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COMBATING TERRORISM: LESSONS LEARNED FROM LONDON

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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COMBATING TERRORISM: LESSONS LEARNED FROM LONDON

TUESDAY, SEPTEMBER 19, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:07 p.m., in room 2154, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Porter, Kucinich, and Van Hollen.

Staff present: J. Vincent Chase, chief investigator; R. Nicholas Palarino, staff director; Robert A. Briggs, analyst; Elizabeth Daniel andAlex Manning, professional staff members; Andrew Su, minority professional staff member; and Jean Gosa, minority assistant clerk.

Mr. SHAYS. Quorum being present, the Subcommittee on National Security, Emerging Threats, and International Relations hearing entitled, "Combating Terrorism: Lessons Learned from London," is called to order.

Last month, British authorities announced they disrupted a terrorist plot to detonate as many as 10 transatlantic aircraft leaving Heathrow Airport for the United States.

A London metropolitan police representative said the successful execution of this plot would have wrought mass murder on an unimaginable scale.

This is the most recent incident in a decades-long pattern of attempted and successful terrorist attacks against passenger airlines.

In January 1995, Philippino authorities disrupted an operation which sought to blow up American passenger planes.

On September 11, 2001, terrorists tragically used our aircraft to attack the United States.

Five years after September 11th, in an international atmosphere of uncertainty we continue to ask the question, is our country safer?

The successful disruption of terrorist attempts like this London bomb plot indicates we may be headed in the right direction, in changes we have implemented, improved information sharing, surveillance, increased law enforcement resources devoted to national security, appeared to be helping thwart terrorist attacks. But the fact that such threats remain and that these threats exist in such a potentially massive scale also warns us we must remain vigilant.

Detection and prevention must be the first line of defense enabling the intelligent infiltration of terrorist cells and prevention of their actions. All of this must take place within a comprehensive and transparent legal framework governing the counter-terrorism apparatus.

The key in this disruption of the London bomb plot was that it was foiled before the would-be terrorists got to the airport. We understand local and international elements of the British counterterrorism apparatus helped secure the crucial tip that led to the capture of the suspects. They tracked terrorist financing evidence via intelligence cooperation with Pakistan. They were able to coordinate their internal counterterrorism components to react quickly, effectively and flexibly. And their authorities have the legal and jurisdictional tools to allow them to conduct a thorough investigation after the fact.

Today, we focus on the counterterrorism tools available to the British, which of these of their tools does the United States share? What do we lack? And how could some of these tools usefully be adopted to an American environment? Which of these tools are more appropriate for Britain? And what are the implications for some of those tools coming face to face with American civil liberties regulations?

[The prepared statement of Hon. Christopher Shays follows:]

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ONE HUNDRED NINTH CONGRESS

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Statement of Representative Christopher Shays
September 19, 2006

Last month British authorities announced they disrupted a terrorist plot to detonate as many as ten transatlantic aircraft leaving Heathrow for the United States. A London Metropolitan Police representative said the successful execution of this plot would have wrought "mass murder on an unimaginable scale."

This is the most recent incident in a decades-long pattern of attempted and successful terrorist attacks against passenger airlines. In January 1995, Philippine authorities disrupted Operation Bojinka, which sought to blow up American passenger planes. On September 11, 2001, terrorists tragically used four aircraft to attack the United States.

Five years after September 11, in an international atmosphere of uncertainty, we continue to ask the question: "Is our country safer?"

The successful disruption of terrorist attempts like this London bomb plot indicates we may be headed in the right direction, and changes we have implemented—improved information sharing, surveillance, increased law

enforcement resources devoted to national security—appear to be helping thwart terrorist attacks.

But the fact that such threats remain—and that these threats exist on such a potentially massive scale—also warns us we must remain vigilant. Detection and prevention must be the first line of defense, enabling the intelligent infiltration of terrorist cells and prevention of their actions. All of this must take place within a comprehensive and transparent legal framework governing the counterterrorism apparatus.

The key in the disruption of the London bomb plot was that it was foiled before the would-be terrorists got to the airport. We understand local and international elements of the British counterterrorism apparatus helped secure the crucial tip that led to the capture of the suspects. They tracked terrorist financing evidence via intelligence cooperation with Pakistan. They were able to coordinate their internal counterterrorism components to react quickly, effectively and flexibly. And their authorities have the legal and jurisdictional tools to allow them to conduct a thorough investigation after the fact.

Today, we focus on the counterterrorism tools available to the British. Which of their tools does the United States share? What do we lack, and how could some of these tools usefully be adapted to an American environment? Which of these tools are more appropriate for Britain? And what are the implications for some of these tools coming face to face with American civil liberties regulations?

Our witnesses today, appearing together on one panel, will offer their perspectives from both sides of the Atlantic. We will hear testimony from Mr. Tom Parker, a former British counterterrorism official, and Baroness Falkner of Margravine, a Member of Parliament from the House of Lords who served as an adviser on Prime Minister Tony Blair's Taskforce on Muslim Extremism.

Our American witnesses include Mr. John Rollins, an expert on intelligence and homeland security from the Congressional Research Service; Dr. Jim Lewis, a specialist in surveillance technology and its implications from the Center for Strategic and International Studies; and Mr. David B. Rivkin, a

former official at the White House, Justice and Energy Departments under Presidents Reagan and George H.W. Bush.

We are grateful to all of them for appearing before us today and we look forward to their testimony, and an interesting discussion.

Mr. SHAYS. Our witnesses today appearing together on one panel will offer their perspectives from both sides of the Atlantic.

We will hear testimony from Mr. Tom Parker, a former British counterterrorism official, and Baroness Falkner of Margravine—you will teach me how to say it better—a member of Parliament from the House of Lords, who served as an adviser on Prime Minister Tony Blair's task force on Muslim extremism. Our American witnesses include Mr. John Rollins, an expert on intelligence and homeland security from the Congressional Research Service; Dr. Jim Lewis, a specialist in surveillance technology and its implications from the Center For Strategic and International Studies; and Mr. David B. Rivkin, a former official at the White House, Justice and Energy Departments under Presidents Reagan and George H.W. Bush.

We are grateful to all of them for their appearing before us today and we look forward to their testimony and the interesting discussion I think that will come from it.

At this time, the Chair would recognize a gentleman who has no name evidently, but is the ranking member of the subcommittee, Mr. Kucinich.

Mr. KUCINICH. Thank you, Mr. Chairman.

Operating incognito. I want to thank you for holding this hearing. There are many lessons to be learned from attempted terrorist attacks, both here and abroad. First, we must also—thank you——

Mr. SHAYS. When a member tries to help, it makes it worse.

Mr. KUCINICH. I didn't say that. First we must also be deliberate in the method and manner in which we address the issue of terrorism in our world.

