country and figure out what the danger was, and they did not get that right, either, which brings me to this point, and that is whether or not, when we talk about this reform process here, whether changing nameplates and changing e-mail addresses is really getting to the heart of the problem.

Judge Webster, 13-year-old mainframes at the FBI—I have been screaming bloody murder about this for 3 years—why don't we have a Manhattan Project on intelligence technology? Why aren't we gathering the best and brightest in the academic and the private sectors and the public sector, breaking through all of the Federal red tape, and building a computer system to fight the war on terror? We have not even decided to try that yet—and yet we are talking about moving nameplates and who has budgetary authority and whether they are going to be part of the Cabinet.

Second, Mr. Woolsey, thank you for joining us again. I am still troubled by your repeated comments at these hearings that it sometimes is not safe for these agencies to share information. There may just be another spy in one of these agencies, you said. How are you going to get trusted communication that the 9/11 Commission calls for if you start with that premise—if it is not safe for the FAA to tell the FBI about dangerous people; if it is not safe for the border crossing guards to take fingerprints and share them with the FBI?

So my point is this—going back to history as opposed to management—is the Intelligence Community ready for reform? If it is not ready for reform, are we kidding ourselves here? Are we going through a political exercise moving nameplates around that really will not achieve the fundamental reform that Admiral Turner referred to when the President of the United States called him in and said, "We are going to do it differently, and you are in charge of doing it differently"? That is what bothers me.

Would anybody like to comment?

Mr. WOOLSEY. Senator Durbin, two points. First of all, about pre-Iraq and a commission on that. In a sense, there is one. The commission on the WMD estimates, co-chaired, I believe, by former Senator Robb and Judge Silberman, is holding hearings. I am testifying before them, I think, next week on those issues. And it is a complicated set of issues, but nonetheless, just as there were about five post-Pearl Harbor commissions, there will doubtless be more than one post–9/11 and post-Iraq commission. It seems to be kind of a constant here in Washington.

I think on the sharing issue, the point I want to make is that the 9/11 Commission essentially said that "need to share" should replace "need to know." And it has a mechanism, a kind of an internet, a trusted information internet. My written testimony is more thorough than what I said here at the table on that point, but the key issue seems to me to be that we should not give up on "need to know." We ought to try to continually adjust who needs to know what. We ought to make sure that a person, regardless of

what agency they are in—if they are a DIA analyst, and they are one of the two or three best people in government to look at a particular issue, they ought to be given access to a CIA directorate of operations blue border report, as long as they are trusted and security-cleared and so forth.

I am not suggesting that we should stay within the stovepipes. It is the numbers that bother me, because insofar as one widely disseminates material, one could have a Robert Hanssen, who turned out to be a pretty clever computer operator——

Senator DURBIN. Mr. Woolsey, Governor Kean and Congressman Hamilton sat in those chairs and told us we have got to be more creative, we have got to be more imaginative. We cannot keep putting things in these neat little drawers of expectations. We have got to think more broadly on the war on terrorism. And what you are arguing for, even though it may be stovepipes with a few holes in it, is to make sure that the holes are directed in the right ways.

How do you get creativity and imagination out of that?

Mr. WOOLSEY. Well, Senator, the victors in World War II used intelligence very creatively, and one way they did so, particularly with respect to the very sensitive signals intercepts and decrypting that we were doing of the Japanese codes and the British in Enigma were doing of the German codes, was to radically restrict the numbers of people who did the analysis and had exposure to those technologies but to make them the very best.

Whenever I see, as I saw back in 1998, headlines in the press saying we are listening to bin Laden's satellite telephones, and we know immediately thereafter he stops using them——

Senator DURBIN. That was a leaked story in *The Washington Times* which killed the source for us.

Mr. WOOLSEY. It strikes me that once I see leaks like that, I think there are too many blabbermouths in the government who are being given access to signals intelligence. The person who leaked that, I think, has as much blood on his or her hands as anyone with respect to September 11.

So it is impossible to always disseminate only to the right people, and I do think we need to disseminate across agency lines, but we also, I think, should not think that we are going to do something effective just by broadcasting and sharing very widely without attention to precisely whom this sharing is going to. That is my only point.

Senator DURBIN. I have only a few seconds left, but I would really like it if either of the other two witnesses could comment, Madam Chairman, on this whole question about whether we can create a climate of reform in agencies which do not appear to be open to that climate.

Admiral TURNER. Senator, I tried to say in my comments that the biggest problem today is how we analyze these situations. Henry Kissinger has a piece in *The Washington Post* today saying analysis, interpretation, is the real problem here. Changing these boxes will help some, but it is not the solution.

The solution is with you. Are you interrogating the intelligence committees?

Senator DURBIN. I am on that, too.

Admiral TURNER. OK, sir. Are you interrogating these people when they come up and finding out if they really can back up what they are saying.

Senator DURBIN. Admiral, we have 22 staff members on the Senate Intelligence Committee shared by the members for 15 different intelligence agencies. I think you can answer that question yourself. We cannot get into the level of depth that we should with the current situation on Capitol Hill. The 9/11 Commission is right—we have failed at oversight. We have to accept some responsibility here.

Admiral TURNER. And there is the PFIAB and the whole bureaucratic structure. I mean, are the Secretaries of State asking these questions? Are the Secretaries of Defense asking these questions? We have just got to encourage a much more inquiring approach to intelligence.

Judge WEBSTER. Are we ready? I think we are always ready if a good reason is presented and a good objective is understood, and then, people will go to work and find it. That is true in the FBI, it is true in the CIA, and it is true in the other elements of the Intelligence Community.

But when we think about how intelligence is collected, as Admiral Turner pointed out, and then we think what do we do with that intelligence, where does it go—using my FBI example, there is an extraordinary amount of information that is in those files. Getting it out depends on architecture of the system, and the architecture of the system had something else in mind when it was created.

I do not think it needs a Manhattan Project, but it sure needs some attention and a willingness to invest in what creates that capability to share but share with protection.

Senator DURBIN. Thank you. Thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Senator Durbin, who was the saloon keeper in Chicago that you spoke of?

Senator DURBIN. Paddy Bauler.

Senator CARPER. Paddy Bauler. And Paddy Bauler said, "This city ain't ready for reform"?

Senator DURBIN. Yes.

Senator CARPER. One could also look at the intelligence community and conclude that, given the unanimous recommendations of the 9/11 Commission, the Select Committee on Intelligence's unanimous recommendations, the countless commissions that have existed over the last 30 or 40 years recommending changes, maybe the Intelligence Community "ain't ready for reform," either.

I would go a bit further and say my guess is that the committees on which we serve here in the Senate and in the House "ain't ready for reform."

You have testified since the 1970's, some of you, before countless committees of the House and Senate, and you have a pretty good idea how this place works and sometimes does not work too well. And I am not going to ask you to help us today think through how we might want to restructure our committees in the House or the Senate, but I do want to remind us all that in the 9/11 Commission

Report, while there are a lot of recommendations with respect to changes in the Executive Branch, there are quite a few recommendations with respect to how we operate here on our side of this government.

There are discussions and suggestions that we wait before we change our Committee structure, until we figure out how we are going to restructure the Executive Branch, before we move forward with the 9/11 Commission's intelligence recommendations. Setting aside what responsibilities we invest in this director with respect to budget and personnel and so forth, should we be thinking this year about making changes in our approach with respect to oversight, the number of committees that we have?

I think with respect to the Department of Homeland Security alone there are, I have heard, as many as 80 committees and subcommittees that have some piece of jurisdiction over homeland security.

What would be your recommendations with respect to sequencing for structural changes on the legislative side?

Admiral TURNER. My view is this all ought to go ahead concurrently. I do not see why changing the congressional structure needs to wait until you decide whether it is a DCI or a NID. It is not all that big a change, in my opinion. And in any event, your structure needs change just as the rest of it does. We ought to get on with it.

I happen to have been the DCI who had to be there when the committees were formed—actually, not the Senate committee—I was 6 months late—but I was really the DCI who had to figure out how we adjusted to dealing with the Congress, because the Intelligence Community had almost no contact I believe before that.

I must say that in looking back on it, I am disappointed in the Congress' performance over these many years and the things that have gotten by, like Iran-Contra. I think it is really time for an introspection by the Congress. Your role is so vital here in trying, within the limitations of the size of your staffs and all, to introduce a real inquisitiveness into this situation as to whether they are looking at all the aspects of it and not getting "group-thinked."

Senator CARPER. Thank you, Admiral Turner. Judge Webster.

Judge WEBSTER. Senator, when we talk about completing the dots, what about those 80 committees? How many dots failed to get completed because of the spread in responsibility and authority throughout the Congress? And how much better might it have been if this Committee or the SSCI had full knowledge of all the regulation that was going on? It is an argument for consolidation, just as we are hearing that the Intelligence Committee needs to consolidate and control its information.

Senator CARPER. Thank you. Mr. Woolsey.

Mr. WOOLSEY. Senator, I come at this from a particular perspective. In the early seventies, when I was still in my twenties, I was General Counsel to the Senate Armed Services Committee for Senator Stennis, and one other staff member and I together with one Appropriations Committee staffer were the three cleared staffers in the Senate that worked on the intelligence budget, among other things—we all had other duties as well.

When I returned some 20 years later as DCI to testify before the Congress on intelligence and realized I was dealing with four committees, a substantial number of staffers—for example, several of my many trips to Capitol Hill in 1993 were to try to turn around the decision of the Senate Select Committee's expert on satellite design, because he had a different idea about the way satellites should be designed than our experts in the National Reconnaissance Office—I came to the view that some consolidation with respect to oversight on Capitol Hill would be a pretty good idea. And I am pleased that the Commission recommended it. I think far and away the best approach would be a single committee, a joint committee along the lines of the old Joint Atomic Energy Committee. I do not think that the appropriations process, at least in my experience, is broken, and I do not see anything particularly necessary to fix it.

But I think the biggest problem is the time limitation, the term limitation, on the members of the House and Senate Select Committees, because it really helps a lot to have members of the committees who have seen issues come around again and again. They can provide an institutional memory the way the members of a number of other congressional committees do, rather than having to be educated afresh with respect to what this satellite does or that NSA program does every time one comes before them.

So I do think that getting rid of term limits and, hopefully, having a single committee for authorization would be very positive steps and, like Stan and Bill, I do not think it needs to await whether you have a NID or a DCI.

Senator CARPER. Good. Thanks.

I would just say to you, Madam Chairman, and to my friend and colleague Senator Lieberman, this has been an extraordinary panel. I have sat here, and I have learned a lot, but I have also been struck by how fortunate we are as Americans that each of you has served our country and still does. You make me proud, and I am sure I speak for all of us in saying that.

One of the values of having a diverse panel like this, one made up of people with rich experience, is to have them tell us at the end of the hearing where they agree, where they see the consensus, because we can go in a million different directions coming out of these hearings. But where do you see consensus among yourselves that you would really urgently urge us to pursue?

Admiral TURNER. I think it is empowering somebody to run a roughly $40 billion a year operation. We just do not have that, and we need to have it—a CEO. So the real issue is just how much authority you give that CEO and still protect the Department of Defense. And I, as a military officer, would err on the side of giving it to the National Intelligence Director.

Mr. WOOLSEY. And I, as a lawyer, now a management consultant, who only spent 2 years in the uniformed military, would err a little bit more on the side of protecting the interests of the Secretary of Defense. But generally speaking, I think Stan and Bill and I are headed in the same direction, and I would agree with establishing the NID, I would agree with enhancing their authority over tasking, budget, and personnel, but I would like to essentially require a collaborative relationship between that individual and

the Secretary of Defense over that some 80 percent of the national intelligence programs.

Senator CARPER. Judge Webster.

Judge WEBSTER. I do not have much to add except that giving the intelligence leader, whatever he may turn out to be, the kind of authorities that he is thought to have but really does not and making them work in that way, as—Jim calls it an adjustment—I would say shifting the initiative, resumption of authority—all of those things can only work for a more effective Intelligence Community.

Senator CARPER. Thanks. That was great.

Admiral TURNER. Could I add one point? I do not worry about the Defense Department much because it is so powerful. It has all kinds of ways of protecting its interests, and will.

Senator CARPER. Thanks for that clarification and for your excellent testimony.

Chairman COLLINS. Thank you, Senator Carper.

And last but not least, the ever patient Senator from Minnesota, Senator Dayton. Thank you for staying.

OPENING STATEMENT OF SENATOR DAYTON

Senator DAYTON. Thank you, Madam Chairman.

I have moved from 100th in seniority to 89th, and it is not at all clear to me exactly what difference that makes in the scheme of things—except that I guess I get to be in the same time zone as the Chairman as opposed to being off the deep end here.

It is an excellent hearing—I would say the same thing—and very worthwhile. I thank you all for your service and also your expertise here.

To paraphrase Senator Ben Nelson in the Senate, if it has not been asked by everyone, it has not been asked, and I am not sure what is really left here.

We talk a lot at the top of organizations. What about in the midsections and so forth? These eight various entities under the Department of Defense. Each branch—Marines, Air Force, Navy, Army—has its own separate intelligence. Are we making more of these 15 different entities' or agencies' dispersion than it really involves, or are we talking about very separate entities here that ought to be consolidated, merged, in order to be more efficient?

Admiral TURNER. Twenty years ago, I wrote a piece in *The Washington Post* that recommended removing Army, Navy, Air Force, Marine Corps, and Coast Guard, from the national Intelligence Community. Their job is tactical. Navy intelligence, for instance, does not need to inform the chief of the Navy about the strategic picture, what is going on in the rest of the world; he or she has the Defense Intelligence Agency to provide all that to him or her. I think we ought to hive them off and put them into the tactical field; let them know that is where they stay. They should not be bothering to study the strategic picture anyway. We have too much duplication there.

Mr. WOOLSEY. I think over the years, at least as of the time that I was DCI 9 years ago, the roles and functions of the military service intelligence operations have shrunk and consolidated. I think, although their membership on some bodies may be a bit out-of-

date, their real function and what they really spend their time on is material that is directly and immediately relevant to their own service. Also, people add up all the numbers, but the State Department Bureau of Intelligence and Research generally does a good job—it has 100 or so analysts working for the Secretary of State. There are several of these agencies that are not large and I think do not create any particular problem or confusion. The big ones with respect to money, other than the CIA, are the National Security Agency, the National Reconnaissance Office, the National Geospatial Intelligence Agency, and the Defense Intelligence Agency. And each of those has an important function. It is not going to be that hard for the NID to deconflict them. I do not think it is necessary to have any massive reform of them. I think there are some adjustments and changes that can be made, and I think the NID, working with a Secretary of Defense, can do it.

To my mind, the hard problem here is melding domestic and foreign intelligence on the terrorist threat. That is new; it is tough. It gets into civil liberties issues, sometimes real civil liberties issues, sometimes ones that are perceived to be such. To my mind, that is why we need to move to a NID, so he or she can coordinate and pull together what is happening domestically with respect to terrorist groups, embassies here that might directly or indirectly help fund terrorist-friendly groups and so on, on the one hand, and foreign intelligence about what is going on overseas on the other.

It is the foreign-domestic lash-up that seems to me to be right at the heart of the new NID's job, and it is one of the reasons why I keep coming back to the fact that I do not think the Secretary of Defense is the main problem here. I think we ought to just work something that the Defense Department can live with, and that is going to work. It works reasonably well now. I think the big problem is in this new world of having to look at foreign and domestic together.

Senator DAYTON. The four entities you mentioned, other than the CIA, are within the Department of Defense. So you have those four entities, and then you have the CIA, and then you have the domestic side, where I assume you are talking about primarily the FBI or some of these others—again, we have Homeland Security, Treasury, and Energy. Again, what are the big entities here—are we talking about the FBI, the CIA, the Department of Defense, and these four subsidiaries under them? Going back to your management expertise, how do you pull this together? How do you have somebody who is NID who is then directing four subsidiaries under the Secretary of Defense?

Mr. WOOLSEY. Well, they have different functions. The NRO designs, launches and operates the satellites. The National Geospatial Intelligence Agency takes that data and makes maps and photos and integrates it and gets it to the combattant forces. NSA does signals intercepts and decryption.

There are areas where they need to work together, but it is not as if you have a lot of people actually doing the same thing.

Senator DAYTON. But whom do they report to? Are you saying they report to the new NID? Then, why are they in the Department of Defense?

Mr. WOOLSEY. They have grown up—NSA was originally a Defense Department agency. The National Reconnaissance Office for many years was, and still in a lot of ways is, a joint venture, essentially, between the CIA and the Department of Defense. The National Geospatial Intelligence Agency grows out of a merger of the Defense Mapping Agency and the CIA people who were doing photo interpretation—and my successor, John Deutch, made that a Defense Agency. The Defense Intelligence Agency has grown up over time with varied jobs, but it is not really duplicative. For example, they manage the attaches; they run certain specialized collection operations with different types of aircraft and so forth.

So these different agencies, the defense ones, really report, for all practical purposes, to the Secretary of Defense. The DCI under the current system can have some influence over the direction they go, but I think not enough to really pull them together in the way that you are suggesting they should be pulled together.

I think the Secretary of Defense and the NID, working together, could get these rationalized fine. I do not think it is the major problem. I think the major problem is domestic and foreign, pulling that together.

Senator DAYTON. Is the way Admiral Turner described the arrangement under President Carter going to do it here? Is that what we are talking about here, where that one person, whether by fiat or whatever, has that authority, then, despite being out of the organizational chart loop—is just inserted and told, OK, you are going to run the show?

Mr. WOOLSEY. I think the big problem is not necessarily that one needs to move the budget execution authority. The big problem is that one needs to radically simplify and enhance the role of the DCI under the current system, or the NID under a new one, for reprogramming.

I think Bill Webster is right on the money when he said, literally and figuratively, that it is almost impossible now, and there are massive delays involved, in a NID—or a DCI today—moving money from one of these programs to another. The Secretary of Defense needs to be heard and be able to reclama that to the President if need be. But you need more ability to reprogram. That is the flexibility that, I think, a NID needs that a DCI does not really have.

Senator DAYTON. My time is up. Thank you very much, Madam Chairman, for an excellent hearing.

Thank you all again.

Chairman COLLINS. Thank you. I want to thank our witnesses for being with us today. Each of you added a great deal to our consideration of these important issues.

We have a heavy responsibility to produce a reform bill and to do so in a relatively short amount of time, and being able to call on people with your experience, expertise, and judgment certainly facilitates our task. I hope we can continue to call upon you during our deliberations, and I thank you very much for being here today.

The hearing record will remain open for 5 days.

I want to thank my colleagues again for their efforts to be here. I think it is a sign not only of the compelling testimony that we have, but the importance of our task, that so many Members have

come back from their home States and have stayed throughout the hearing. So I thank you.

Senator Lieberman, did you have any closing comments?

Senator LIEBERMAN. Thanks, Madam Chairman.

Just to join you in thanking the three witnesses. This has been a very valuable hearing. We have actually learned something from you, and we appreciate it. [Laughter.]

Chairman COLLINS. I find that less shocking than does my Ranking Member, Senator Lieberman.

Senator LIEBERMAN. Well, it may come more at other hearings than on you, but anyway, I appreciate it. When I called you "three wise men" at the beginning, you have not let us down.

I think it is very important that the three of you have in different ways said that the status quo is no longer acceptable with regard to the Intelligence Community. You are all for a stronger National Intelligence Director. There may be some disagreement about the details.

Admiral Turner, your story from the Carter Administration was fascinating to me, and it does show that what a lot of us are calling for could be done without statute change. On the other hand, a statute is permanent and does set a standard, so we need to act quickly.

The final thing I would say is that I agree with Mr. Woolsey that we have got to stop ever using the word "czar" to describe a strengthening of position, and for the moment, I like your comment that the NID is meant to be a CEO, it is meant to be a chief executive officer.

Thank you, Madam Chairman.

Senator DAYTON. Madam Chairman.

Chairman COLLINS. Yes, Senator Dayton.

Senator DAYTON. Tomorrow morning, I know you have made some considerable effort to reconcile your timetable with that of the other committees on which we both serve. What is your intention tomorrow with regard to the witnesses and proceedings, because the next committee starts, I think, an hour and 15 minutes later.

Chairman COLLINS. Which is highly unfortunate. We have changed our hearing time twice to accommodate the Armed Services Committee, and then, unfortunately, the Secretary had an appointment that he could not change.

Our hearing will begin at 9 o'clock now, and I would encourage Members who are on both committees to just go back and forth.

We will be hearing from a very compelling panel of family witnesses, those who lost loved ones on September 11. As they were the driving force behind the creation of the Commission, and they have followed its work very closely, so I think it is an important hearing, but I certainly understand that Members are going to have a lot of conflicts—but we will begin at 9 o'clock.

Senator DAYTON. Which is why I regret that. I guess I would just respectfully ask if we could have the opportunity to have the panel begin its remarks as soon as is practical tomorrow morning.

Chairman COLLINS. We will.

Senator DAYTON. That would accommodate those of us who do need to be at both simultaneously.

Chairman COLLINS. Exactly.

Senator DAYTON. Thank you.

Chairman COLLINS. That is why we moved it up to 9 o'clock. Senator Voinovich.

Senator VOINOVICH. We are talking about moving very quickly on this whole issue. The statistic that Congress was in session 195 days, and Mr. Woolsey was on the Hill 205 of those days testifying indicates——

Mr. WOOLSEY. Some of those were meetings.

Senator VOINOVICH [continuing]. Meetings—indicates that we ought to move as quickly as we possibly can to shape up our shop. In other words, we ought to have this on both tracks, and I would recommend to you and also to Senator Lieberman, and to our leadership, that they ought to get on with this whole issue, because we cannot keep going the way that we are going. This whole Committee structure is not put together in a way to respond to the threats that we have today, and it is incumbent on us to fix it.

Chairman COLLINS. I think you are absolutely right.

Senator Lieberman and I have been assigned the reorganization of the Executive Branch, not the Legislative Branch, but I know that our Senate leaders are moving forward with that vital recommendation as well.

And you are certainly correct that Mr. Woolsey's testimony about the number of commitments on the Hill that he had to answer—certainly, while oversight is very important, we ought to be able to do it in a more efficient manner so that we are not taking up all of the Executive Branch's time testifying before Congress.

So thank you for those comments as well.

Thank you. This hearing is adjourned.

[Whereupon, at 12:40 p.m., the Committee was adjourned.]

A P P E N D I X

TESTIMONY BEFORE THE

HEARING OF THE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

Washington, D.C.

August 16, 2004

By

William H. Webster

Chairman Collins, Senator Lieberman and Members of the Committee,

Thank you for the privilege of appearing before you this morning to discuss key aspects of the recommendations of the 9/11 Commission, especially those recommendations regarding the restructuring of the Intelligence Community.

Following an extensively documented and detailed narrative of the events leading up to September 11, 2001, the Commission concluded that the coordination, amalgamation and synthesis of intelligence collected by various components of the Intelligence Community were too loose, and in consequence the "dots" were not connected in a way that the 9/11 plot could have been uncovered and prevented. The Commission addressed a new structure intended to reduce the likelihood of another catastrophic attack against the United States and its citizens.

In my view, some of the omissions and errors in conclusions were attributable to human mistakes and misjudgments. Others were attributable, in part, to constraints, both legislative and administrative, that governed interagency relationships in the period following the Church and Pike Committee Reports to the 2001 Patriot Act revisions on sharing intelligence. Various proposals for managing "need to share" and preserving

"need to know" had to address the almost Byzantine system of intelligence control that evolved during that three decade period.

I liken the current status of the Director of Central Intelligence to that of "den chief" in terms of his ability to control resources and compel effective teamwork throughout 15 agencies. It is remarkable what has been accomplished by consensus building, friendly cajoling and a patriotic effort among so many agencies to make it work. But this is not enough to deal in a timely way with the complexities of the world in which we find ourselves.

There is today a strong consensus that the authority of the Intelligence Community leader must be increased to do the job for which he must be responsible -- to provide timely and useful intelligence upon which the President and policymakers can make sound decisions in the interests of our country.

The Intelligence Community does not need a feckless "czar" with fine surroundings and little authority -- that is the wrong way to go. Whether the Congress elects to create a true Director of National Intelligence, as the 9/11 Commission recommends, or to beef up the real (as distinguished from cosmetic) management authorities of the Director of Central Intelligence, as others have proposed, the designated leader must be clearly and unambiguously empowered to act and to decide on issues of

great importance to the success of the Intelligence Community and the country.

Enhanced Leadership

There seems to be general agreement that additional authorities should repose in the top leader of the Intelligence Community. These authorities, although widely assumed by the American public to exist already, are in fact imprecise, easily frustrated and not in regular use. They are: (1) management of the intelligence budget; (2) authority to name or at least approve the recommendations for Presidential appointment of the top leaders of the Intelligence Community; and (3) performance review and evaluation of these community leaders. These authorities could be granted to (1) the Director of Central Intelligence, who is also Director of the Central Intelligence Agency; (2) a Director of Central Intelligence who is separate from and senior to the Director of the Central Intelligence Agency; or (3) a newly created National Intelligence Director who would replace the present Director of Central Intelligence. The concept of a National Intelligence Director has the present support of the President, the Democratic candidate for president and the 9/11 Commission. The NID would have authority to oversee national intelligence centers on specific subjects of interest across the U.S. Government and to manage the national

intelligence program and oversee the agencies that contribute to it. It appears that the centers are expanded versions of centers which the DCI has created and operated in the past, but located elsewhere in other Departments and Agencies.

Under the Commission model the NID would manage the national intelligence program and oversee the component agencies of the Intelligence Community. The report envisages management through three deputies, each of whom would hold a key position in one of the component agencies. The Director of the CIA would head foreign intelligence, defense intelligence would be headed by the Under Secretary of Defense for Intelligence, and homeland intelligence would be headed by the FBI's Executive Assistant Director for Intelligence or the Under Secretary of Homeland Security for information analysis and infrastructure protection. The three deputies would have the job of acquiring the systems, training the people and executing the operations planned by the National Intelligence Center.

Control of the budget is essential to effective management of the Intelligence Community. The President, in his remarks, has used the term "coordinate" which I understood to mean management. Others have suggested something less. There is obviously some sorting out to be done

between the enhanced intelligence community organization and its leader, and the Department of Defense and its Secretary. If this model is adopted, the Defense Department will need some assurances that tactical military intelligence will not drift away from its military commanders. On the other hand, with respect to strategic intelligence around the world, defense agencies must be prepared to respond to the management initiatives of the National Intelligence Director.

In all of this I would sincerely hope that there will not be just another additional layer of government. The Director of Central Intelligence position would simply segue to the new National Intelligence Director at the top of the table of organization reporting to the President. The number of new positions needed to manage the outreach and responsibilities of the NID should be carefully controlled.

National Counterterrorism Center

A key proposal is to expand the current terrorist threat integration center (TTIC) as a center for joint operational planning and joint intelligence and staffed by personnel from the various agencies. While there are a number of questions to be thought through and answered such as the role of the Center in operational activities, I believe that the concept has merit for a number of reasons. First, I think it offers a potentially effective

vehicle for dealing with the growing threat of international terrorism with full participation and sharing by agencies across the community. Second, and this is not a pejorative observation, there is a risk that the Nation's preoccupation with terrorism may cause important and significant collections and analytical responsibilities of a non-terrorist nature to be neglected. Challenges such as the Cold War, major economic changes among "have" and "have not" nations and other matters requiring our best collection and analytical efforts for the benefit of our policymakers must not be neglected or subsumed. As we have seen all too painfully, sources that have been neglected after the fact can dry up and take years to redevelop when a new crisis emerges. This must not happen.

Centers

The Director of Central Intelligence (as distinguished from CIA) has established a number of Centers located for convenience at CIA headquarters. These have made substantial community-wide contributions. I believe they should stay with the intelligence leader, be denominated at his discretion (not legislated) and located where he and his principal advisors think most appropriate.

Covert and Paramilitary Actions

The Commission would keep responsibility for clandestine and covert operations in the CIA but place lead responsibility for paramilitary action in the military. I have some doubts about this model. The Commission acknowledged that the combined activities in Afghanistan worked well. I would prefer to keep that model on smaller "turn on a dime" activities in the CIA. Larger scale actions that are essentially troop engagements should be in Defense.

Relations with the President

While the leader of the Intelligence Community must be the principal advisor on intelligence to the President, he must work hard to avoid either the reality or the perception that intelligence is being framed (read "spun") to support a foreign policy of the Administration. My predecessor, Bill Casey, had a different view of this. He served in the Cabinet and participated fully in the formulation of policy. When I became DCI I asked President Reagan not to put me in the Cabinet for the reason noted above. He told me that he thought about it and had come to the conclusion that I was right. I was very pleased therefore to see that President Bush had reached a similar conclusion. The head of the Intelligence Community does not need to be located in the White House and to avoid these problems I

believe he should not be. The Director of Central Intelligence has had a small suite in the Old Executive Office Building through the years as a matter of convenience for meetings with White House officials and between appointments. I believe that is more than adequate and that he should be housed where he has access to people with whom he most frequently needs to consult.

Relations with Homeland Security and the FBI

The FBI should be, as it has in the past, a part of efforts to coordinate national intelligence collection efforts with international activities. This is more in the nature of putting the information together, completing the dots and other efforts to avoid information gaps. I think it is important that operationally the FBI should take its guidance from the Attorney General on its dealing with U.S. persons and the manner in which it collects information in the United States. This has been an important safeguard for the American people, should not be destructive of effective operations, and avoids the risks of receiving vigilante-type instructions, whether from the Intelligence Community or the White House. While, as Justice Jackson once wrote, the Constitution is not a suicide pact, the Constitution and the Rule of Law are at the top of our core values and must be safeguarded and respected.

Trusted Information Network

The Commission recommends an overhaul of our information systems to better process, share and protect intelligence across the agencies. This has considerable merit and will require more work in some agencies than others. As long ago as 2001, I headed a Commission on FBI Internal Security and we provided four classified appendices to our Report dealing with the infirmities of the FBI mainframe, now 13 years old. Inability to rapidly identify and capture information of value to other agencies aggravated the circumstances leading to the 9/11 tragedy.

Congressional Oversight

The 9/11 Committee has issued a special challenge to the Congress to overhaul its oversight systems for dealing with the Intelligence Community. If acted upon it will materially increase the effectiveness, not only of oversight but, of the performance of the community in its relationship to the Congress. I am told that over 88 separate committees and subcommittees now oversight the Homeland Security Department. This is really intolerable, not to say nonsensical. Consideration should be given to a joint committee on intelligence, selected with care and including a nonpartisan, highly respected membership.

At this moment in our history, I believe we have passed the moment of great fear which often produces unhappy solutions, and we have not yet entered a period of indifference where it is difficult to take the forward steps that are needed. We need to act, but we must act with great care. The many thousands of dedicated men and women in the Intelligence Community, many of whom have put their lives on the line for the safety of our country, count on you. I know you will not let them down.