This should not be considered a war on terrorism, which is, in my estimation, is an oxymoronic proposition.

One need only look to the arrests in Britain to realize that the prevention of terrorism is primarily a police action. The planned attacks were not stopped by an army, but through careful police work. Second, while the work of British police in foiling the terrorism plot certainly deserves praise, it does not mean that the United States should rush to change our Nation's laws to mirror those in the United Kingdom, particularly laws which would hinder the protection of our right to privacy and civil liberties.

The so-called global war on terror has already translated into a dangerous assault on our Constitution. The PATRIOT Act permits the government to conduct criminal investigations without probable cause, to conduct secret searches, to gain wide powers of phone and Internet surveillance and access highly personal medical financial mental health and student records with minimal judicial oversight. And I might say that this is still a subject of great debate in the United States.

There is many of us who feel that our Constitution, which yesterday we celebrated another birthday of, our Constitution is being undermined by this oxymoronic war on terror.

Third, we need a careful re-examination of our Nation's foreign policy in the Middle East, and a careful reexamination of our Nation's foreign policy with respect to Muslims in the world.

Continuing down the path that led to a disastrous war based on false pretenses, and our continuing occupation of Iraq, which has

led to civil war is causing blowback against the United States and the United Kingdom. That is why these attacks continue. And that is why the young men in this plot, all second generation Britains of Pakistani descent, admittedly adopted a violent means of protesting United States and U.K. foreign policy. There is no excuse for terrorism. But we sure better understand how terrorism gains its roots.

I believe the United States needs to change its long-term policy to respond to this growing threat. We should start by withdrawing our military forces from Iraq and by stepping back from preparations from military invasion in Iran.

We also need to address the real roots of terrorism, why it appeals to so many young men in the Middle East, Africa Southeast Asia and the middle of London. There is still a huge cultural divide and a misunderstanding of the Arab world that has led to the perception that many Arabs and Muslims are potential terrorists.

Extremists clearly do not represent the views of the majority of Muslims, and that needs to be said over and over. As a matter of fact, as even the equation of concoction, Muslim terrorist, I think is a smear on all those who practice Islam, and so we should be careful about how we approach that.

I want to thank the witnesses for being here today. Look forward to hearing your testimony.

Mr. SHAYS. Thank the gentleman.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Opening Statement of Rep. Dennis J. Kucinich
Ranking Minority Member

Subcommittee on National Security, Emerging Threats and International Relations
Committee on Government Reform

Hearing on "Combating Terrorism: Lessons Learned From London"

September 19, 2006

Thank you Mr. Chairman for holding this hearing. There are many lessons to be learned from attempted terrorist attacks, both here and abroad.

First, we must also be deliberate in the method and manner in which we address the issue of terrorism in our world. This should not be considered a war on terrorism, but rather a dragnet for terrorists. One need only look to the arrests in Britain to realize that the prevention of terrorism is primarily a police action. The planned attacks were not stopped by an army, but through careful police work. Al-Qaeda has more in common with the Mafia than a rational army. They are thugs and murderers and in labeling this a war, we transform them from murderers into national heroes.

Second, while the work of British police in foiling the terrorism plot deserves praise, it does not mean we should rush to change our nation's laws to mirror those of the United Kingdom, particularly laws which would hinder the protection of our right to privacy and civil liberties. The so-called Global War on Terror has already translated into a dangerous assault on the Constitution. The PATRIOT Act permits the government to conduct

criminal investigations without probable cause, to conduct secret searches, to gain wide powers of phone and internet surveillance, and access highly personal medical, financial, mental health, and student records with minimal judicial oversight.

Third, we need a careful re-examination of our nation's foreign policy in the Middle East, and towards Muslims in the world. Continuing down the path that has led to a disastrous war based on false pretenses of, and our continuing occupation of Iraq which has led to a civil war, is causing "blowback" against the United States and the United Kingdom.

That is why these attacks continue, and why the young men in this plot, all second-generation Britons of Pakistani descent, admittedly adopted a violent means of protesting U.S. and U.K. foreign policy. This was a clear-cut case of "home-grown" terrorism.

I believe the United States needs to change its long-term policy to respond to this growing threat, rather than always fighting the last fight. We should start by withdrawing our military forces from Iraq, and by stepping back from preparations for a military invasion in Iran.

We also need to address the real roots of terrorism, and why it appeals to many young men in the Middle East, Africa, Southeast Asia, or in the middle of London. There is still a huge cultural divide, and a misunderstanding of the Arab world has led to a perception that all Arabs and Muslims are potential terrorists. Extremists clearly do not represent the

views of the majority of Muslims, but without their continued cooperation, more and more will turn to terrorist groups to express their dissatisfaction.

I want to thank the witnesses for being here today, and look forward to listening to their testimony.

Mr. SHAYS. At this time, I will introduce our witness. We have Mr. John Rollins, Specialist in Terrorism at International Crime Foreign Affairs, Defense and Trade Division, Congressional Research Service. It is great to have you here. Mr. Tom Parker former British counterterrorism official adjunct professor, Bard College, executive director Iran human rights documentation center. Baroness Falkner of Margravine Member House of Lords, United Kingdom, fellow, Institute of politics, Harvard University, member and 2005 prime minister's task force on Muslim extremism. Dr. James A. Lewis, senior fellow, technology and public policy program, Center for Strategic and International Studies, and Mr. David B. Rivkin, partner, Washington, DC, Office of Baker & Hostetler, member U.N. Subcommittee on Promotion and Protection of Human Rights, contributing editor, National Review, former official at the White House, and Departments of Justice and Energy during the Reagan and George H.W. Bush administrations.

We are delighted that all of you are here. First let me take care of some business, I ask unanimous consent that all members of the subcommittee be permitted to place an opening statement in the record and that the record remain open for 3 days for that purpose, and without objection, so ordered, and ask further unanimous consent that all witnesses be permitted to include their written statements in the record and without objection, so ordered.

At this time, let me swear in all our witnesses. We swear in witnesses even across the Atlantic, but we understand you may want to define that yes. But, thank you for participating as all the other witnesses are, so if you would stand please.

[Witnesses sworn.]

Mr. SHAYS. Note for the record all of our witnesses have agreed to that, and in fairness the only other member from Parliament from the House of Lords was Lord Morris, who came and it was on the Gulf war on these issues, and it was delightful to have him and it is delightful to have you and it is delightful to have all the other members.

Mr. Rollins, we will start with you. We are do the 5-minute rule. Could the staff move the timer and put it in between Mr. Rollins and put the other timer in between Mr. Lewis and Mr. Rivkin? We are trying not to hide that. We want them to see it.

Right there is good. And let me just tell you how it works. It is 5 minutes, and then we will roll it over another 5 minutes. We would want you not to take more than 10 minutes but it would be nice if you were closer to 5 more than the 10 but you have that time. I don't want to read fast.

All right, Mr. Rollins you are on. We will do 5 minutes and then roll over for another 5 minutes and have you stop.

STATEMENTS OF JOHN ROLLINS, SPECIALIST IN TERRORISM AT INTERNATIONAL CRIME, FOREIGN AFFAIRS, DEFENSE AND TRADE DIVISION, CONGRESSIONAL RESEARCH SERVICE; TOM PARKER, FORMER BRITISH COUNTERTERRORISM OFFICIAL, ADJUNCT PROFESSOR, BARD COLLEGE, EXECUTIVE DIRECTOR, IRAN HUMAN RIGHTS DOCUMENTATION CENTER; BARONESS FALKNER OF MARGRAVINE, MEMBER, HOUSE OF LORDS, UNITED KINGDOM, FELLOW, INSTITUTE OF POLITICS, HARVARD UNIVERSITY; JAMES A. LEWIS, SENIOR FELLOW, TECHNOLOGY AND PUBLIC POLICY PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES; AND DAVID B. RIVKIN, PARTNER, BAKER AND HOSTETLER, MEMBER, U.N. SUBCOMMITTEE ON PROMOTION AND PROTECTION OF HUMAN RIGHTS, CONTRIBUTING EDITOR, NATIONAL REVIEW, FORMER OFFICIAL AT THE WHITE HOUSE AND DEPARTMENTS OF JUSTICE AND ENERGY

STATEMENT OF JOHN ROLLINS

Mr. ROLLINS. Very good. Thank you, Chairman Shays, thank you Representative Kucinich, for allowing me to come speak about lessons learned from the recent arrests in London of individuals suspected of plotting to detonate explosive devices aboard U.S. airlines transiting to the United States.

As the former Chief of Staff for the Office of Intelligence of the Department of Homeland Security, and now as a policy analyst at the Congressional Research Service, I was fortunate to have the experience of traveling on the morning of August 10th. I say fortunate in that for most of the previous homeland security advisory system alert notifications, I was involved in the threat assessment and notifications phase of the advisory system, and never had the opportunity to experience the operational implementation efforts that accompanied these announcements. So I think I now have a new perspective.

As I progress through my day's travels, a number of thoughts occurred to me regarding issues relating to the latest threats stream and efforts the United States has undertaken in the 5 years since 9/11, and the 3½ years since the establishment of the Department of Homeland Security. Based on the details regarding this latest terrorist plot concerning the use of liquid-based explosives to destroy multiple aircraft and kill thousands of passengers, I wondered why other modes of transportation, specifically rail lines, the most targeted in the post 9/11 environment, were not included in raising of the alert level.

I also wondered if State and local communities in the private sector were apprised of the generalities of this threat stream during the early stages of the United Kingdom's notification to the United States or, as in past alert level change notifications, the calls were made concurrently to State, local private sector leadership, thus placing the entities that safeguard the homeland in a reactive rather than in a proactive mode.

While recognizing the need for investigative and operational security 5 years post 9/11, the Federal Government continues to question and concerns persist regarding the role, State, local, private sector leadership can and should play in providing information

and assistance during times of normal and heightened threat levels.

As we sit here with the flights originating from the United Kingdom and U.S. domestic flights still designated at high risk, or orange in this testimony, I would like to briefly discuss three points that may be useful in attempting to assess lessons learned. First, the United Kingdom's investigation and the United States's response.

On the evening of August 9th, British authorities arrested 24 individuals ranging from age from 17 to 36 years old. Some suggested these arrests came as a terrorist cell was very close to the point of execution, while others suggested the plot was still in the planning stages as the airline reservations had not been made and two members of the cell did not have passports.

Peter Clark, chief counterterrorism of the London Metropolitan Police, stated that they were still trying to ascertain the basics of terrorist's intentions, the number, destination and timing of the flights that might be attacked.

Others wondered whether any of the suspects were technically capable of assembling the devices and detonating the liquid explosives while aboard the plane. The individuals arrested in London were known to authorities over 1 year ago as a result of numerous tips by neighbors after the July 2005 London suicide train bombings. These local east London neighborhood tipsters were concerned about the intentions of a small group of angry young men.

This investigation significantly intensified over the summer of 2006 with the use of human and technical collection efforts, including those of the U.S. intelligence community.

The urgency was the result of the United Kingdom learning in the 2 weeks preceding August 10th that the cell may be conspiring to bring aboard an explosive device on the U.S. airliners transiting from the United Kingdom to the United States.

During the post arrest investigation, it is reported several martyrdom videos were discovered. The motivation of one of the purported leaders of the cell is reported to be seeking revenge for the foreign policy of the United States and their accomplices, the United Kingdom and the Jews. In the martyrdom video, this cell member demands other Muslims join the jihad as the killing of innocent civilians in America and western countries as justified because they supported the war against Muslims and were too busy enjoying their lifestyle rather than protest the policies of the country. Another cell member remarked as well that the war against Muslims in Iraq and Afghanistan motivated him to act.

Now, I would like to focus on the U.S. response to the London threat stream. Is it a model for future success? Department of Homeland Security Secretary Chertoff and other administration officials have stated that this was a remarkable example of coordination between two countries and that of the interagency council, U.S. interagency councils. And while the international and Federal Government coordination efforts are an example of success, a question remains whether the uniqueness of this United Kingdom-based terrorist plot lends to a model for future U.S. counterterrorism success.

Was civil aviation receiving a great deal of attention, resources and deployed assets to counter today's threat? Can we expect the same level of security when a credible threat is directed against a less secure sector of our society?

Will U.S. homegrown terrorists with or without transnational connections be recognized and detected by our international partners or our Nation's State, local and private sector community members? And while the U.S. flag air carriers and State, local, and private sector entities were notified of the cell's planning early on the morning of August 10th, when the alert level change was announced, a question remains whether this is the most effective threat notification model to follow for future credible threat streams.

Recognizing once again the ever present balance between operational security and ongoing investigation, the potential for future intelligence gleaned from the suspect activity, the need to safeguard the homeland, one wonders what should the point, at what point should the scales tip to earlier involve effective State, local and private sector leaders? And a larger question, if such an earlier notification model were in place that recognized the value of information gathered at the State and local level, which agency in the U.S. Federal Government is charged with compiling seemingly disparate surveillance reports, suspicious individuals or group activity or general community irregularities?

Last, what are the local communities or the terrorists plot, plan and undertake actions toward their objective of carrying out a terrorist attack? What is the Nation's involvement or of our local communities?

Mr. SHAYS. Let me warn you, because you have a lot more to your talk, you want to try to find a way to round it out?

Mr. ROLLINS. Yes, Mr. Chairman.

Mr. Chairman, you spoke of British tools that the United States may adopt. One of the tools is community awareness and community involvement.