I will be pleased to answer any questions that you might have.

U.S. Senate Committee on Governmental Affairs
Hearing on the 9/11 Commission's Recommendations
August 16, 2004
Testimony of R. James Woolsey

Madam Chairman, Members of the Committee, it is an honor to be asked to testify before you today on this important and timely issue. My testimony is on my own behalf and not on behalf of any institution with which I am affiliated.

The country has been well-served by the National Commission on Terrorist Attacks upon the United States (hereinafter the "9/11 Commission"). As a veteran of five national commissions myself, I would say that the Commission has done a thorough job investigating, pursuant to its charge from Congress, the "facts and circumstances relating to the terrorist attacks of September 11, 2001." As the Commission itself points out at the opening of its final report, its focus was "how did [the attack on 9/11] happen, and how can we avoid such tragedy again." Within this context it has done an excellent job, presenting the story of 9/11 in over 360 pages of clear prose - this alone is a substantial achievement. It additionally sets out, in its final two chapters, 41 specific recommendations, 28 regarding "what to do" (chapter 12) and 13 regarding "how to do it" (chapter 13). I will focus on these 41 recommendations.

Most of the Commission's recommendations are unexceptionable. I agree fully with all of the Commission's 28 recommendations in chapter 12 and similarly with seven of the 13 recommendations in chapter 13 - with respect to five of these latter, however, I believe important modifications are necessary; with only one do I totally disagree. To save time I will concentrate in this testimony on my differences with the Commission and on the limitations of its recommendations, the latter I believe largely imposed by the limited nature of the charge it was given.

Chapter 12: "What to Do. A Global Strategy"

No "Global Strategy"

This chapter's title to the contrary notwithstanding, the Commission does not recommend a "global strategy" for the war in which we are engaged. As is evident from the charge to the Commission and the preface of its final report, its assigned task was similar in many ways to the several commissions set up during WW II that assessed the Japanese attack at Pearl Harbor and ways to avoid such surprises in the future. Some of these earlier commissions' recommendations led to important organizational changes such as the creation of the CIA, but these commissions of six decades ago were neither capable of nor charged with recommending how to fight WW II: they did not make recommendations on such subjects as whether we should move first against Germany or Japan, whether to invade North Africa and then Italy before D-

Day, whether to provide massive military aid to the USSR, whether to by-pass major Japanese centers of strength in the Pacific in an island-hopping campaign, or whether to develop the atomic bomb.

Neither was the 9/11 Commission capable of or charged with developing a "global strategy" for the current war in which we are engaged, and it should not be surprising that it has not done so. But one wonders why the chapter containing its substantive recommendations is so titled. Reasonable as the Commission's recommendations in this chapter are, they are very far from constituting a global strategy for the current war.

For example the recommendations do not deal at all with Iran, Iraq, Syria, or our oil dependence on the Middle East - four subjects that one would have thought a global strategy would at least have touched upon. Iran's support for Hezbollah (the world's most capable terrorist organization), Hezbollah's history of attacks upon us over two decades, and the existence of Hezbollah cells in this country and in Latin America would seem to deserve attention in the recommendations - especially since Iran is in vigorous pursuit of nuclear weapons. The Commission seems focused exclusively on Sunni Islamists, in particular al Qaeda. This is understandable to a degree, but the next part of a war is not always like the previous one. Even within the context of preventing further terrorist attacks on the U.S., one would think that the Islamists of Tehran and their instrumentalities would deserve some attention. And a strategy to bring change to the Middle East in such a way as to make economies more broadly-based and conducive to job creation, and to reduce our vulnerability to coups or terrorist attacks there that would severely damage our economy, should at least mention the issue of oil dependence.

The Commission's Recommendations on "What to Do"

Some of the substantive recommendations in this chapter are strategic in nature: there are four sensible recommendations about how to deal with terror sanctuaries, Pakistan, Afghanistan, and Saudi Arabia.

The five recommendations regarding what might be called alleviating root causes (e.g. communicate better, establish a youth fund, promote economic development) and another five proposing different types of international cooperation (e.g. counter WMD proliferation, track terrorist financing and travel) are generally sensible, as are seven essentially technical recommendations (e.g. biometric entry-exit screening at the border, better airport screening for explosives) and four dealing with first responders (e.g. improved communications, better radio spectrum allocation, general standards for private preparedness). But a number of the 21 recommendations in these four categories hardly reach the level of "strategic".

There are three recommendations that, essentially, we should show balance (e.g. share information while safeguarding privacy, enhance executive branch power only

when necessary). Recommendations at these levels of generality do not give us much help in deciding issues that are important and now before us, such as: Should the federal government require birth dates from air passengers in order better to utilize data bases to identify individuals who might be terrorists? Or should police continue to be barred by local ordinances (as they are in many municipalities) from inquiring of immigration authorities about the immigration status of someone they have arrested for a state or local offense?

A Broader Assessment of the Enemies

I believe that the reason these Commission recommendations, while individually reasonable, do not constitute anything like a comprehensive and coherent global strategy is that there is no thorough treatment in the Commission's report of our enemies, even those in the Middle East, even those based there who may attack us here at home. The Commission acknowledges that the current war is against more than terrorism, just as WW II in the Pacific was a war against more than Kamikazes, but it seems to assume that the only relevant enemy is al Qaeda because it is the organization that conducted the 9/11 attack.

Would that it were so. We unfortunately also need to pay attention to other totalitarian movements in the Middle East who are our enemies and to state activity, in particular that of Iran and those who do the ruling mullahs' bidding -- such as Hezbollah and Moqtada Sadr in Iraq. If Shi'ite Islamists (or secular Ba'athists) prevail in Iraq, the consequence will ultimately be severe for us, including an increased likelihood of attacks in this country. All three of these totalitarian movements are, in my view, part of the enemy we face. If the Commission wanted to construct a global strategy it would have been well advised to consider a more comprehensive assessment of our enemy than it apparently did, such as that contained in Paul Berman's remarkable recent work, "Terror and Liberalism".

Enemies: A Case of Some Cooperative Effort

In its final report the Commission, wisely in my view, substantially backtracked from its early (and highly publicized) staff report's statement that there was no "collaborative relationship" between al Qaeda and the Iraqi Ba'athists when they were in power. The final report reaches a far more limited conclusion (on p. 66): that Iraqi Ba'athists and al Qaeda did not develop a "collaborative operational relationship" (emphasis added). This somewhat parallels the recent conclusion of the Senate Select Committee on Intelligence that Ba'athist Iraq and al Qaeda did not "ally" and had no "formal relationship" - that their relationship was "not close, but tactical".

This is an important issue not only with respect to the war in Iraq but because it can help us understand what future types of cooperation there might be between al Qaeda and other governments. What the press and the Commission have ignored, however, is the rest of what the Senate Select Committee said in its detailed discussion

of this issue in Chapter 12 of its recent report. Regarding cooperation other than that which would rise to the level of formality or alliance, the SSCI report mentions as "most disturbing" a "dozen or so" intelligence reports of, among other Iraqi-al Qaeda contacts in the 1990's, Iraqi training of al-Qaeda in combat, bomb-making, and CBRN (chemical, biological, radiological, and nuclear) capabilities. It added that there was evidence of Iraq providing "safe haven" in Baghdad and the Northeastern Iraq and training in explosives, poisons, gases, and operational cooperation." This expands upon what DCI Tenet had written to the Senate in October 2002 about Iraqi training of al Qaeda in poisons, gases, and conventional explosives.

The overall SSCI conclusion was that Saddam was "not averse" to enhancing al Qaeda's "operational capabilities" even though he did "not endorse al Qaeda's overall agenda" - the Committee added that the two movements' "mutual suspicion was suborned by al Qaeda's interest in Iraqi assistance and Baghdad's interest in al-Qaeda's anti-US attacks."

The final report of the 9/11 Commission calls into question one of the reports of Iraqi assistance to al-Qaeda in "chemical weapons and explosives training" by noting (in footnote 76 on p. 470) that "the most detailed information" regarding Iraqi training of al Qaeda in these two types of weapons had come from an al Qaeda member who has now "recanted", and that two other senior bin Laden associates have "adamantly denied" al Qaeda-Iraqi links. Yet this not only leaves open (and apparently unrecanted) the information about the many other types of training and assistance set out by the Senate Select Committee (including biological weapons training) it also does not contradict the less-detailed information about chemical weapons and explosives training cited by the Senate Committee. The 9/11 Commission also does not tell us when it thinks we should believe what senior bin Laden associates say in captivity and when we should not. In the case of the individual who recanted his detailed statement about chemical weapons and explosives training, to ask the classic cross-examination question of a witness who has changed his story: was he lying earlier or is he lying now?

A major question regarding the threat to us is whether we face only al Qaeda and other Sunni Islamists, or whether we are in a long war against several totalitarian enemies in the Middle East - a collection of enemies who, like Mafia families (or like Hitler and Stalin) hate each other and kill each other's followers from time to time, but are perfectly capable of working together here and there (generally not on specific operations) to our detriment. I am of the latter view, but the main point is that we should not assume that the 9/11 Commission, charged with investigating an al Qaeda attack, explored this overall question effectively. Nor should we assume that the Commission has, in its threat analysis, provided us with a reasonable basis for "a global strategy". In my judgment, on the issue of the threat to us, the Senate Select Committee has done a far better and more comprehensive job than the Commission.

Chapter 13: How to Do It?

The National Intelligence Director (NID) Issue

I concur with the Commission's most publicized recommendation (p. 411) to, essentially, split the current job of Director of Central Intelligence and give one individual responsibility for managing the Intelligence Community and serving as the President's chief advisor on intelligence (the National Intelligence Director, or NID) and to give another the responsibility for managing the Central Intelligence Agency. In all respects but one I think the Commission's analysis of this issue is quite sound. I also agree with the recommendations to establish a National Counterterrorism Center (NCTC) reporting to the NID, and with the thrust of the Commission's recommendations to have more focused oversight (involving fewer people) of both the Intelligence Community and the Department of Homeland Security.

The views of each of the three of us testifying here today are of course colored by our own experiences as DCI. I believe that some aspects of my experience could help the Committee make decisions about these matters so I will be specific about the nature of the relevant issues during my tenure (Feb. 1993 - Jan. 1995).

The Intelligence Community at the time the CIA was created in 1947, at least the portion of it dealing with national intelligence, was essentially no bigger than the CIA itself. There were no satellites, e.g., not even any U-2's. Today the Community (excluding joint and tactical DOD intelligence programs but including the major DOD agencies such as NSA) is about six times the size of the CIA. Also, there are serious issues for many in the Community when a DCI tries to make decisions, e.g., about a dispute between CIA and NSA since he heads one of the two parties to the dispute.

Further, in the field of terrorism, the need for integrating the management of foreign and domestic intelligence is clear. For the current DCI to do this would put the individual who heads the country's foreign clandestine collection (such activity frequently, of course, violates the laws of the country where such collection occurs) also in a supervisory role over domestic intelligence collection. The latter task is hard enough without those who do it bearing the added burden of being supervised by the head of the CIA, even if his or her decisions are entirely consistent with US law. The distinction was wittily put once by a friend of mine (a retired FBI Agent and Dallas Cowboys fan), whose husband was a CIA officer, when she said to him and me: "We're America's team, and you guys are the Oakland Raiders."

Moreover, as the Commission suggests, the person holding the current DCI job -- which requires managing the CIA, managing the Community (without really having the tools one needs therefore), and serving as the President's chief source of intelligence -- has more than a full-time job. These combined tasks might be barely manageable in terms of the time required for them when the DCI has a close working relationship with the President, a cordial relationship with all in the Congress who are interested in

intelligence, and particularly a close working relationship with all eight of the senior members of the four committees (including the Defense Appropriations Subcommittees) that oversee and approve the funds for the Intelligence Community.

In my case in 1993-95 I did not have a bad relationship with the President, but I basically had none at all - except for a few morning briefings during the administration's first weeks and my attendance at most NSC meetings (which were frequently rather large affairs), I essentially had only two substantive meetings regarding intelligence with the President during my two years in the job. Although Vice President Gore did everything he could to help me with the Congress, my obvious lack of a relationship with the President had a substantial effect on my ability to manage the Community and obtain the funds from the Congress that we needed to function (it was the reason I decided to resign after two years). The heart of the problem was that I did not have eight close working relationships with our senior Congressional overseers, I had seven. The Chairman of the Senate Select Committee at the time, Senator Deconcini, and I saw very few matters alike.

Senator Deconcini's and my disagreements, together with my lack of access to the President, meant that it took me a great deal of time to avoid or reverse decisions made by him or the staff reporting to him that I thought would seriously damage our intelligence capabilities. For example in 1993 Congress was in session 195 days, and I had 205 appointments on Capitol Hill - more than one a day. This was heavily because of the calls I had to make in order to avoid satellite programs being terminated, computers for NSA being cancelled, funds for Arabic and Farsi language instruction being zeroed, large numbers of CIA stations being closed overseas, all overseas penetration of foreign intelligence services being transferred to the FBI, etc. Some of these disputes I won, some I lost, but there were not enough hours in the day to deal with these responsibilities effectively and manage the CIA.

I believe that dealing with Congress, whether or not aggravated by the absence of a relationship with the President, would be easier for an NID to handle because he would not have the day-to-day responsibility of managing the CIA. The experience of 1993-95 also suggests to me the importance of the Commission's recommendation to reduce the numbers of people on the Hill involved in oversight of the Intelligence Community. As I count there are now something in the neighborhood of 200, including the members and staff of the two Intelligence Committees and the members and staff of the two Defense Appropriations Subcommittees. Of the two solutions recommended by the Commission, I would strongly favor a joint intelligence committee organized along the lines of the old Joint Committee on Atomic Energy. In my experience the appropriations process for intelligence works well and I see no need to change it.

One issue that I see differently from the Commission is the nature of the control to be given to the NID over the rest of the community (most of its agencies now within DOD) with regard to personnel appointments and budget authority. Rather than the Commission's approach, which essentially gives full control over both responsibilities

to the NID, I favor the formulation in Representative Jane Harman's original bill. It provides for joint appointment of senior managers in the DOD intelligence agencies (such as NSA) by the NID and the Secretary of Defense and, although it gives the NID a considerably greater right than the DCI now has to shift funds during budget execution for the national intelligence programs, it also gives the Secretary of Defense (and the Attorney General in some cases) the right to appeal these NID decisions to the President.

My experience was that DOD and the Intelligence Community had a good working relationship, that DOD was making good progress in integrating our national (not just tactical) intelligence collection systems with the needs of the operating military, and that this was basically not a broken relationship. As I read the Commission's report, the failure of DOD intelligence components was not central to the government's failure to be better prepared for 9/11. I see no reason to go further than to give the NID enough authority to lead the community in tasking of collection and to manage personnel and budget matters as set forth in the Harman bill, cooperatively with DOD. Neither in substance nor in terminology do we need an intelligence "Czar" - several centuries of stupidity, rigidity, and authoritarianism, followed by the victory of Bolshevism, is not a good model for the management of American intelligence.