Though the London threat stream was certainly not perfect intelligence, the specifics of the plan known to the U.S. authorities far exceeds the specificity of the vast majority of information normally assessed regarding threats to the U.S. national security.

The knowledge of the type, location and general timing of the potential attack, and the ability to safeguard the target and passengers due to post 9/11 civil aviation safeguards far exceed the scenarios we will most likely face in the future.

In sum, Mr. Chairman, I am proposing a homeland security citizen corps that allows for the Federal Government to work with State and local authorities to assist, and local citizens identifying irregularities in their neighborhood, and thus having a reporting mechanism to report that back to the Federal Government.

The question remains, the Federal Government, which Federal Government agency is responsible for putting these dots together? In closing, whether one ascribes to the belief that corporate Al Qaeda is continually reconstituting with the objective of carrying out a catastrophic attack or the Nation will soon experience deadly attacks by those ideologically aligned, past terrorist planning efforts including the most recent London threat stream offer a lesson

that citizens in their local community are likely to be the first to recognize signs of terrorist activity.

This concludes my opening remarks and I look forward to your questions.

Mr. SHAYS. Thank you, very much. And your full statement obviously will be in the record.

[The prepared statement of Mr. Rollins follows:]

STATEMENT OF

JOHN ROLLINS

SPECIALIST IN TERRORISM AND INTERNATIONAL CRIME

CONGRESSIONAL RESEARCH SERVICE

BEFORE THE

HOUSE COMMITTEE ON

NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS

HEARING ON COMBATING TERRORISM: LESSONS LEARNED FROM LONDON

SEPTEMBER 19, 2006

Mr. Chairman, distinguished members of the committee, thank you for inviting me to speak to you today about the lessons learned from the recent arrests in London of individuals suspected of plotting to detonate explosive devices aboard U.S. airlines transiting to the United States. I request that my testimony be entered into the record as I will offer brief opening remarks to allow time for a thorough discussion of the issue.

As the former Chief of Staff of the Office of Intelligence at the Department of Homeland Security (DHS) and now a policy analyst at the Congressional Research Service (CRS), I was fortunate to have the experience of traveling on the morning of August 10th. I say fortunate in that for most of the previous Homeland Security Advisory System alert level changes, I was involved in the threat assessment and notification phase of the advisory system and had never experienced the operational implementation efforts that accompany these announcements. The experience was both educational and rewarding as the situation I found myself allowed me to reflect on issues related to this latest threat stream and observe first hand the professionalism and

efficiency at which the TSA screeners were implementing rules they had just learned of a few hours.

As I progressed through my day's travels a number of thoughts occurred to me regarding issues relating to this latest threat stream and efforts the United States has undertaken in the five years since 9/11 and the three and one-half years since the establishment of Department of Homeland Security. Based on the details regarding this latest terrorist plot concerning the use of liquid-based explosives to destroy multiple aircraft and kill thousands of passengers, I wondered why other modes of transportation, specifically rail lines, the most attacked target in the post 9/11 environment, were not included in the raising of the alert level. I also wondered if state and local communities and the private sector were apprised of the generalities of this threat stream during the early stages of the United Kingdom's notification to the U.S. of this terrorist cell's intention to use this type of device or as in past alert level changes were notification calls made concurrently, or just prior, to the change in the Homeland Security Advisory System, thus

placing the entities that safeguard the homeland in a reactive, rather than proactive, mode? Were the Nation's governors, metropolitan city mayors, and industry leaders apprised of this latest threat stream in a manner that allowed them to recognize irregularities before and after the alert level change and possibly assist in recognizing plans for an attack here in the homeland? While recognizing the need for investigative and operational security, five years post 9/11 the federal government continues to question and concerns persist regarding the role state, local, and private sector leadership can and should play in providing information and assistance during times of normal and heightened threat levels.

Though much of the information regarding the investigation and intelligence gathering efforts relating to the London threat stream remains classified, information gleaned through open-source and individual research allows for an early assessment as to the lessons learned, areas of success, and issues possibly requiring additional focus.

As we sit here with flights originating from the United Kingdom and U.S. domestic flights still designated as High risk, or Orange, in this testimony I would like to briefly discuss three points that may be useful in attempting to assess lessons learned from London and related U.S. national security efforts.

- First, the United Kingdom's investigation and the United States response

- Secondly, is the United States response to the London threat stream a model for future success?

- Lastly, are local communities, where the terrorist's plot, plan, and undertake actions toward carrying-out a terrorist attack adequately involved in the Nation's counterterrorism efforts?

The United Kingdom's investigation and the United States response

On the evening of August 9th, 2006, (Eastern Standard Time) British authorities arrested 24 individuals ranging in age from 17 to 36 years old. Some have suggested these arrests came as the terrorist cell was very close to the point of execution while others have suggested the plot was still in the planning stages as airline reservations had not been made and two of the members did not have passports. Peter Clarke, chief of counterterrorism of the London Metropolitan Police stated that they were still trying to ascertain the basics of the terrorist intentions, "the number, destination, and timing of the flights that might be attacked." Others wondered whether any of the suspects were technically capable of assembling the devices and detonating the liquid explosives while aboard an airplane.

The individuals arrested in London were known to the authorities over a year ago as the result of numerous tips by neighbors after the July 2005 London suicide train bombings. These

local East London neighborhood tipsters were concerned about the intentions of a small group of angry young men. Only after authorities were alerted about these individuals by local citizenry, did the initial investigations yielding results whereby Britain's domestic intelligence service, MI-5, initiated a year-long investigation. This investigation significantly intensified over the Summer of 2006 including using human and technical collection efforts, including those of the U.S. intelligence community. The urgency was the result of the United Kingdom learning in the two weeks preceding August 10th that the cell may be conspiring to bring board an explosive device on United States airliners transiting from the United Kingdom to the United States. Much like the ammonium nitrate fuel oil (ANFO) mixture that has been used in numerous terrorist attacks including the bombing of the Oklahoma City Murray federal building in April 1995, the liquid-based explosive device to be used onboard the airlines by this terrorist cell have a history of use and attempted use.[1]

1

Peroxide-based liquid explosives are used by Palestinian terrorist groups, were the favorite of Ramzi Yousef, were contained in the material Ahmed Ressam (millennium bomber) had in the trunk of his car, was part of the device British shoe-bomber Richard Reid attempted to detonate, and was used in the suicide bombs against restaurants, hotels, and other facilities in Casablanca, Morocco in May, 2003.

During the post-arrest investigation it is reported several martyrdom videos were discovered. The motivation of one of the purported leaders of the cell is reported to be the "seeking of revenge for the foreign policy of the United States, and their accomplices the United Kingdom and the Jews." In the martyrdom video this cell member demands other Muslims join the jihad as "the killing of innocent civilians in America and other Western countries is justified because they supported the war against Muslims and were too busy enjoying their Western lifestyles to protest their (countries) policies." Another cell member during his martyrdom video stated that "the war against Muslims in Iraq and Afghanistan motivated him to act." It is reported that the majority of these cell members, most second or third generation British citizens, recently converted to Islam. United States and British authorities are still attempting to determine who provided financial and technical support to the cell and have yet to determine that a connection to al-Qaeda exists, while conceding that at least one of the suspects inspiration was drawn from al-Qaeda.

Is the United States response to the London threat stream a model for future success?

Department of Homeland Security Secretary Chertoff and other administration officials have stated that this was a remarkable example of coordination between two countries and that of the U.S. inter-agency councils. And while international and federal government coordination efforts are an example of success, a question remains whether the uniqueness of this United Kingdom-based terrorist plot lends to a model for future United States counterterrorism success? With civil aviation receiving a great deal of attention, resources, and deployed assets to counter the threat, can we expect the same level of security when a credible threat is directed against a less secure sector? Are we confident future terrorist cells located internationally will continue to be detected by neighborhood community members? Will United States homegrown terrorists with or without transnational connections be recognized and detected by our international partners or the Nation's state, local, private sector, and community organizations? And while the U.S. flagged air carriers and state, local, and private sector entities were notified of the cells

purported plans early the morning of August 10th, when the alert level change was announced, a question remains whether this is the most effective threat notification model to follow for future credible threat streams that may involve a less secure sector of our society. Recognizing the ever-present balance between operational security of the ongoing investigation, the potential for future intelligence gleaned from the suspect activity and the need to safeguard the homeland, at what point should the scale's tip to earlier involve affected state, local, private sector leadership with a recognition that the indicators of future attacks will initially be noticed in neighborhoods and communities? If such an early notification model were in place that recognized the value of the information gathered in the local community, which agency in the federal government is charged with compiling these seemingly disparate surveillance reports, suspicion of individuals or groups being radicalized, or general community irregularities to allow for a comprehensive national threat picture that is contextually relevant and responsive to the ebb and flow of threats directed at our Nation?

Included in the post London threat stream assessment has been a renewed discussion of whether the United States should consider an MI-5 domestic intelligence like structure. The distinction being the United States construct of the FBI being the lead federal government agency for law enforcement and domestic intelligence vice England's organizational separation of domestic intelligence (MI-5) and criminal investigation(Scotland Yard's Special Branch). Viewpoints vary whether an MI-5 construct whereby a purely domestic intelligence organization that cannot initiate enforcement activities or arrest suspects and is separate from the counterterrorism law enforcement agency would benefit United States domestic counter terrorism efforts. On one hand there are those that state an investigative agency, such as the FBI, does not have or can be expected to gain the expertise and patience required to gather intelligence and place this data in non-investigative context and will always struggle between the tension of making a case for prosecutorial purposes and collecting intelligence for purposes of detecting and thwarting future attacks. Others argue that separating federal domestic investigative and intelligence activities would re-create a new information sharing wall between

these two entities. Also, terrorist organizations may be the focus of both the investigative and intelligence agencies, resulting in duplication of resources, a greater likelihood that the individuals under suspicion will become aware they are being scrutinized, and a delay in resolving differences regarding future actions, conducting an arrest or allowing the intelligence gathering program to continue, will cause a vulnerability seam which the terrorists could exploit.

Lastly, are local communities, where the terrorist's plot, plan, and undertake actions toward carrying-out a terrorist attack adequately involved in the Nation's counterterrorism efforts?

Since September 11th, 2001, most terrorist attacks and plans have been conceived and carried out by citizens born in the country in which they reside and who have had little if any transnational contact with al-Qaeda or other terrorist organizations. Secretary Chertoff of the Department of Homeland Security recently noted that "while we continue to concentrate on al-

Qaeda as perhaps the highest consequence threat, we're beginning to look at other threats as well because we need to analyze whether the ideology of hatred that animates al-Qaeda is beginning to affect other groups and other people." Homegrown terrorist threats, whether having transnational connections or not are likely to be initially detected by private citizens and local law enforcement that have an in-depth understanding of their community in which they work and reside. Should a suspicious incident or initial investigation result in a concern for terrorist activity, local law enforcement routinely brings this to the attention of the Federal Bureau of Investigation and depending on the significance of the issue other intelligence community organizations may be asked to assist.

In viewing this latest threat stream through the standard criminal prism of motive, means, and opportunity, future scenarios can be projected regarding how local communities could assist the Nation's counterterrorism efforts. With motive a given, to do harm to the United States, the means in the instance of the London threat stream was the use of liquid explosives to target

multiple airplanes and the general timing of an attack could be narrowed down to known flight times with the target location being flights originating from London to the United States. Though this was certainly not perfect intelligence, the specifics of the plan know to United Kingdom and United States authorities far exceeds the specificity of the vast majority of information normally assessed regarding threats to United States national security. The knowledge of the location, type, and general timing of the potential attack and the ability to safeguard the target and passengers due to post 9/11 civil aviation safeguards far exceed the scenarios we will most likely face in the future. As suggested earlier, the uniqueness of this particular plot might not be the best model from which to base future security measures the United States undertakes to safeguard our Nation.

To take the London threat stream example and overlay it onto the threat streams encountered the majority of the time, one could project the notion of foreign or U.S. intelligence and law enforcement agencies collecting or receiving extremely credible information with

respect to the viability of the threat, but lacking specificity as to the target location or device used. In taking this historically based example further, what if this credible information pointed to an explosive device to be used against a subway, university gathering, or other crowded activity, without the luxury of knowing the general time frame of the attack as was the case with the London to U.S. flight schedules. Would we have been as equally as prepared and has the same level of information sharing and inter-agency success as discussed earlier? Certainly a raising of the homeland security alert level would convey the threat and known information to those organizations and individuals deemed at risk and would contain the standard request that accompanies the announcement asking the recipients to report any suspicious behavior. However, given the lack of granularity with regards to target location and approximate timing of attack, intelligence community technical collection assets would be of little use and state and local recipients of the threat notification would be at a loss for what look for in this heightened thereat environment. While the decision of the Governor's of the States of California, Massachusetts, New Jersey to deploy National Guard troops to airports or increase police

presence at trains and bus stations throughout the State can possibly be viewed as an effective deterrent, what can and should we ask the citizens of a State or local community do during times of normal and increased threat levels and how can the federal government support such actions? Due to the innumerable locations that an attack might occur, federal, state, and local law enforcement assets cannot be expected to secure and safeguard all facilities. How do we account for this vulnerability gap? Should we expect the citizens in local communities who would be the first to recognize something is amiss to increase awareness and alert officials of their concerns and if so, how might federal government support such efforts?. I am not proposing a deputization of private citizens thus taking steps toward an Orwellian type society whereby our privacy and civil liberties are placed at risk. Rather an enhanced federal government outreach, training, and awareness effort with the states, local communities, and the private sector, borrowing from Department of Defense terminology, being viewed as force multipliers in safeguarding the Nation and providing the heretofore missing domestic intelligence dots. Such a Homeland Security Citizens Corps would allow for increased community awareness in safeguarding