Information Sharing and Security

The Commission's recommendations regarding greater information sharing, the "trusted information network", and the overall intelligence budget disclosure include some good ideas, but they generally tilt too far, in my view, toward disclosure and wide dissemination of intelligence. Sharing and security are, like liberty and equality, both positive values that unfortunately sometimes conflict. Sharing is fine if you're not sharing with the Walkers, Aldrich Ames, Robert Hanssen, or some idiot who just enjoys talking to the press about how we are intercepting bin Laden's satellite telephone calls. Hostile infiltration into our government, or for that matter blabbermouths, are not solely "Cold War assumptions" that are "no longer appropriate" as the Commission suggests (p. 417). Before it adopts the Commission's view that sharing should generally trump security it might want to look carefully at Wahhabi/Islamist infiltration into our prison chaplains and perhaps other parts of our government - in my view such infiltration should be treated seriously, and may be a larger, not a smaller, problem than during the Cold War.

Moreover, regarding wider intelligence sharing it is important to realize that the more one knows about the sources and methods by which a specific piece of intelligence was collected the better idea one will generally have about its value. Have we really broken the code in question, or is this purported intercept actually material we are being given by another country's intelligence service that is sometimes, but not always, reliable? Has the human source reported reliably before, and if so how often? Answers to these sorts of questions both help analysts understand better how to interpret intelligence and they also, if disclosed - and broad dissemination even within

a classified network increases the risks of disclosure to either a spy or a blabbermouth - can mean the death of a source or an intercepted communications link going silent.

Even the timing of a stolen or leaked report can risk such a loss, and this can be true even if the leak seems to indicate nothing about a source or method. For example an Israeli spy in Damascus some years ago was caught and killed because a bit of substance from one of his reports leaked to the Israeli press and Syrian counterintelligence understood after seeing the press story that, as of the time of the leak, only a very small number of people could have known the matter in question. Thus they were able to narrow down substantially the range of those who might know about the issue and that broke the case for them. Paying attention to timing of disclosures can be very valuable to those who are trying to undermine our intelligence collection.

To my mind the issue is not just how to share more widely but how to share wisely. I agree that the current system whereby a single intelligence agency dominates its own collection tasking and also holds closely what it collects is a form of "stovepiping " that needs to be reformed. But the NID needs to have different approaches for different parts of the intelligence process. Managing dissemination of intelligence is just part of the issue, and the approach toward whether there is uniformity or diversity within the Community should be different for different parts of the intelligence process.

Different Degrees of Central Management: A Range Between Uniformity and Diversity

At the front end of the process, development of new collection methods can benefit from a degree of competition between agencies and, within limits, freelancing and risk-taking should be encouraged. This is how, at the CIA in 1993-94, we developed rapidly and cheaply the small UAV (based on an older DARPA program) that then became the Predator in early 1995. The DOD UAV programs then were, in our view, taking too long and were too gold-plated. The NID should not stifle this competitive tradition within the intelligence community.

In tasking collection assets, intelligence customers should be consulted, not just the operators of the collection systems, and the views of all that are relevant taken into consideration.

In processing data, we need to move away from stovepipes, consistent with security.

In analyzing data and producing intelligence, some competition is not a bad thing. Much of intelligence is judgment, not clear information, and it is frequently a good idea to let a minority view be set forth in an analysis - even if most believe there is a low probability that the possibility suggested by the minority will occur.

Responsibly-developed judgments about a course of events that might be low-probability but would have a high impact should always get a hearing.

In dissemination, in contrast to the Commission's notion that "need to know" should be replaced by "need to share" I would prefer a system whereby need-to-know is constantly reviewed and enforced technically. But those who receive intelligence of some sensitive types, even if fewer in number than under the system suggested by the Commission, should be given enough detail that they can weigh its importance effectively. When I see press reports that we are listening into bin Laden's satellite telephone, my instinct is not to share signals intelligence more broadly but rather to return to a system of rigid control using just a few trusted analysts such as that used by the British during WW II to control the dissemination and exploitation of Enigma intercepts.

Transferring Covert Paramilitary Action to the Pentagon: A Very Poor Idea

Finally, the one recommendation on which I completely disagree with the Commission is to transfer all paramilitary operations, clandestine and covert, to the Department of Defense. "Covert" paramilitary operations are those for which secrecy, or at least official deniability, needs to last after the military engagement. These cases are not common but can occasionally be necessary. For example, if we had been fighting alongside the Mujaheddin in Afghanistan in the 1980's rather than only supplying them with weapons the Soviets would almost certainly have learned about it - but their reaction would doubtless have been much angrier if they had been confronted officially. There are circumstances in which it is a good idea to let an enemy, not only friends and allies, save some face. For good reason, I believe, in the mid-70's all covert action, including paramilitary, became subject to the system of Presidentially-signed findings submitted to the Congress. We decided as a nation that we needed this kind of control over CIA covert action to ensure that the Agency was not a "rogue elephant" as Senator Church had called it, but was always operating at the behest of the President and with the knowledge of at least some portion of the Congress.

Clandestine military operations are different. Clandestine preparations, including deception, to mask a military operation in advance is as old as warfare, much older than the Trojan Horse. Under the current rules clandestine paramilitary operations (i.e. those that may require deception in advance) may readily be assigned to the armed forces if it is not necessary to maintain deniability after the fact. If covert paramilitary operations (requiring before-and-after deception) were assigned to the armed forces as the Commission recommends, not only would our military become the instrumentality through which we, essentially, lie about a past military operation, but there would be pressures for the military to become subject to the requirements for formal Presidential findings and CIA-type controls. There are some who advocate even under the current system that (non-covert) paramilitary operations by the Pentagon be subject to the full range of findings and CIA procedures. Subjecting our uniformed

Special Forces to these types of delays and controls would, in my view, severely restrict their potential effectiveness in the war in which we are engaged.

The Commission states that "measured in either money or people, the United States cannot afford to build two separate capabilities for carrying out secret military operations...." This statement is, in my view, quite extraordinary and quite false. The CIA's paramilitary force is neither large nor especially expensive. In any case, in the early 1960's, before Vietnam, this country was spending 9 per cent of GDP on defense and intelligence - that would amount to nearly a trillion dollars in today's terms, about double our current defense and intelligence budget. Affordability is not remotely an adequate reason for this unwise consolidation.

Three Final Caveats

In general I believe the Commission has done a very good job of describing what went into our failure to prevent 9/11. It has made a number of good recommendations, a few that I believe should be modified - some substantially - and one very unwise one. But there are three major caveats we should keep in mind in making the changes the Commission recommends.

First, as stated above, quite likely because of the limited nature of the charge they were given the Commissioners have not come up with anything approximating a "global strategy" for the war we are in. Had that been the objective set for them they would almost certainly have needed to be augmented in their membership - e.g. with some individuals with career military and intelligence experience.

Second, since so much attention is paid to foreign intelligence in the Commission's Report it may be natural for some to draw the conclusion that with respect to 9/11, foreign intelligence is what principally failed. Yet as the Commission's narrative points out many aspects of our national defenses (and many aspects of our national common sense) participated in the 9/11 failure. DCI Tenet was, in my view, doing more over the last few years than anyone else to try to alert the country to the risk of terrorist attack - an attack that, admittedly, some foreign intelligence failures were partly responsible for.

It is important to remember that much of the preparation for 9/11 took place among very few individuals and in places where US foreign intelligence does not collect - such as the US and Germany. Also, satellites tell us very little about terrorists and signals intercepts tell us less and less the more we talk about them publicly and terrorists adjust the way they communicate. Thus although captured documents and computers, and arrests such as the recent ones in Pakistan, can be very informative, foreign intelligence that we collect may well not be at the heart of preventing the next attack because foreign intelligence may not be central to our understanding of our enemies' capabilities and intentions. Thus foreign intelligence reforms may have little leverage. It may be much more important whether a police officer is barred by a local

ordinance from checking out a tip from a citizen about, say, a Saudi visitor's immigration status. We are also going to have to rely more on doing vulnerability assessments of our own weaknesses, such as those in the electricity grid or port security, and building resilience into our many networks than on stealing secrets from terrorists that give us long advance warning of what they plan to attack.

Third, even within the field of foreign intelligence reform, changing wiring diagrams of organizations is a second-order issue. Intelligence organization can generally be discussed publicly so a number of people talk and write about it and that makes it seem important. But much more crucial, as former CIA officer Reuel Marc Gerecht has recently pointed out, are such questions as whether the CIA's Clandestine Service is adequately using Non-Official Cover (NOC) case officers to penetrate terrorist groups. This is the sort of important step, like many in intelligence, that is impossible to discuss in any detail in a public report and that could be implemented just as easily under the current organization or under a new wiring diagram. A number of countries that have fine intelligence services (the UK, Israel) have all sorts of different organizational structures for them. The right people can make any reasonably structured system work. I favor the establishment of an NID, but compared to many intelligence questions it is a secondary matter.

As I said at the outset, Madam Chairman, I believe the Commission has done a good job and within its limited mandate has made a number of useful recommendations. But like any group of individuals it is far from infallible. I would urge this Committee to regard its generally fine report as one important ingredient, but only one, in the Committee's deliberations.

Statement of Robert M. Gates

For

U.S. Senate Committee on Governmental Affairs

August 16, 2004

I regret that a scheduling conflict prevents my testifying in person today, and I am grateful for the opportunity to offer my views in writing.

The 9/11 Commission Recommendations

The 9/11 Commission Report provides an excellent description of the events and deficiencies in government that led to our national tragedy on September 11, 2001. The Report demonstrates clearly the need for reform and re-structuring of the U.S. Intelligence Community including, above all, significant strengthening of the position at the top.

The Report makes a compelling case for greater aggregation of resources across the Community to address key problems, as well as the need for greater integration and fusion of intelligence efforts. As the Report concludes, we do not have the expertise – the human resources – to duplicate operational and analytical efforts in multiple agencies against all targets. The Report's recommendations with respect to information sharing are sound. I also agree on the need to break down "stovepipes" of information to allow for better and faster preparation of all-source intelligence. The notion this will lead to the

compromise of sensitive sources is, I think, mistaken. Most such compromises do not occur within the Intelligence Community.

My differences with the Commission's recommendations center on its proposals for re-organization of the Intelligence Community. My observations are based on more than a quarter century of experience in the inter-agency arena, including almost nine years on the National Security Council Staff at the White House under four presidents (culminating as Assistant to the President and Deputy National Security Adviser), and having served as CIA's Deputy Director for Intelligence, Chairman of the National Intelligence Council, Deputy Director of Central Intelligence under President Ronald Reagan, and Director of Central Intelligence under President George H. W. Bush.

I agree wholeheartedly with the need for re-structuring U.S. intelligence, but the overriding consideration must be to ensure that 1) the proposed changes actually will accomplish the stated goals, and 2) the new structure actually will work in practice. I believe the Commission's recommendations for re-organization will do neither. Indeed, the recommendations, as presented in Chapter 13 of the Report, might well result in a National Intelligence Director (NID) who is even weaker than the current Director of Central Intelligence (DCI).

The Commission's proposed re-structuring of U.S. intelligence is premised on the erroneous assumption that the Goldwater-Nichols reforms of the Department of Defense can be transplanted to the Intelligence Community. Goldwater-Nichols worked at Defense in large measure because the changes were limited to one cabinet department where every affected organization and person worked for the Secretary of Defense.

The Commission's recommendations make clear that, in real life, the authority of the NID in nearly every respect will be shared or split with others. For example, the establishment of National Intelligence Centers in "whatever department or agency is best suited for them" is central to the Commission's recommendations. They would provide "all-source analysis and plan intelligence operations for the whole government on major problems" (page 411 of the Report). However, the Report does not say who would appoint the directors of the Centers, and even expresses "the hope" that the President will "look directly" to these directors for all-source analysis in their particular substantive areas. Where is the NID in all this, except vaguely to "oversee" the Centers? The Report is otherwise silent on the relationship of the NID to the centers. Who would actually monitor the operations planning and what would happen when there is overlap between the Centers? Would the NID thus be personally responsible for monitoring multiple Centers in the absence of any other reporting mechanism? Would the Center directors' views carry equal – or greater – weight in their respective areas than those of the president's principal intelligence adviser (the NID)? Could the directors by-pass the NID and go directly to the President (especially since he is to "look directly" to them)? For whom do the Center directors work and who evaluates them – the NID or the cabinet secretary in whose department they are housed? None of this is clear from the recommendations. Even if one grants that the Centers report to the NID, the Secretary of State or Defense or Homeland Security realistically will demand significant influence in naming the leadership and running centers implanted in his or her department.

Further, some portion, or all, of the budgets of all 14 or 15 organizations in the Intelligence Community are in the National Foreign Intelligence Program. These include

a number of departmental intelligence organizations, such as those in the Departments of State, Energy, Treasury, Justice (FBI), and so on. In the Commission's recommended restructuring, these organizations presumably would continue to have significant departmental support responsibilities, and the respective secretaries are going to demand the final say in how they operate – even if the NID is providing some or all of their budgets.

In short, the reality almost certainly would be significant shared power between the NID and cabinet secretaries in both the Centers and in a number of Intelligence Community agencies/organizations.

Other recommendations in the Report further underscore how diluted is the authority of the NID. The Report recommends three deputy NIDs – for foreign, defense and homeland intelligence – all of whom also would have senior departmental positions. Of the three double-hatted deputy NIDs recommended by the Commission, only one – the CIA director – might actually be chosen by the NID. According to the Commission Report, the other two almost certainly would be chosen by the Secretary of Defense (the Under Secretary of Defense for Intelligence) and either by the Attorney General/Director of the FBI (the FBI's executive assistant director for intelligence) or the Secretary of Homeland Security (the Under Secretary for information analysis and infrastructure protection) (page 412).

Further, according to the recommendations, the NID is to "approve and submit nominations to the President" for the heads of CIA, DIA, the FBI's Intelligence Office, NSA, NGA, NRO, and Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security. "Approve" is not the same as "select". Which is

it? Again, the cabinet secretaries in whose organizations those officials reside presumably will, at minimum, insist on some say in the matter. As written, the recommendation suggests that, in fact, the NID does not select these officials – he only "approves" them and sends their names to the President. Finally, the Report critically notes that the DCI lacks hiring and firing authority over most of the Community's senior managers. Yet, the Commission recommendation does not explicitly empower the NID to hire the heads of the above organizations, nor does it give the NID the authority to evaluate their performance or to fire them. In practice, therefore, the recommendation suggests that these key appointments again would involve shared power with the cabinet secretaries.

An additional weaknesses in the Commission's proposed structure is that the NID does not directly control any part of the Intelligence Community. Indeed, the recommendations specifically locate DIA, NSA, NGA and the NRO wholly within the Department of Defense and reporting to the Under Secretary for Intelligence. So, practically speaking, the NID must go through his nominal deputy for defense intelligence (appointed by the Secretary of Defense) to manage all of the major technical collection programs and systems. To whom would the leaders of these organizations feel they really report – the NID or the Under Secretary? The answer is almost certainly the latter.

These examples of shared or divided power illustrate that Goldwater-Nichols reforms are just not transferable to the Intelligence Community. In none of these instances is the NID unambiguously in charge.

Finally, according to the Commission's recommendations, the national intelligence budget would be appropriated to the NID, who would then apportion the funds to the appropriate agencies. While the budgets of the agencies in the NFIP would be integrated into one proposal, the allocation of a top line number to each agency is not, in reality, all that different from the present arrangement. The real impact of this is reflected in the recommendation that the NID could reprogram funds among the national intelligence agencies "to meet any new priority". This very limited provision would not give the NID the authority to reach into Intelligence Community agencies and make fiscal and personnel changes to improve efficiency, to integrate functions, or better to align resources with priorities.

In sum, once the Report's recommendations are examined carefully and held up against the harsh light of bureaucratic politics and practice, the role of the NID as recommended by the Commission could, in fact, potentially be weaker than the present DCI. He would lack direct authority over any agency; lack the ability to appoint his three key deputies (save, perhaps, one); lack authority over the National Intelligence Centers and perhaps have in them a competing voice in advising the president; lack direct authority to manage the national collection programs and systems; and lack the authority actually to manage the agencies whose budgets he allocates and for whose performance he would be held accountable.

In conclusion, the Report's recommendations, as written, do not result in the kind of single, authoritative person in charge of national intelligence and empowered to integrate the various agencies efforts that the Commission believes is needed, nor is the re-organization workable as proposed. It is too complex, with too much shared or split

power, too little unilateral authority for the NID, and too many officials for whose performance the NID is responsible and yet in whose selection he has little or no say. Finally, the recommendations do not go nearly far enough in terms of budget authority.

There are many good ideas and proposals in the Commission's Report, but there are other good ideas and proposals on the table as well. The insistence by some that the Commission's recommendations promptly be enacted into law exactly as is ignores the very real deficiencies and gaps in them.

One of the many accomplishments of the Commission has been creation of a broad consensus in support of intelligence reform and re-structuring. The Commission should not underestimate the impact of its work. The wide support for changing the Intelligence Community developed by the Commission will not weaken if the Congress and the President take the time to sort through the many proposals and develop well-considered, well thought-through legislation.

The President's Decisions

The President recently announced his initial decisions in response to the Commission's recommendations. I hope, as the White House spokesman has suggested, that these decisions are only a first step, because the new national intelligence director as described will impose a new layer of bureaucracy but have no troops, no budget authority and no power. In its present form, the new position would be worse than the current arrangement.

My Suggestions

I have criticized the Commission's recommendations for Intelligence Community re-structuring as well as the President's recent decisions. It is fair to ask what I would recommend, at least on a few key issues.

While there are doubtless several paths to accomplishing the goal of strengthening the Intelligence Community, my experience leads me to believe that the following suggestions could result in a strong NID, the single responsible official most observers believe is needed, as well as improved intelligence. Perhaps these ideas can be added to the debate.

First, create a NID independent of the White House with real budgetary authority over the National Foreign Intelligence Program (NFIP) and much of the Joint Military Intelligence Program (JMIP). (Part of the JMIP as well as TIARA -- Tactical Intelligence and Related Activities -- would remain the responsibility of the Secretary of Defense.) The budget for all affected agencies, activities and programs would be appropriated to the NID for allocation. However, the NID also would have unilateral authority to move money and people among those agencies, activities and functions within the NFIP and JMIP in order to align capabilities and resources with priorities and to improve integration, efficiency and effectiveness. In short, the NID would have the ability actually manage national intelligence.

In this regard, there is inherent tension in the roles of the DCI/NID and the Under Secretary of Defense for Intelligence. Agencies such as NSA and NGA are pulled in two directions. The establishment of a NID should include specific provision that, in the event of competing priorities or tasking between the NID and the Under Secretary within

programs for whose budgets the NID is responsible, the NID decision will prevail. The Secretary of Defense could appeal the decision to the President.

Second, the NID should hire the heads of CIA, DIA, NRO, NGA, NSA and the Department of Homeland Security's Information Analysis and Infrastructure Protection Directorate. The NID should prepare their performance evaluations and have the authority to fire them. The Secretaries of Defense and Homeland Security would recommend candidates to the NID for those positions within their departments.

Third, the NID should not be organizationally divorced from CIA. A NID who does not control the agency running covert operations, high risk human collection operations, and a significant part of the Intelligence Community's analytical assets (and responsible to the President and the Congress for all of the above) would end up spending disproportionate time trying to stay on top of what they were doing. Under virtually all re-organization proposals, CIA would be independent – or orphaned, as the case might be. There is risk in that. From a practical standpoint, it would make sense for the NID to have a deputy who runs CIA on a day to day basis, but with the NID able to hire (and fire) the heads of operations and analysis, and to rely on the Agency's resources. After all, in practice, CIA will inevitably provide the NID with support (from personal security to communications, airplanes, a desk, and everything else) – as well as the only resources directly under his control to undertake urgent tasks from the mundane to the critically important. A deputy NID for CIA would relieve the NID of routine management responsibility for CIA, while allowing him better to oversee its activities and draw upon its support capabilities.

As a long time practitioner and observer of Washington's bureaucratic black arts, I believe the NID position, without direct control of a single line agency or organization, will eventually have its authorities eroded, eventually becoming not intelligence czar, but eunuch.

Fourth, the NID should not be in the president's cabinet (though he ought to have cabinet rank) and the position should not be placed in the White House or Executive Office of the President. Both raise the risk of politicization of intelligence, or at least the perception of it. Further, placing the NID in the White House, would raise questions about whether some part of his or her responsibilities and role might be beyond the oversight reach of Congress.

Fifth, an important goal of re-structuring is to break down the multiple walls or stovepipes throughout the Intelligence Community. Instead of scattering National Intelligence Centers around the government (with profoundly troubling questions about how they would operate or coordinate with one another), there is an alternative approach – one that would simultaneously strengthen the hand of the NID and improve the quality of intelligence. I suggest significantly strengthening the National Intelligence Council and the role and stature of the National Intelligence Officers (NIOs). They already are the senior substantive experts for the entire Intelligence Community. Give each a small staff and expand the NIO role beyond the preparation of intelligence estimates to include overseeing the establishment of community-wide priorities for both collection and analysis, preparation of tasking priorities for collection in all disciplines, making recommendations to the NID for integration or consolidation of analytical functions community-wide, and establishing task forces as necessary to deal with issues requiring

community-wide integrated efforts. The position of Chairman of the National Intelligence Council should be upgraded to make him or her the senior substantive deputy to the NID, responsible for overseeing all Intelligence Community analysis and collection tasking.

Sixth, and finally, I agree with the Commission's recommendation for establishment of an integrated National Counter Terrorism Center (NCTC). Where to place it is a problem, as it would oversee and coordinate analysis, planning and operations against terrorists by multiple departments and agencies. The NCTC does not fit neatly in any department because of its government-wide planning and operational roles. Placing such an operational intelligence entity within the White House is, I believe, an invitation to eventual abuse. We can all recall presidents who might have turned to such a capability. I conclude that the NCTC should be directly subordinated to the NID and that its director should report to the NID.

Conclusions

In closing, I would make four brief points.

First, I am concerned about placing both domestic and foreign intelligence under the NID (even if the position is located outside the White House), who will have both resources and operational authority. In 1947, President Truman's fear of creating an American Gestapo or NKVD (KGB) was an important factor in severely limiting CIA's authorities inside the United States, especially with respect to law enforcement. Congress needs to think carefully about safeguards against abuse. One possibility might be to restrict the NID to receiving domestic intelligence only with respect to specific categories

of threats, such as terrorism and weapons of mass destruction (and perhaps also global organized crime and international drug trafficking).

Second, if the goal is – as the 9/11 Commission recommends – to have in the NID a single person with overall responsibility and authority for leading and truly managing American intelligence, bold measures are required. The Commission's recommendations attempt to achieve this goal but fall short because of the flawed belief that Goldwater-Nichols could be transplanted to the Intelligence Community as well as proposals that, in practice, diffuse the authority of the NID to cabinet departments and complex new structures, and fail to give him the clarity of budgetary and management authority required to do the job. To accomplish the Commission's objectives, the authorities given the NID must be crystal-clear and straight-forward. Rice bowls must be broken. The danger will be in the temptation to find a middle road, a compromise, that mitigates controversy and unhappiness both in the Executive and Legislative Branches, and that pretends to solve the problems the Commission has identified. This would be a terrible mistake. Congress should either create a National Intelligence Director with the real authority to get the job done, or do nothing. Half-way measures, replete with ambiguity and uncertainty, will only make the situation worse – and impede efforts to improve intelligence. There will also be the temptation to prescribe in law internal structures – such as in the office of the NID – in too much detail. Practical experience almost certainly will require changes in a new organization; if too much organizational detail is in legislation, the new NID will be paralyzed before he or she ever starts.

Much has been done in government since September 11th to address a number of the problems the Commission identifies. Muddled legislation not only will not achieve

the kind of authoritative leadership of intelligence that is sought, it will likely grievously set back progress that already has been made.

Third, re-structuring the Intelligence Community and creating a new, powerful NID are not a panacea for shortcomings in our intelligence. Internal reforms, including how we go about human intelligence collection and how analysis is done and presented to decision-makers, are required as well. Those can only be accomplished through creative leadership, not legislation. And it will take time.

Fourth, and finally, re-structuring American intelligence in a time of war is complex, difficult and risky. Legislation drafted and enacted in haste and in the heat of a national election campaign is not likely to produce effective results quickly and could prove destructive. I urge the President and the Congress to take time to examine alternatives, debate the issues and, after the election, decide on the best path forward. Far-reaching re-structuring is needed and ought to be enacted into law. But doing it right is far more important than doing it fast. There may be no second chance, and the cost of doing it wrong is incalculable.

Post-Hearing Questions for the Record
Submitted to the Honorable William Webster
From Senator George Voinovich

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

1. Do you support the 9/11 Commission's recommendation of moving the direction for paramilitary operations from the CIA to the Department of Defense? Why or why not?

   ANSWER: Partially. The Commission acknowledged that the combined activities in Afghanistan worked well. I would prefer to keep that model on smaller "turn on a dime" activities in the CIA. Larger scale actions that are essentially troop engagements should be in Defense.

2. In your experience, does the DCI currently have the necessary authority to establish professional and education standards for Intelligence Community personnel?

   ANSWER: No. The DCI has authority to establish professional and education standards for CIA personnel. Standards for other members of the community can be recommended but I do not believe can be currently mandated.

3. In your view, does the National Security Council already perform many of the functions recommended for the National Intelligence Director and the National Counterterrorism Center?

   ANSWER: No. The National Security Council, made up of members of key departments, along with the President's advisor on national security is primarily a policy formulating organization. It responds to information provided from a number of sources, including the DCI as principal advisory on intelligence. Neither the DCI nor the recommended National Intelligence Director should be policymakers.

4. The proposed National Counterterrorism Center would further break down the barriers between domestic and foreign intelligence. Do you think the policies regarding the employment of U.S. foreign intelligence officers would have to be changed to give CIA and other Intelligence Community personnel greater latitude to operate within the U.S.?

   ANSWER: Currently the CIA must coordinate its U.S. activities with the FBI, just as the FBI must coordinate its overseas activities with the CIA. Restrictions and procedures would need greater clarification in order to avoid intelligence officers not supervised or governed by Justice Department standards falling into old ways which were the genesis for the Church and Pike Committee reports.

5. The 9/11 Commission did not recommend a dedicated domestic surveillance agency, recommending instead to strengthen the FBI's existing capabilities. Others have

suggested creating an agency within the FBI that would focus only on terrorism. Should there be a federal agency which focuses solely on catching the terrorists who have infiltrated the U.S. and are plotting the next terrorist attack? Is the FBI up to meeting its counterterrorism responsibilities in addition to all of its traditional missions? Should the FBI shed some of its historic mission areas, for example, such as while collar crime and public corruption?

ANSWER: The FBI is up to meeting its counterterrorism responsibilities in addition to all of its traditional missions. In fact, counterterrorism has been one of the four top priorities since 1980 and until 9/11 had a very proud track record of preventing terrorist activities in this country. If greater concentration of effort is needed, I would not shed important responsibilities such as white collar crime and public corruption, but would instead draw back on violent crimes investigations (as distinguished from law enforcement forensic services provided to state and local law enforcement agencies). I would not create a separate agency within the FBI but could support a directorate which would focus on counterintelligence and counterterrorism in cooperation with the full field resources of the FBI. By this I mean eliminate the stepchild syndrome and make it a truly career enhancing specialty.

6. Does the process through which security clearances are granted nee to be improved? How would you do that? Should all security clearance investigations, for example, be handled by a single agency?

ANSWER: The Commission on FBI Internal Security Procedures, which I headed in 2001 (the Hanssen Report), outlined in its report a number of areas in which security could be improved. The polygraph is now being used for vetting as well as investigations. There is merit in establishing community-wide security clearance procedures, possibly subject to review by a single agency, but I think there is also merit in having these investigations be conducted by the individual agencies with knowledge of special needs, risks, etc.

7. When the Department of Homeland Security was established, the FBI was supposed to transfer its National Infrastructure Protection Center to the new Information Assurance and Infrastructure Protection Directorate; 300 positions were transferred, but only 10-20 people actually went over to DHS. If Congress takes budget authority for the National Security Agency, for example, away from the Defense Department and gave it to a National Intelligence Director, what would stop the Defense Department from doing what the FBI did -- transfer the positions but not the people, especially the military personnel?

On a related question, what would stop the Department of Defense from trying to rebuild the capability that is transferred to the National Intelligence Director?

ANSWER: The key here is to vest in the DCI or National Intelligence Director clear authority to mandate the transfer of personnel, with appropriate appeal procedures to the President if these issues cannot be resolved with the department involved. The

DCI/National Intelligence Director should have budgetary authority to withhold funds that might be used for redundancy within a department.

8. The 9/11 Commission made several recommendations regarding the organization of the Intelligence Community, but few regarding intelligence tradecraft. Should tradecraft issues, such as having case officer work out of U.S. embassies, be reconsidered on a broader scale? What, in your view, is the relative importance of tradecraft compared to organization?

ANSWER: Tradecraft is of vital importance to collection of human intelligence involving the intentions and capabilities of our adversaries. Working out of U.S. embassies gives case officers immunity from prosecution (but not expulsion) in most cases and should be retained in part. The NOC can be increasingly important, but the consequences of detection are more severe. We need both.

9. The 9/11 Commission envisioned that certain agencies currently within the scope of the National Foreign Intelligence Program, such as State INR and the intelligence activities of the Departments of the Treasury and Energy, would be removed from this budget account and would therefore not fall under the proposed National Intelligence Director. Do you support this restructuring of the NFIP account? Why or why not?

ANSWER: This is a technical question. If intelligence officers from other departments are going to sit at the table, they should be accountable to the DCI/NID who should control the budget.

10. The 9/11 Commission proposes creating a series of intelligence "fusion centers" that would draw on the resources of the entire Intelligence Community. Do you recommend maintaining the three separate all-source analysis centers at the CIA, DIA and State INR? If so, and assuming that the new centers are established, how would you envision the interaction between the new centers and the three all-source analysis agencies?

ANSWER: The Director of Central Intelligence has set up and operated through the years a series of centers, including counterterrorism, counterintelligence, counternarcotics and counter weapons of mass destruction. They report to the DCI, not the CIA. The 9/11 plan seems to need more clarification. If the purpose is to have three different locations, I think that is a matter that should fall within the discretion of the DCI/NID. If the purpose is to promote competitive analysis, I likewise think these are matters best left to the head of the Intelligence Community with appropriate Congressional oversight rather than special legislation.

Post-Hearing Questions for the Record
Submitted to the Honorable William Webster
From Senator Carl Levin

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

Politicization of Intelligence

During the hearing before the Governmental Affairs Committee, Judge Webster stated: "With respect to relations with the president, while the leader of the intelligence community must be the principal advisor on intelligence to the president, he must work hard -- very hard -- to avoid either the reality or the perception that intelligence is being framed -- read "spun"-- to support a foreign policy of the administration."

In your opinion, does the recommendation of the 9/11 Commission to place the new National Intelligence Director in the Executive Office of the President contribute to or detract from the independence and objectivity of intelligence gathering and analysis?