America and could be based on the national neighborhood watch program whereby organizations and citizens obtain information on the community in which they belong and are given thresholds to report information. Just as many of us who ride the Metro on a daily basis are asked to voluntarily report on items of concern, "if you see something - say something," individuals that best know their environment would be informed on the latest terrorist trends and reporting criteria. A precedent for much smaller scale community-oriented programs currently exists in the Federal Bureau of Investigation and Department of Homeland Security;

- Department of Homeland Security sponsors the Highway Watch Program which trains highway professionals to identify and report safety and security concerns on our nation's roads. The program provides training to prepare hundreds of thousands of transportation professionals to share valuable intelligence with Homeland Security if they detect potential threats.

- As a part of the Highway Watch Program, the Department of Homeland Security also initiated a School Bus Watch Program that delivers anti-terrorism, community awareness, and reporting threshold training to the Nation's school bus drivers.
- Department of Homeland Security Critical infrastructure protections specialists visit and train employees of infrastructure sector facilities on signs of surveillance, trends in unusual activity, and reporting thresholds and criteria.
- Federal Bureau of Investigation outreach programs to family centered organizations such as the Boys and Girls Clubs of America, National Family Partnership and the Red Ribbon Campaign, and the Race Against Drugs.

The focus of these programs is to empower those that are familiar with their local environment and as a course of conducting their daily activities have the opportunity to spot irregularities. Much like the police officers who attend the monthly neighborhood watch meeting I attend to discuss the latest trends in local crime and what citizens can do to assist in detection and prevention, like forums can be established, during normal and heightened threat periods, by the FBI and DHS to discuss local and national threat trends, what suspicious activity looks like, and who to contact should the need arise. Just like the DHS and FBI programs mentioned earlier, this Homeland Security Citizen Corps effort can be manifested in the form of education, training, and outreach. Brief examples of activity generally not initially detected by federal law enforcement or intelligence agencies, or in some instances not detected by state and local law enforcement efforts, but could be included in individual citizen awareness programs, include;

- Warning signs of those espousing radical ideals accompanied by preparatory efforts toward violence
- Signs of attempted recruitment and influence of neighborhood youth by those demonstrating radical ideology
- Trends in activities commonly accompanying groups focused on harming the United States

Of course, a significant component of any federal-local outreach effort would entail oversight to ensure that a Homeland Security Citizen Corps like entity would not infringe upon individual civil liberties or rights.

The Department of Homeland Security, the more than 100 Federal Bureau of Investigation Joint Terrorism Task Forces, and the ever-growing establishment of state

and local fusion centers spend a great deal of energy and resources in interacting with local police departments, state and local government entities, and in a more limited manner the private sector. However, an information vulnerability gap exists regarding data that originates from private citizens in local communities concerning possible terrorist related activity that has yet to rise to the level of federal authorities. We might ask how can we expect citizens and communities to play a part in securing the Nation if we have not given them the awareness to do so? Just as the current threat stream investigative efforts were initiated by a tip from private citizens as to the peculiarities and actions of the members of the London terrorist cell, numerous examples exist that demonstrate the necessity for enhanced state, local, private sector focused awareness and coordination efforts with the federal government to detect the early signs of possible terrorist-related activities occurring in local communities.

Examples of citizens providing tips to police to initiate investigations and intelligence collection efforts include;

- Peculiar flight training requests of some of the 9/11 hijackers
- A Canadian-born Muslim man volunteering to be a police informant in June 2006 to assist in ascertaining the terrorist plot to carry-out attacks in Ontario, Canada.
- The recent arrest of the Miami cell reportedly targeting the Sears Tower and a Miami federal building was discovered when one of the cell-members contacted an acquaintance, who happened to be an FBI informant, to request assistance in "conducting a jihad."
- Mass transit bombings in Madrid, 2003 and in London, 2005 were carried out by cells of homegrown extremists lacking transnational

connections. After these attacks individuals living in the neighborhood in which some of the cell members resided stated that they were aware of the group's suspicious activities.

- In June 2001, the FBI received an anonymous tip that six Yemeni-Americans from Lackawanna, NewYork had been recruited by al-Qaeda and had attended a terrorist training camp in Afghanistan before 9/11.

In closing, whether one ascribes to the belief that corporate al-Qaeda is continually reconstituting with the objective of carrying out a catastrophic attack on America or the Nation will soon experience deadly attacks by those ideologically aligned, but not organizationally connected to al-Qaeda; past terrorist planning efforts, such as those that have been successfully carried out since 9/11, including the most recent

London threat stream, offer a lesson that citizens in their local communities are likely to first recognize the signs of terrorist activity.

Mr. Chairman, distinguished members of the committee, this concludes my opening remarks and look forward to the committee's questions.

Mr. SHAYS. Mr. Parker.

STATEMENT OF TOM PARKER

Mr. PARKER. Thank you very much, Mr. Chairman. I wanted to preface my remarks by saying I am really approaching this subject, primarily as an academic. I am talking on my own behalf, not representing any organization.

I wanted to address each of your questions in turn. Some in more detail than others because I am conscious there is a great deal more expertise in some of these areas than mine. I wanted to start by talking a little bit about how Britain approaches counterterrorism conceptually.

This is, I think, the most significant difference between the current U.S. approach and the British approach.

We have, since 1974, in the United Kingdom, pursued a doctrine of criminalization. Terrorism is treated essentially as a criminal act, not as an act of war or something outside of criminal activity. It is seen primarily as a criminal act.

This doctrine emerged largely as the result of lessons learned in the early 1970's in Northern Ireland where Britain initially treated the troubles as essentially almost a colonial insurgency. It had tried to apply the same military tactics that had been used successfully in Malaya, less successfully in other colonial emergencies. And by and large, it was tremendously unsuccessful.

Measures such as internment without trial, coercive interrogation were introduced in joint operations, mounted by the military and the police. And ultimately, far from reducing the level of violence in the province, there was a substantial escalation. It went from a situation in 1971, where I think 21 people were killed in the first 8 months of the year. These measures were introduced. That figure jumped to 147 people by the end of the year, and to 460 by the end of the following year.

Mr. SHAYS. 460?

Mr. PARKER. 460 the following year. Most studies done of this period on the mobilization of nationalist opinion stress the impact the British military activity had on the local communities.