ANSWER: Placing the NID in the Executive Office of the President would clearly raise unnecessary issues and perceptions in the minds of many about the independence and objectivity of the work product. I would hope it would not influence the analysts. I hope it would not cause the NID to think of himself as a member of the policymakers. The President has ready access to the NID. Why take the risks?

What other administrative or legislative steps should be taken to ensure that the intelligence community provides independent, objective, and accurate analyses?

ANSWER: Administratively the various products and publications should reflect alternative or dissenting points of view, preferably on the same page. Intelligence based upon human sourcing should be caveated as to past reliability. Analysts and others should have confidence that the end product will not be changed prospectively or thereafter to accommodate perceived political viewpoints.

Reprogramming problems

The 9/11 Commission has recommended giving overall budget execution authority for the National Foreign Intelligence Program (NFIP) to a new National Intelligence Director (NID), including authority for reprogramming funds during the execution of the budget.

Can you provide any specific examples during your tenure with the government where there were problems within the Administration getting approval to reprogram funds in NFIP programs?

Can you provide any specific examples where there were problems within the Administration getting approval to reprogram funds to correct emergent problems in NFIP programs?

At a hearing before the Senate Armed Services Committee, Acting DCI John McLaughlin mentioned a figure of five months as representative of the time required to obtain approval of an NFIP reprogramming request. How does that compare to your experience in terms of the length of time needed to obtain approval of a reprogramming request?

ANSWER: I cannot provide specific examples but my best memory is that reprogramming came very hard necessitating concurrences and full cooperation and that the five months delay is about right. I would rather have the NID with the authority to order reprogramming in the department with the option to file a reclama or appeal to the President.

Recommended Changes in Reprogramming Process

The 9/11 Commission has recommended giving the new National Intelligence Director "authority to reprogram funds among the national intelligence agencies to meet any new priority."

Should the President issue a new Executive Order 12333 that would give a National Intelligence Director budget execution authority, including reprogramming authority, for DOD intelligence agencies?

ANSWER: Yes. DOD can appeal a budget decision.

Is this issue better handled through an Executive Order or legislation?

ANSWER: Executive Order if possible.

DCI authorities compared to NID authorities (personnel)

As I understand the process now, the Secretary of Defense must obtain the concurrence of the Director of Central Intelligence in appointing anyone to head the National Security Agency (NSA), the National Reconnaissance Office (NRO), or the National Geospatial-Intelligence Agency (NGA). For the head of the Defense Intelligence Agency (DIA), the Secretary must only consult with the DCI on that appointment.

The 9/11 Commission has recommended giving the new National Intelligence Director (NID) sole responsibility for hiring and firing of leaders of the national intelligence agencies,

including the head of the "CIA, DIA, FBI Intelligence Office, NSA, NGA, NRO, Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security, and other intelligence capabilities."

Are you aware of any evidence that the heads of the DOD combat support agencies have been unresponsive to the direction or tasking of the DCI?

ANSWER: No.

Are there concerns about any effects on support to military operations or otherwise of transferring this authority (particularly for DIA) to a new National Intelligence Director?

ANSWER: No I am sure there will be consultation.

Are there concerns about any effects on law enforcement of transferring this authority for the head of the FBI Intelligence Office to a new National Intelligence Director?

ANSWER: I don't think so. A good argument can be made for giving the NID approval authority rather than straight hiring and firing authority.

Effect of a National Intelligence Director on competitive analysis

During the development of the National Intelligence Estimate (NIE) on Iraq's WMD capabilities, which was prepared prior to the war and which proved to be so inaccurate in its judgments, a number of intelligence analysts in the U.S. government held views that differed from the prevailing CIA view. Notable examples of this include the Department of Energy and State Department INR assessments on whether the now-famous aluminum tubes were intended for centrifuges, and the Air Force Intelligence Agency assessment of whether Iraqi unmanned aerial vehicles were intended to deliver WMD. Both of these differing assessments have been validated since, but were overruled by the CIA in developing the NIE.

The 9/11 commission recommends consolidating control and budgeting responsibility for national intelligence activities under a new National Intelligence Director.

If Congress were to give a National Intelligence Director that authority, what steps should we take to encourage competing analyses and ensure differing views and debate within the intelligence community to improve the quality of our intelligence?

ANSWER: See previous responses. I would use red teams only very selectively.

What steps should be taken to ensure that the intelligence community provides independent, objective and accurate analyses?

ANSWER: See previous responses.

Would consolidation of budget control of most of the intelligence analysts, as well as hiring and firing authority over national intelligence agency leaders under a single official, support or hurt this aim?

ANSWER: I think it will depend upon the official and his commitment to the Congress on confirmation.

Intelligence failures and accountability

The evidence indicates there were apparently a number of instances where components of the intelligence community possessed information that might have helped other agencies take action before the 9/11 terrorist attacks. One specific example of failure to share information was the CIA's failure to share information on the presence of two of the 9/11 plotters with the Immigration and Naturalization Service (INS) or the Federal Bureau of Investigation (FBI). This failure took place despite the fact that the CIA staff and budget were operating under the control of the Director of Central Intelligence.

Are there currently impediments to sharing data that can only be broken down by changing organizational relationships within the intelligence community? If so, what laws need to be changed?

ANSWER: The Patriot Act shifted the balance in favor of need to share. That requires community adjustment to a new vision, without destroying "need to know". A principal impediment is the obsolete computer equipment system of the FBI which makes retrieval for another agency very difficult. (13 year old mainframe.)

Is there any reason to believe that the CIA's failure to share data with the INS or FBI was influenced in any way by the DCI's personnel and budget execution control of the CIA?

ANSWER: No.

To date, virtually no one in the intelligence community has been held accountable for the intelligence failures involved in the 9/11 attack or with respect to Iraq. What steps can be taken, either administratively or legislatively, to ensure accountability for intelligence failures?

ANSWER: Human errors will occur regardless of organizational changes. I would stress training and preparation rather than punishment. Accountability is a necessary ingredient but should not foster management by fear.

National Intelligence Centers

The 9/11 Commission has recommended establishing National Intelligence Centers in "whatever department or agency is best suited for them" to provide "all-source analysis and plan intelligence operations for the whole government on major problems." In a written submission to the Committee, former DCI Robert Gates raises a number of questions about the operation of

these Centers, including who would appoint the Center directors, whether the NID would be responsible for monitoring them, and whether the Center directors could bypass the NID and provide information directly to the President.

Do you agree or disagree with this Commission recommendation, and why?

ANSWER: Not particularly. There already exists centers under the Director of Central Intelligence (not CIA). The formation of various centers and their locations can have value but I believe should be left to the discretion of the intelligence leader to deal with most important needs and not frozen by legislation.

What is your advice on how these Centers should operate, including who should appoint the directors, the nature of the relationship between the Centers and the NID, and where the Centers should reside organizationally?

ANSWER: See response above.

Post-Hearing Questions for the Record
Submitted to the Honorable William Webster
From Senator Richard Durbin

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

1. I am also a Member of the Senate Select Committee on Intelligence which will hold confirmation hearings early next month on the Goss nomination. What is your assessment of Mr. Goss' more than seven year record as Chairman of the House Permanent Select Committee on Intelligence (HPSCI)? Do you think that his record indicates a likelihood that he will aggressively implement significant reform of the Intelligence Community along the lines recommended by the 9/11 Commission?

   ANSWER: I believe Mr. Goss has been faithful to his responsibilities. Outspoken in his criticisms where warranted and is held in high esteem by most of the Intelligence Community. His bill is significantly different philosophy and methodology than that of the 9/11 Commission. Nevertheless I believe he would be faithful to his responsibilities to implement significant reform mandated by the President or the Congress.

2. On June 16 of this year, HPSCI Chairman Porter Goss introduced H.R. 4584, legislation to reform the U.S. Intelligence Community. Section 102(c)(1) of Mr. Goss' bill would repeal the current prohibition related to the Director of Central Intelligence exercising internal security functions. Essentially, it would give the President new authority to direct CIA agents to exercise police, subpoena and law enforcement powers within the United States. What is your opinion of this provision of the Goss legislation? What are the pros and cons of this proposal from both a counterterrorism and civil liberties perspective?

   ANSWER: I believe that all government officers empowered to exercise law enforcement functions within the United States should be subject to the oversight direction and control of the Attorney General. Investigations against U.S. persons are better left to the FBI.

3. Some have argued that the momentum to enact the reform recommendations of the 9/11 Commission could serve as a distraction from the War on Terrorism. Judge Webster, you were quoted in a July 29 story in *The Christian Science Monitor* as stating that "[t]here are also concerns that I have when people are in a hurry to do things... Demands and the magnification of intelligence failures over intelligence successes ...could create fixes that are not needed." How concerned are you that we could be stampeding to implement reforms that are not necessary? Which of the 9/11 Commission reform proposals do you believe are "not needed"

   ANSWER: I had significant concerns at the time of the July 29 story. I believe that editorial concerns in major newspapers have echoed those concerns. I now believe that the process, with so many competing proposals at work, will become a more orderly analysis of the alternatives and result in more sensible reform. Examples of 9/11 proposals which I

believe are "not needed" are elevating the NID to Cabinet status (unless this is simply a pay level reference); moving the NID into the Executive Office; setting a fixed term for the NID; and putting all covert activity in the Defense Department. In contrast, the Commission's suggestion that Congress should overhaul its oversight programs for intelligence, with 88 separate committees and subcommittees oversighting Homeland Security Department, makes sense. I think it is obvious that the agencies could do a better job with less distraction and with more conformity to Congressional oversight if the number of the oversight committees could be radically consolidated.

4. I understand that you are one of a number of prominent individuals who are providing advice to Secretary of Defense Rumsfeld regarding reform. What are the greatest concerns of the Department of Defense regarding intelligence reform? How do you think these concerns should be addressed?

ANSWER: I think a primary concern within the Department of Defense, especially among the military, is that coordination and control of both tactical responses and strategic military initiatives remain in Defense. This would include intelligence collected for such purposes. Every scrap of "useful information" should be immediately available. Care should be exercised in restructuring to assure that these legitimate concerns are met. Issues of "ownership" should be managed more rationally.

5. Based on the findings of the 9/11 Commission and the Senate intelligence committee's report on prewar intelligence related to Iraq, what, if any, changes do you believe need to be made in personnel in the Intelligence Community?

ANSWER: The demonstrated need for a trusted information network requires, in addition to better equipment, personnel who understand how to deposit and retrieve vast amounts of information effectively and in a timely way. More attention to personnel with good language skills in hot spots around the world is required. Additional strength is needed in the human intelligence collection arena. This takes time and should be pursued immediately.

6. Some have suggested that the individual serving as National Intelligence Director should have a term appointment for a specific number of years, and that this would protect the position from being politicized. Do you share this view? Why or why not? The FBI Director serves a fixed term. To what extent, if any, has that enhanced the relationship between the President and the FBI Director?

ANSWER: I do not share this view. The FBI Director does not serve a fixed term. His term is for "not more than" 10 years. Most students of this issue have concluded that Congress lacks the authority to impose a fixed term on a pure Executive Branch official. What is important is that the official conduct himself as a true professional and that he enjoy the trust of the President of the United States. Congress can exercise its influence against political mischief through the confirmation process. I had the privilege of serving under three presidents in succession. Each of whom gave me his strong support over a period of almost 14 years. I served at the pleasure of the President and that was sufficient.

7. The Secretary for Homeland Security Tom Ridge has recently elevated the terrorism threat level for financial institution buildings in Washington, D.C., New York City and northern New Jersey -- and there are continuing concerns about an al-Qa'ida attack against the U.S. homeland prior to our forthcoming national election. Since 9/11, how much more prepared are we to deal with a possible al-Qa'ida attack against the U.S. homeland within the next four months? To what extent, if any, is there room for improvement in our ability to detect, monitor and disrupt terrorist threats to the U.S. -- both at home and overseas? Please elaborate.

   ANSWER: We have successfully consolidated 22 agencies and approximately 190,000 employees in the Department of Homeland Security. Every day the cooperation and coordination with first responders (state and local) becomes better and more proficient. Finished intelligence is being provided by CIA and the FBI. I believe our ability to detect, monitor and disrupt terrorist threats has clearly improved. Look at the airline industry today. Nothing is perfect and nothing is fail safe but our efforts are paying off.

8. Conspicuously absent from the 9/11 Commission's report was any judgment on the most compelling policy debate of this Administration: Was the war against Iraq an essential part of -- or a distraction from -- the fight against al-Qa'ida and international terrorism? In a July 25, 2004 editorial in *The New York Times* entitled, "Honorable Commission, Toothless Report", Richard Clarke stated that "...because the commission had a goal of creating a unanimous report from a bipartisan group, it softened the edges and left it to the public to draw many conclusions. Among the obvious truths that were documented but unarticulated were the facts that the Bush administration did little on terrorism before 9/11, and that by invading Iraq the administration has left us less safe as a nation." Do you agree with Mr. Clarke's assessment? Why or why not?

   ANSWER: Not as stated. The response against al-Qa'ida in Afghanistan was prompt and effective. The timing on the invasion of Iraq was the product of four years of frustrated United Nations efforts to locate weapons of mass destruction and the need for regime change by removal of Saddam Hussein. The problems that followed the invasion of Iraq were not fully anticipated but I believe the overall effort and continuing resolve will reduce a serious threat to our safety -- though it make take some time to achieve.

9. One of the primary lessons drawn by many investigators of the September 11 terrorist attacks was that law enforcement and foreign intelligence information was not shared especially at the level of working analysts. Some statutory barriers to the sharing of information have been removed by the USA Patriot Act and Intelligence Authorization legislation, and TTIC and the Homeland Security intelligence shop were created to enhance information sharing. What is your assessment of how effectively information is being shared by components of the Intelligence Community and other elements of the U.S. Government today? What specific actions would you propose to enhance information sharing?

   ANSWER: While the main legal impediments to sharing information by components of the Intelligence Community have been removed, the lack of a trusted information network and a new approach to sharing will take time to correct. The corrections must be made and the need underscored. Analysts must be trained to recognize what may be useful to other disciplines and other taskings and see that the information is passed to those who can use it.

Post-Hearing Questions for the Record
Submitted to the Honorable James Woolsey
From Senator George Voinovich

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

1. In your experience, does the DCI currently have the necessary authority to establish professional and education standards for Intelligence Community personnel?

To the best of my recollection, the DCI's influence outside the CIA on this issue is small.

2. In your view, does the National Security Council already perform many of the functions recommended for the National Intelligence Director and the National Counterterrorism Center?

As of ten years ago when I was DCI, I would say that the NSC performed much of the task of strategic tasking of intelligence assets, but not the tasks of strategic or operational counter-terrorism planning.

3. The proposed National Counterterrorism Center would further break down the barriers between domestic and foreign intelligence. Do you think the policies regarding the employment of U.S. foreign intelligence officers would have to be changed to give CIA and other Intelligence Community personnel greater latitude to operate within the U.S?

I would generally oppose having foreign intelligence personnel operate covertly inside the US except in extraordinary circumstances. I believe that this should be undertaken jby the FBI and by state and local law enforcement teams, opoerating to collect intelligence. I believe that an NDI could help coordinate cooperation and information flow between foreign intelligence and such FBI/state/local law enforcement teams.

4. The 9/11 Commission did not recommend a dedicated domestic surveillance agency, recommending instead to strengthen the FBI's existing capabilities. Others have suggested creating an agency within the FBI that would focus only on terrorism. Should there be a federal agency which focuses solely on catching the terrorists who have infiltrated the U.S. and are plotting the next terrorist attack? Is the FBI up to meeting its counterterrorism responsibilities in addition to all of its traditional missions? Should the FBI shed some of its historic mission areas, for example, such as white collar crime and public corruption?

I believe that, in light of its past successes against the Mafia and the American Communist Party the FBI should be given the opportunity to show that it can manage successfully long-term penetration and intelligence collection on appropriate domestic targets. A number of the restrictions to which it has been subjected since the mid-1970's would need to be modified or lifted.

5. Does the process through which security clearances are granted need to be improved? How would you do that? Should all security clearance investigations, for example, be handled by a single agency?

Absolutely. For one thing, the use of polygraphs should be sharply restricted in view of the very negative report about them by a panel of the National Academy of Sciences. A single agency is not necessary, in my view, but centrally-estabilished policies are needed to improve both the effectiveness and the efficiency of the clearance process.

6. When the Department of Homeland Security was established, the FBI was supposed to transfer its National Infrastructure Protection Center to the new Information Assurance and Infrastructure Protection Directorate; 300 positions were transferred, but only 10-20 people actually went over to DHS. If Congress takes budget authority for the National Security Agency, for example, away from the Defense Department and gave it to a National Intelligence Director, what would stop the Defense Department from doing what the FBI did – transfer the positions but not the people, especially the military personnel? On a related question, what would stop the Department of Defense from trying to rebuild the capability that is transferred to the National Intelligence Director?

I don't believe that the purpose of establishing an NID should be to have him or her take authority away from the SecDef. I see nothing in the history of 9/11 to suggest that the Department of Defense was the problem. I believe that the drive to weaken DoD in the context of establishing an NID is most unwise.

7. The 9/11 Commission made several recommendations regarding the organization of the Intelligence Community, but few regarding intelligence tradecraft. Should tradecraft issues, such as having case officer work out of U.S. embassies, be reconsidered on a broader scale? What, in your view, is the relative importance of tradecraft compared to organization?

Tradecraft (e.g. greater use of Non-Official Cover officers (NOC's) is, in my view, very much more important than organization. I believe that organization is a fourth-order issue and that it is much more important to: 1) improve our vulnerability analysis and the

resilience of the infrastructure (quite apart from any intelligence indications), 2) improve domestic intelligence, and 3) improve tradecraft (e.g. greater use of NOC's.

8. The 9/11 Commission envisioned that certain agencies currently within the scope of the National Foreign Intelligence Program, such as State INR and the intelligence activities of the Departments of the Treasury and Energy, would be removed from this budget account and would therefore not fall under the proposed National Intelligence Director. Do you support this restructuring of the NFIP account? Why or why not?

I would leave budget execution with, as now, State, Defense, etc. and give the NID greater reprogramming authority.

9. The 9/11 Commission proposes creating a series of intelligence "fusion centers" that would draw on the resources of the entire Intelligence Community. Do you recommend maintaining the three separate all-source analysis centers at the CIA, DIA, and State INR? If so, and assuming that the new centers are established, how would you envision the interaction between the new centers and the three all-source analysis agencies?

The Commission here is recommending the immediate restructuring a lot of things that, in my view, do not necessarily need to be restructured. They should begin with a CT Center reporting to the NID and see how it works. In time it may make sense, or not, to create other NID Centers. I believe that a mistake was made in creating DHS to encompass twenty-plus agencies rather than the initial four that were proposed (dealing with borders). If it follows the Commission's recommendation here I am concerned that the Congress will create similarly substantial managerial problems here.

Post-Hearing Questions for the Record
Submitted to the Honorable James Woolsey
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Politicization of Intelligence

During the hearing before the Governmental Affairs Committee, Judge Webster stated: "With respect to relations with the president, while the leader of the intelligence community must be the principal advisor on intelligence to the president, he must work hard -- very hard -- to avoid either the reality or the perception that intelligence is being framed -- read "spun"-- to support a foreign policy of the administration."

In your opinion, does the recommendation of the 9/11 Commission to place the new National Intelligence Director in the Executive Office of the President contribute to or detract from the independence and objectivity of intelligence gathering and analysis?

A: Not particulary. I believe that the key points are the character of the individual -- especially his or her willingness to be a 'skunk at the garden party' and his or her willingness to encourage competitive analysis and to see to it that minority views are reflected in estimates.

What other administrative or legislative steps should be taken to ensure that the intelligence community provides independent, objective, and accurate analyses?

A: I believe the key is selecting someone with the above characteristics and that such individuals can work successfully within a wide range of structures set out administratively or legislatively.

Reprogramming problems

The 9/11 Commission has recommended giving overall budget execution

authority for the National Foreign Intelligence Program (NFIP) to a new National Intelligence Director (NID), including authority for reprogramming funds during the execution of the budget.

Can you provide any specific examples during your tenure with the government where there were problems within the Administration getting approval to reprogram funds in NFIP programs?

A: It took a great deal of time and effort for us to reprogram a small amount of funds to develop the Gnat UAV, which we stretched after its initial success (it became the Predator), and that was just of funds within the CIA budget. I don't recall, although the people who managed the CIA Comptroller Office then would have a more complete view, that there was any reprogramming within the NFIP from one major account to another (e.g. NSA to CIA or the reverse).

Can you provide any specific examples where there were problems within the Administration getting approval to reprogram funds to correct emergent problems in NFIP programs?

A: See above.

At a hearing before the Senate Armed Services Committee, Acting DCI John McLaughlin mentioned a figure of five months as representative of the time required to obtain approval of an NFIP reprogramming request. How does that compare to your experience in terms of the length of time needed to obtain approval of a reprogramming request?

A: Within the CIA budget that might be a reasonable assessment. Again, CIA Comptroller office people from that period would know better.

Recommended Changes in Reprogramming Process

The 9/11 Commission has recommended giving the new National Intelligence Director "authority to reprogram funds among the national intelligence agencies to meet any new priority."

Should the President issue a new Executive Order 12333 that would give a National Intelligence Director budget execution authority, including reprogramming authority, for DOD intelligence agencies?

A: I believe this is reasonable, but the Secretary of Defense should have some sort of appeal mechanism.

Is this issue better handled through an Executive Order or legislation?

A: In my view, executive order.

DCI authorities compared to NID authorities (personnel)

As I understand the process now, the Secretary of Defense must obtain the concurrence of the Director of Central Intelligence in appointing anyone to head the National Security Agency (NSA), the National Reconnaissance Office (NRO), or the National Geospatial-Intelligence Agency (NGA). For the head of the Defense Intelligence Agency (DIA), the Secretary must only consult with the DCI on that appointment.

The 9/11 Commission has recommended giving the new National Intelligence Director (NID) sole responsibility for hiring and firing of leaders of the national intelligence agencies, including the head of the "CIA, DIA, FBI Intelligence Office, NSA, NGA, NRO, Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security, and other intelligence capabilities."

Are you aware of any evidence that the heads of the DoD combat support agencies have been unresponsive to the direction or tasking of the DCI?

A: The DCI normally doesn't give "direction" to the agencies because his authority over them is quite limited. As far as tasking for collection goes, I'm not aware of unresponsiveness but the tasking system now, I understand, works more on the basis of stovepipes than on the basis of IC Committees as was the case when I was DCI.

Are there concerns about any effects on support to military operations or otherwise of transferring this authority (particularly for DIA) to a new National Intelligence Director?

A: Yes, I have such concerns. I believe the appointment responsibilities should be joint, as in the original Harman bill.

Are there concerns about any effects on law enforcement of transferring this authority for the head of the FBI Intelligence Office to a new

National Intelligence Director?

A: Yes. I would favor joint responsibility with the AG or Dir. of the FBI

Effect of a National Intelligence Director on competitive analysis

During the development of the National Intelligence Estimate (NIE) on Iraq's WMD capabilities, which was prepared prior to the war and which proved to be so inaccurate in its judgements, a number of intelligence analysts in the U.S. government held views that differed from the prevailing CIA view. Notable examples of this include the Department of Energy and State Department INR assessments on whether the now-famous aluminum tubes were intended for centrifuges, and the Air Force Intelligence Agency assessment of whether Iraqi unmanned aerial vehicles were intended to deliver WMD. Both of these differing assessments have been validated since, but were overruled by the CIA in developing the NIE.

The 9/11 commission recommends consolidating control and budgeting responsibility for national intelligence activities under a new National Intelligence Director.

If Congress were to give a National Intelligence Director that authority, what steps should we take to encourage competing analyses and ensure differing views and debate within the intelligence community to improve the quality of our intelligence?

A: When I was DCI my NIC Chairman, Joe Nye, and I always encouraged competitive analysis and saw to it that minority views were fully reflected, with reasons, and not just in NIE footnotes. Such a commitment should be obtained from all concerned in confirmation hearings.

What steps should be taken to ensure that the intelligence community provides independent, objective and accurate analyses?

A: This hinges almost entirely on the people who are given the senior jobs, the seriousness of the President and the Congress in demanding such, the exercise of oversight to encourage it, and the understanding that intelligence is often a matter of judgment so it is the height of folly to seek or demand single answers.

Would consolidation of budget control of most of the intelligence analysts, as well as hiring and firing authority over national intelligence agency leaders under a single official, support or hurt this aim?

A: I believe an NID, if put in place, should not be a "Czar" but should share authority, and that the central problem is coordinating foreign and domestic intelligence agains trans-national threats such as terrorism. The demand for a Czar-like authority over the Secretary of Defense is, to me, quite wrong. The DoD agencies were not the main pre-9/11 problem, reorganization is not the main need for foreign intelligence (far more important are substantive changes such as substantially increased use of NOC's, which has essentially nothing to do with organization), and foreign intelligence will not be as big a source of understanding the steps we need to take as was the case during the Cold War -- we need to focus on fixing the obvious vulnerabilities of many of our domestic networks, not wait to do so until we (maybe) can steal some secrets from al Qaeda.

Intelligence failures and accountability

The evidence indicates there were apparently a number of instances where components of the intelligence community possessed information that might have helped other agencies take action before the 9/11 terrorist attacks. One specific example of failure to share information was the CIA's failure to share information on the presence of two of the 9/11 plotters with the Immigration and Naturalization Service (INS) or the Federal Bureau of Investigation (FBI) . This failure took place despite the fact that the CIA staff and budget were operating under the control of the Director of Central Intelligence.

Are there currently impediments to sharing data that can only be broken down by changing organizational relationships within the intelligence community? If so, what laws need to be changed?

A: I think data sharing has improved and, in any case, great care should be taken to ensure that we are not sharing with future (or current) Walkers, Ameses, or Hanssens. This is, in my view, a matter of effective enforcement of need-to-know after those who need to know have been designated (certainly on a basis that cuts across stovepipes) so that all the relevant people get information, but only they. I disagree with the oft-implied proposition that the only need is to share more.

Is there any reason to believe that the CIA's failure to share data with the INS or FBI was influenced in any way by the DCI's personnel and budget execution control of the CIA?

A: No.

To date, virtually no one in the intelligence community has been held accountable for the intelligence failures involved in the 9/11 attack or with respect to Iraq. What steps can be taken, either administratively or legislatively, to ensure accountability for intelligence failures?

A: There was a lot less intelligence failure (the CIA was at least trying to call attention to the terrorist threat) than legal failure (FBI barred by law and DOJ regs from sharing, even internally), FAA failure, Congressional failure, etc. For example, our (Bremmer) National Terrorism Commission in 2000 made 25 important recommendations that were completely ignored by the Congress until after 9/11.

National Intelligence Centers

The 9/11 Commission has recommended establishing National Intelligence Centers in "whatever department or agency is best suited for them" to provide "all-source analysis and plan intelligence operations for the whole government on major problems." In a written submission to the Committee, former DCI Robert Gates raises a number of questions about the operation of these Centers, including who would appoint the Center directors, whether the NID would be responsible for monitoring them, and whether the Center directors could bypass the NID and provide information directly to the President.

Do you agree or disagree with this Commission recommendation, and why?

A: I would start with one on Counter-terrorism and make it work rather than re-structuring the whole IC at once. We should have, similarly, let DHS integrate border security before giving it a whole raft of new responsibilities. Congress is, in my view, on the edge of seriously disrupting our effectiveness in the current war by resolving too many questions of whether to reorganize by answering 'yes' in all cases.

What is your advice on how these Centers should operate, including who should appoint the directors, the nature of the relationship between the Centers and the NID, and where the Centers should reside organizationally?

A: See above. Try one and make it work.

Post-Hearing Questions for the Record
Submitted to the Honorable James Woolsey
From Senator Richard Durbin

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

1. I am also a Member of the Senate Select Committee on Intelligence which will hold confirmation hearings early next month on the Goss nomination. What is your assessment of Mr. Goss' more than seven year record as Chairman of the House Permanent Select Committee on Intelligence (HPSCI)? Do you think that his record indicates a likelihood that he will aggressively implement significant reform of the Intelligence Community along the lines recommended by the 9/11 Commission?

I believe that Mr. Goss has been a good Chairman of HPSCI and would be a good DCI (or, under a new system, a good NID or Director of the CIA). As my testimony indicates, I favor most but my no means all of the reforms proposed by the 9/11 Commission. I believe that Mr. Goss would work with the White House and the Congress to implement the substantial majority of the Commission's recommendations.

2. On June 16 of this year, HPSCI Chairman Porter Goss introduced H.R. 4584, legislation to reform the U.S. Intelligence Community. Section 102 (c)(1) of Mr. Goss' bill would repeal the current prohibition related to the Director of Central Intelligence exercising internal security functions. Essentially, it would give the President new authority to direct CIA agents to exercise police, subpoena and law enforcement powers within the United States. What is your opinion of this provision of the Goss legislation? What are the pros and cons of this proposal from both a counterterrorism and civil liberties perspective?

I would prefer to have the FBI, together with state and local law enforcement, manage domestic intelligence collection, but I believe there is a need to modify or repeal some of the restrictions under which they now operate. I believe that this could well be coordinated by the NID, or by a DCI who had a separate person reporting to him or her as the CIA Director. I would not favor a CIA Director (or the current DCI) managing domestic intelligence collection.

3. Based on the findings of the 9/11 Commission and the Senate intelligence committee's report on prewar intelligence related to Iraq, what, if any, changes do you believe need to be made in

personnel in the Intelligence Community?

The Senate Committee's Report (Ch. 12) is a far more objective and thorough assessment of the relationship between Baathist Iraq and al Qaeda than I have seen in reported CIA assessments. Perhaps the Senate Committee's analysts deserve senior positions in those portions of the Intelligence Community that assess these and related issues.

4. We have heard a great deal – much of it disturbing – about the role of private contractors in Iraq and the implications of the government's heavy reliance on contracting, but this issue has not been raised much in the debate over intelligence reform. Particularly for Mr. Woolsey, as a vice president at Booz Allen Hamilton, what can you tell us about the role of private contractors in the intelligence network? What is the balance of federal employees to private contractors in intelligence work? What are the oversight mechanisms of private contractors? What are the dangers of conflict of interest problems in this area?

This is not a subject with which I am conversant or on which I have worked, at this firm or otherwise. I understand that our firm's involvement in Iraq has been quite small.

5. Some have suggested that the individual serving as National Intelligence Director should have a term appointment for a specific number of years, and that this would protect the position from being politicized. Do you share this view? Why or why not? The FBI Director serves a fixed term. To what extent, if any, has that enhanced the relationship between the President and the FBI Director?

I believe that Presidential appointees should serve at the pleasure of the President, and that the way to keep intelligence positions from being politicized in any administration is to pick people to fill them who do not put a high premium on being liked. I don't know what the effect has been of setting a fixed term for the Director of the FBI.