There was a change of government in 1974, labor government came in and the strategy changed. The strategy that was adopted was one of criminalization, Ulsterization and normalization. The idea was to try and back off putting military on the streets. The military remained clearly in a support role to law enforcement. But the idea was to put law enforcement back in control and——

Mr. SHAYS. Did you say criminalization, and another word?

Mr. PARKER. Ulsterization, normalization, it is a slogan rather than a prescription. But a popular one at the time.

And the idea was to take a local approach and try and deviate as little from the criminal norm as possible.

Clearly, the United Kingdom recognizes that terrorism is not ordinary crime. In fact, in Northern Ireland, people refer to the distinction, operational police officers will talk about ODCs, ordinary decent criminals, to distinguish them from provisional IRA members. So we don't see it just as purely ordinary criminality. We see it, perhaps, as extraordinary the criminality, criminality that poses a threat that doesn't require a degree of extraordinary response,

but one that is essentially a departure from the norm and that we will return to the norm as soon as that emergency is brought under control. And that is why up until the end of the 1990's, you essentially had only a series of temporary instruments that introduced counterterrorist legislation. It is only with the Terrorism Act 2000 that changes.

And finally, in the United Kingdom you have a legal architecture that addresses terrorism directly as a phenomena. Up until that point, you simply had short-term emergency measures. In fact, under British law, until about 2000, it was very difficult for you to be considered a terrorist unless you were from Northern Ireland or one of the subscribed groups that identified during the troubles as causing problems in the province. That made it very difficult to allow the United Kingdom to address other terrorist groups that were operating on their soil particularly when allied countries, France notably in the early 1990's were very keen to see the British crack down on Algerian extremists operating in the United Kingdom. Very difficult for us. We just didn't have the legal architecture at the time.

But the basic, the message here that I am putting across, I think, is simply that we treat it as a crime, and we deviate from criminal norms purely to the extent that we think it is necessary to ultimately achieve prosecution, successful prosecutions. So I think that is the main conceptual difference. I am conscious my time is already running out.

Mr. SHAYS. You have another 5 minutes, so keep going.

Mr. PARKER. Thank you. Organizations is the other big difference. Clearly, the United Kingdom is much smaller than the United States. We have a fraction of the number of police forces, I think it is 18,000 different law enforcement agencies in the United States. It is essentially less than 60 in the United Kingdom. This clearly makes coordination easier.

The other difference is we have a central coordinating point in the security service that has undisputed primacy outside of the province of Northern Ireland for combating terrorism, which enables one government agency to focus on the terrorist threat with laser-like precision and can focus right in and they can devote their resources to trying to tackle it.

They also act as the center of the hub, and they make sure that intelligence and information, background material is disseminated to everybody who needs to know it. Because it is ultimately supporting a law enforcement structure, that means you have a direct link from the security service effectively all the way down to the Bobbie on the beat, the two don't interact, but there is a network that cascades information down with the appropriate protections for sensitive information. So ultimately, we can do things like outreach and have an impact on Muslim communities around the United Kingdom in a targeted manner, using local safer neighborhood teams, local community police officers, as our very first sort of eyes and ears on the ground. And that is great because these are the people who help communities. These are the people who help parking around mosques. These are the people who help local kids when they are in trouble, help local community leaders defuel ten-

sions in neighborhoods. And this is a positive police image. This isn't flak-jacketed arms toting police officers.

These are soft, often civilian officers in just plain clothes, not carrying weapons or anything like that who spend a lot of time in the community. And so we have this very nice integrated system that goes from that to international intelligence coordination.

Overarching the security services is the joint Intelligence Committee. That pulls the entire intelligence community together, make sure that intelligence that is provided from overseas or from all the different collection methods, goes to one coordinating point in the security service for assessment and then dissemination. So it is a very tightly coordinated system.

I should add, though, that it has taken a long time to get to that point. You know, we have had 30 years to refine this system and it has taken most of those 30 years to get to this point so, in offering it up as a quick fix, I would add the proviso that you could put the architecture in place, but it doesn't necessarily mean that people admire the building for some time.

I wanted to touch also on the difference between civil liberties in the United States and the United Kingdom.

I think there is a tendency in the United States to think that the United Kingdom doesn't have laws that protect civil liberties, that we essentially have some vague series of understanding——

Mr. SHAYS. You have this long memory that goes back to a few years ago.

Mr. PARKER. Yes, a revolution came up in my last conversation in the House committee.

Mr. SHAYS. That's all right. Your prime minister reminded us he burned the building down.

Mr. PARKER. Having spent two fourth of Julys on American military bases now, I think I heard every joke on the subject. I usually say it proves one of the great lessons of history, you don't send Germans to fight Englishmen and leave it at that.

Basically we have a very strong human rights regime in the United Kingdom and it is very strong because it is enforced from without the United Kingdom via the Europe court of human rights. The European convention on human rights is enshrined in British law now, thanks to the Human Rights Act of 1998. So that means that every article in the convention is embedded in British legal practice. There is also an enforcement mechanism in Strasburg, where foreign judges sit in judgment on things done by the British state. It is a binding enforcement mechanism. That is incredibly powerful. It is almost entirely immune from political pressure—certainly domestic political pressure. And it holds states to a universal standard, a universal standard that is interpreted with what is known as a margin of appreciation, which allows each state a certain degree of interpretation in the way that it institutes the convention provisions.

But that said, any egregious breach is very quickly referred to Strasburg and very quickly adjudicated. And the United Kingdom has found itself in many circumstances before the European court to defend counterterrorism practices, both operational practices and specific techniques such as coercive interrogation.

So that is a very powerful mechanism, every bit as powerful I submit as the U.S. Supreme Court in overseeing the way we behave. So quite the reverse of the sort of typical perception.

I am not going to touch on the impact British foreign policy has had, because I think Baroness Falkner is in a much, much better place than I to comment on that.

Mr. SHAYS. Let's make sure that if we don't ask you that, you do bring it up later on, so you do that and we will segue to the Baroness. You have the floor. And we need to put that mic in front of you.

Just one mic would be good, so choose your weapon there and you need to lower it down.

Am I allowed to tell a Baroness these instructions? Is this allowed?

[The prepared statement of Mr. Parker follows:]

Congress of the United States, House of Representatives
Committee on Government Reform

Written Statement of Tom Parker submitted to the Subcommittee on National Security, Emerging Threats, and International Relations, September 19th, 2006

Acts of terror on British soil have been remarkably commonplace in the past thirty-five years. In addition to Irish nationalist and Loyalist violence relating to the Troubles in Northern Ireland, groups as diverse as Black September, the Animal Liberation Front and the Angry Brigade, individuals with links to Hezbollah and Al Qaeda, and agents of foreign powers such as Libya, Iraq and Syria have all mounted attacks in the United Kingdom. In the past five years British citizens have been killed in terrorist attacks in Turkey, Jordan, Qatar, Saudi Arabia, Indonesia and the United States. More Britons were killed in the World Trade Center on September 11th, 2001 than in any terrorist event before or since. In July 2005 52 people were killed and more than 700 injured in suicide bombings that targeted the London Transport system. Suffice it to say, the British government takes the threat from terrorism, whether domestic or international in origin, extremely seriously.