6. The Secretary for Homeland Security Tom Ridge has recently elevated the terrorism threat level for financial institution buildings in Washington, D.C., New York City and northern New Jersey -- and there are continuing concerns about an al-Qa'ida attack against the U.S. homeland prior to our forthcoming national election. Since 9/11, how much more prepared are we to deal with a possible al-Qa'ida attack against the U.S. homeland within the next four months? To what extent, if any, is there room for improvement in our ability to detect, monitor and disrupt terrorist threats to the U.S. -- both at home and overseas? Please elaborate.

I believe that we are better prepared to prevent an attack of the sort that occurred on 9/11, involving aircraft, but that there is much more that needs to be done with regard to improving the resilience of our infrastructure as a whole. I believe that the capture of individuals, computers, documents, laboratories, etc. in Afghanistan and Iraq have set al Qaeda back substantially, but not finally or decisively. I believe that our objective should not be limited to defeating or preventing terrorist attacks but must extend to helping bring democracy, the rule of law, and open economies to the nations of the greater Middle East.

7. Conspicuously absent from the 9/11 Commission's report was any judgment on the most compelling policy debate of this Administration: Was the war against Iraq an essential part of -- or a distraction from -- the fight against al-Qa'ida and international terrorism? In a July 25, 2004 editorial in The New York Times entitled, "Honorable Commission, Toothless Report", Richard Clarke stated that "...because the commission had a goal of creating a unanimous report from a bipartisan group, it softened the edges and left it to the public to draw many conclusions. Among the obvious truths that were documented but unarticulated were the facts that the Bush administration did little on terrorism before 9/11, and that by invading Iraq the administration has left us less safe as a nation." Do you agree with Mr. Clarke's assessment? Why or why not?

I emphatically disagree with Mr. Clarke. I believe that the ties between Baathist Iraq and al Qaeda were essentially as set out in Ch. 12 of the SSCI Report of this summer -- plainly far more extensive and dangerous, particularly with regard to Iraqi training of al Qaeda, than Mr. Clarke has admitted even after that report's publication. I believe that we will not succeed in the greater Middle East without offering a path to a better way of life for the people of that region and that the future of Iraq cannot be divorced from that of the rest of the region. I don't believe that the Clinton Administration left us all less safe by going to war twice (without Security Council approval) with Milosevic and removing him from power, and I do not believe that the current administration left us all less safe by, similarly, removing Saddam from power. The latter has been responsible for approximately ten times as many deaths as the former.

8. One of the primary lessons drawn by many investigators of the September 11 terrorist attacks was that law enforcement and foreign intelligence information was not shared especially at the level of working analysts. Some statutory barriers to the sharing of information have been removed by the USA Patriot Act and Intelligence Authorization legislation, and TTIC and the Homeland Security intelligence shop were created to enhance information sharing. What is your assessment of how effectively information is being shared by components of the Intelligence Community and other elements of the U.S. Government today?

What specific actions would you propose to enhance information sharing?

I think there have been important improvements in intelligence sharing, but that sharing is only one-half of the relevant set of issues -- the other half being how to share securely. Much CIA and other information that went to the FBI was shared with Hanssen and much FBI and other information that went to the CIA was shared with Ames. We must do a better job of finding technological ways to enforce need-to-know so that intelligence collectors will be willing to share with (some) analysts in other agencies and be confident that material which can compromise sources and methods will not be spread beyond those who are approved. I think that the appointment of an NDI, with responsibilities and authority along the lines of that in the original bill proposed by Representative Jane Harman, could help accomplish the appropriate type and degree of sharing.

Post-Hearing Questions for the Record
Submitted to Admiral Stansfield Turner
From Senator George Voinovich

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

1. Do you support the 9/11 Commission's recommendation of moving the direction for paramilitary operations from the CIA to the Department of Defense? Why or why not?

2. In your experience, does the DCI currently have the necessary authority to establish professional and education standards for Intelligence Community personnel?

3. In your view, does the National Security Council already perform many of the functions recommended for the National Intelligence Director and the National Counterterrorism Center?

4. The proposed National Counterterrorism Center would further break down the barriers between domestic and foreign intelligence. Do you think the policies regarding the employment of U.S. foreign intelligence officers would have to be changed to give CIA and other Intelligence Community personnel greater latitude to operate within the U.S?

5. The 9/11 Commission did not recommend a dedicated domestic surveillance agency, recommending instead to strengthen the FBI's existing capabilities. Others have suggested creating an agency within the FBI that would focus only on terrorism. Should there be a federal agency which focuses solely on catching the terrorists who have infiltrated the U.S. and are plotting the next terrorist attack? Is the FBI up to meeting its counterterrorism responsibilities in addition to all of its traditional missions? Should the FBI shed some of its historic mission areas, for example, such as white collar crime and public corruption

6. Does the process through which security clearances are granted need to be improved? How would you do that? Should all security clearance investigations, for example, be handled by a single agency?

7. When the Department of Homeland Security was established, the FBI was supposed to transfer its National Infrastructure Protection Center to the new Information Assurance and Infrastructure Protection Directorate; 300 positions were transferred, but only 10-20 people actually went over to DHS. If Congress takes budget authority for the National Security Agency, for example, away from the Defense Department and gave it to a National Intelligence Director, what would stop the Defense Department from doing what the FBI did – transfer the positions but not the people, especially the military personnel?

On a related question, what would stop the Department of Defense from trying to rebuild the capability that is transferred to the National Intelligence Director?

8. The 9/11 Commission made several recommendations regarding the organization of the Intelligence Community, but few regarding intelligence tradecraft. Should tradecraft issues, such as having case officer work out of U.S. embassies, be reconsidered on a broader scale? What, in your view, is the relative importance of tradecraft compared to organization?

9. The 9/11 Commission envisioned that certain agencies currently within the scope of the National Foreign Intelligence Program, such as State INR and the intelligence activities of the Departments of the Treasury and Energy, would be removed from this budget account and would therefore not fall under the proposed National Intelligence Director. Do you support this restructuring of the NFIP account? Why or why not?

10. The 9/11 Commission proposes creating a series of intelligence "fusion centers" that would draw on the resources of the entire Intelligence Community. Do you recommend maintaining the three separate all-source analysis centers at the CIA, DIA, and State INR? If so, and assuming that the new centers are established, how would you envision the interaction between the new centers and the three all-source analysis agencies?

Post-Hearing Questions for the Record
Submitted to Admiral Stansfield Turner
From Senator Carl Levin

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

Politicization of Intelligence

During the hearing before the Governmental Affairs Committee, Judge Webster stated: "With respect to relations with the president, while the leader of the intelligence community must be the principal advisor on intelligence to the president, he must work hard -- very hard -- to avoid either the reality or the perception that intelligence is being framed -- read "spun"-- to support a foreign policy of the administration."

In your opinion, does the recommendation of the 9/11 Commission to place the new National Intelligence Director in the Executive Office of the President contribute to or detract from the independence and objectivity of intelligence gathering and analysis?

What other administrative or legislative steps should be taken to ensure that the intelligence community provides independent, objective, and accurate analyses?

Reprogramming problems

The 9/11 Commission has recommended giving overall budget execution authority for the National Foreign Intelligence Program (NFIP) to a new National Intelligence Director (NID), including authority for reprogramming funds during the execution of the budget.

Can you provide any specific examples during your tenure with the government where there were problems within the Administration getting approval to reprogram funds in NFIP programs?

Can you provide any specific examples where there were problems within the Administration getting approval to reprogram funds to correct emergent problems in NFIP programs?

At a hearing before the Senate Armed Services Committee, Acting DCI John McLaughlin mentioned a figure of five months as representative of the time required to obtain approval of an NFIP reprogramming request. How does that compare to your experience in terms of the length of time needed to obtain approval of a reprogramming request?

Recommended Changes in Reprogramming Process

The 9/11 Commission has recommended giving the new National Intelligence Director "authority to reprogram funds among the national intelligence agencies to meet any new priority."

Should the President issue a new Executive Order 12333 that would give a National Intelligence Director budget execution authority, including reprogramming authority, for DOD intelligence agencies?

Is this issue better handled through an Executive Order or legislation?

DCI authorities compared to NID authorities (personnel)

As I understand the process now, the Secretary of Defense must obtain the concurrence of the Director of Central Intelligence in appointing anyone to head the National Security Agency (NSA), the National Reconnaissance Office (NRO), or the National Geospatial-Intelligence Agency (NGA). For the head of the Defense Intelligence Agency (DIA), the Secretary must only consult with the DCI on that appointment.

The 9/11 Commission has recommended giving the new National Intelligence Director (NID) sole responsibility for hiring and firing of leaders of the national intelligence agencies, including the head of the "CIA, DIA, FBI Intelligence Office, NSA, NGA, NRO, Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security, and other intelligence capabilities."

Are you aware of any evidence that the heads of the DoD combat support agencies have been unresponsive to the direction or tasking of the DCI?

Are there concerns about any effects on support to military operations or otherwise of transferring this authority (particularly for DIA) to a new National Intelligence Director?

Are there concerns about any effects on law enforcement of transferring this authority for the head of the FBI Intelligence Office to a new National Intelligence Director?

Effect of a National Intelligence Director on competitive analysis

During the development of the National Intelligence Estimate (NIE) on Iraq's WMD capabilities, which was prepared prior to the war and which proved to be so inaccurate in its

judgements, a number of intelligence analysts in the U.S. government held views that differed from the prevailing CIA view. Notable examples of this include the Department of Energy and State Department INR assessments on whether the now-famous aluminum tubes were intended for centrifuges, and the Air Force Intelligence Agency assessment of whether Iraqi unmanned aerial vehicles were intended to deliver WMD. Both of these differing assessments have been validated since, but were overruled by the CIA in developing the NIE.

The 9/11 commission recommends consolidating control and budgeting responsibility for national intelligence activities under a new National Intelligence Director.

> If Congress were to give a National Intelligence Director that authority, what steps should we take to encourage competing analyses and ensure differing views and debate within the intelligence community to improve the quality of our intelligence?
>
> What steps should be taken to ensure that the intelligence community provides independent, objective and accurate analyses?
>
> Would consolidation of budget control of most of the intelligence analysts, as well as hiring and firing authority over national intelligence agency leaders under a single official, support or hurt this aim?

Intelligence failures and accountability

The evidence indicates there were apparently a number of instances where components of the intelligence community possessed information that might have helped other agencies take action before the 9/11 terrorist attacks. One specific example of failure to share information was the CIA's failure to share information on the presence of two of the 9/11 plotters with the Immigration and Naturalization Service (INS) or the Federal Bureau of Investigation (FBI) . This failure took place despite the fact that the CIA staff and budget were operating under the control of the Director of Central Intelligence.

> Are there currently impediments to sharing data that can only be broken down by changing organizational relationships within the intelligence community? If so, what laws need to be changed?
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> Is there any reason to believe that the CIA's failure to share data with the INS or FBI was influenced in any way by the DCI's personnel and budget execution control of the CIA?
>
> To date, virtually no one in the intelligence community has been held accountable for the intelligence failures involved in the 9/11 attack or with respect to Iraq. What steps can be taken, either administratively or legislatively, to ensure accountability for intelligence failures?

National Intelligence Centers

The 9/11 Commission has recommended establishing National Intelligence Centers in "whatever department or agency is best suited for them" to provide "all-source analysis and plan intelligence operations for the whole government on major problems." In a written submission to the Committee, former DCI Robert Gates raises a number of questions about the operation of these Centers, including who would appoint the Center directors, whether the NID would be responsible for monitoring them, and whether the Center directors could bypass the NID and provide information directly to the President.

Do you agree or disagree with this Commission recommendation, and why?

What is your advice on how these Centers should operate, including who should appoint the directors, the nature of the relationship between the Centers and the NID, and where the Centers should reside organizationally?

Post-Hearing Questions for the Record
Submitted to Admiral Stansfield Turner
From Senator Richard Durbin

"Reorganizing America's Intelligence Community: A View from the Inside"

August 16, 2004

1. After Congressman Porter Goss was formally nominated by President Bush to be the next Director of Central Intelligence (DCI), you were quoted in the press as stating that the Goss nomination was "the worst... in the history of the job." **Is that quote accurate? If so, could you elaborate on what you meant by that?**

2. I am also a Member of the Senate Select Committee on Intelligence which will hold confirmation hearings early next month on the Goss nomination. **What is your assessment of Mr. Goss' more than seven year record as Chairman of the House Permanent Select Committee on Intelligence (HPSCI)? Do you think that his record indicates a likelihood that he will aggressively implement significant reform of the Intelligence Community along the lines recommended by the 9/11 Commission?**

3. On June 16 of this year, HPSCI Chairman Porter Goss introduced H.R. 4584, legislation to reform the U.S. Intelligence Community. Section 102 (c)(1) of Mr. Goss' bill would repeal the current prohibition related to the Director of Central Intelligence exercising internal security functions. Essentially, it would give the President new authority to direct CIA agents to exercise police, subpoena and law enforcement powers within the United States. **What is your opinion of this provision of the Goss legislation? What are the pros and cons of this proposal from both a counterterrorism and civil liberties perspective?**

4. In a July 14, 2004 editorial in *The New York Times*, you note the problems in Intelligence Community analysis that were cited in the Senate intelligence committee's recent report on prewar intelligence on Iraq. You state that the Senate report indicates that "major changes in personnel at the CIA are urgent and necessary from a purely professional standpoint" and that "a thorough house cleaning is in order." **Please elaborate. Specifically which positions do you believe require a change in personnel?**

5. Some have suggested that the individual serving as National Intelligence Director should have a term appointment for a specific number of years, and that this would protect the position from being politicized. **Do you share this view? Why or why not?** The FBI Director serves a fixed term. **To what extent, if any, has that enhanced the relationship between the President and the FBI Director?**

6. The Secretary for Homeland Security Tom Ridge has recently elevated the terrorism threat level for financial institution buildings in Washington, D.C., New York City and northern New Jersey -- and there are continuing concerns about an al-Qa'ida attack against the U.S. homeland prior to our forthcoming national election. **Since 9/11, how much more prepared are we to deal with a possible al-Qa'ida attack against the U.S. homeland within the next four months? To what extent, if any, is there room for improvement in our ability to detect, monitor and disrupt terrorist threats to the U.S. -- both at home and overseas? Please elaborate.**

7. Conspicuously absent from the 9/11 Commission's report was any judgment on the most compelling policy debate of this Administration: Was the war against Iraq an essential part of -- or a distraction from -- the fight against al-Qa'ida and international terrorism? In a July 25, 2004 editorial in *The New York Times* entitled, "Honorable Commission, Toothless Report", Richard Clarke stated that "...because the commission had a goal of creating a unanimous report from a bipartisan group, it softened the edges and left it to the public to draw many conclusions. **Among the obvious truths that were documented but unarticulated were the facts that the Bush administration did little on terrorism before 9/11, and that by invading Iraq the administration has left us less safe as a nation." Do you agree with Mr. Clarke's assessment? Why or why not?**

8. One of the primary lessons drawn by many investigators of the September 11 terrorist attacks was that law enforcement and foreign intelligence information was not shared especially at the level of working analysts. Some statutory barriers to the sharing of information have been removed by the USA Patriot Act and Intelligence Authorization legislation, and TTIC and the Homeland Security intelligence shop were created to enhance information sharing. **What is your assessment of how effectively information is being shared by components of the Intelligence Community and other elements of the U.S. Government today? What specific actions would you propose to enhance information sharing?**

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