How is UK government counterterrorism work organized, compared with that in the US, to prevent or disrupt terrorism plots?

Perhaps the most significant difference between the British and American approaches to counterterrorism is conceptual. Since 1974 the British government has embraced a doctrine of criminalization in its counterterrorism operations with the aim of delegitimizing terrorist violence by treating terrorism as just another criminal activity to be dealt with at a local level.

In Northern Ireland this strategy - which became known as criminalization, normalization and Ulsterization - guided British attitudes for the bulk of the conflict and has been credited with creating a climate in which cross-border co-operation could flourish and a meaningful peace process could gain ground amongst the warring parties. Having tried brute force in the early 1970s (see below) and found it wanting, the British government has come to appreciate the importance of legitimacy in counterterrorism operations. Criminalizing terrorism adds greatly to the appearance of legitimacy as the security forces go about their work. It also creates a framework which significantly mitigates the sort of abuses that can discredit a government internationally.

In 2003 the British government adopted a "core strategy" for countering international terrorism known within government circles by the appellation CONTEST. The strategy is divided into four principal strands:

- Prevention (social inclusion, international dialogue, legislation, border security);
- Pursuit (intelligence collection and law enforcement);
- Protection (target hardening);

- Preparedness (emergency response).

Although the British government has declared itself willing in principle to use military force in accordance with international law for counterterrorism purposes when non-military tools cannot achieve its goals, it recognizes that there are "considerable challenges" to doing so and this remains a last resort rather than an integral part of the core counterterrorism strategy.

To what extent do British and US laws respectively hinder or help terrorism prevention?

The British government's early missteps in its counterterrorism campaign against the Irish Republican Army (IRA) and the Provisional IRA (PIRA) may be instructive in regard to this question. Comparison and analogy are not always reliable policy guides but the British experience in Northern Ireland offers some useful insights into the inherent risks involved in the following areas: internment without charge, coercive interrogation and the use of military personnel in a traditional law enforcement role. The introduction of these measures resulted from the initial decision to treat the Troubles in much the same way as a colonial disturbance. Emblematic of this approach was the arrival of Brigadier Frank Kitson, the celebrated author of the classic counterinsurgency manual *Low Intensity Operations* and a veteran of British military campaigns in Malaya, Kenya and Oman, to command the British Army Brigade in Belfast. The legacy of this policy was a major escalation in the level of violence across the Province and the extension of the nationalist terror campaign to the British Mainland.

Internment

In the fall of 1971, faced with escalating violence in the Province, the Unionist Prime Minister of Northern Ireland Brian Faulkner persuaded the British government that the introduction of internment might bring the situation under control. On August 9th, 1971 British troops mounted a series of raids across Northern Ireland which resulted in the detention of 342 IRA suspects. The operation, codenamed Demetrius, was characterized by poor and out of date intelligence which resulted in many individuals being wrongly detained. Joe Cahill, then Chief of Staff of the Provisional IRA and a prominent target of Operation Demetrius, taunted the authorities by surfacing to hold a press conference in Belfast at which he claimed only 30 of the men who had been detained were actually members of PIRA.

Within Northern Ireland internment further galvanized the nationalist community in its opposition to British rule and there was an immediate upsurge in violence against the security forces. 27 people had been killed in the first eight months of 1971 prompting the introduction of internment, in the four remaining months of the year 147 people were killed. 467 were killed in 1972 as a result of terrorist action. The number of terrorist bombings in the Province increased dramatically from around 150 in 1970, to 1,382 in 1972. In the words of a former British Intelligence officer Frank Steele who served in

Northern Ireland during this period: "[Internment] barely damaged the IRA's command structure and led to a flood of recruits, money and weapons."

Internment was to continue in Northern Ireland until December 5th, 1975 by which time a total of 1,981 people had been detained, the vast majority of them from the Catholic community. The British Army estimated that up to 70% of the long-term internees became re-involved in terrorist acts after their release so the measure clearly did little to deter committed activists. The British government finally took the decision to discard the power of internment in January 1998. Announcing the decision, the Junior Northern Ireland Minister Lord Dubs told the House of Lords: "The Government have long held the view that internment does not represent an effective counter-terrorism measure... The power of internment has been shown to be counter-productive in terms of the tensions and divisions which it creates."

Coercive Interrogation

In the immediate aftermath of the introduction of internment in August 1971 the British security forces implemented a policy of "interrogation in depth" for selected detainees. RUC interrogators working "under the supervision" of the British Army applied five well-established techniques which had previously been practiced in the course of colonial emergencies: (1) hooding, (2) wall-standing, (3) subjection to noise, (4) relative deprivation of food and water and (5) sleep deprivation. Almost a third of those detained on the first day of Operation Demetrius were released within 48 hours and with these releases came the first stories about the ill-treatment of those held by the security forces. In addition to the use of the 'five techniques', detainees reported being forced to run an obstacle course over broken glass and rough ground whilst being beaten and, perhaps most seriously of all, being deceived into believing that they were about to be thrown from high flying helicopters unless they agreed to co-operate with the authorities.

In August 1971 British Home Secretary Reginald Maudling responded to growing public concern by appointing Sir Edmund Compton to investigate forty such complaints made by suspects apprehended on the first day of internment. Despite accepting that the events described by the plaintives did indeed take place, Sir Edmund reported: "Our investigations have not led us to conclude that any of the grouped or individual complainants suffered physical brutality as we understand the term." The failure of the Compton Report to meaningfully address the abuses that had occurred in British detention facilities further damaged the government's credibility.

Ultimately, the government's failure to act decisively to curb abuses and put an end to the use of the 'five techniques" led the Republic of Ireland to file an application with the European Commission on Human Rights alleging that the emergency procedures applied against suspected terrorists in Northern Ireland violated several articles of the European Convention on Human Rights. The case was referred to the European Court of Human Rights for adjudication which found that the 'five techniques' were "cruel, inhuman and degrading" and thus breaches of Article 3 of the Convention.

The actual utility of coercive interrogation was also addressed at some length in the course of the *Ireland v. United Kingdom* case. The British government sought to argue that it had been necessary to introduce such techniques to combat a rise in terrorist violence. The government claimed that the two instances of "interrogation-in-depth" addressed by the Court had obtained a considerable quantity of actionable intelligence, including the identification of 700 active Republican terrorists and the discovery of individual responsibility for about 85 previously unexplained criminal incidents. However, other well-informed sources are more skeptical. The former British intelligence officer Frank Steele told the journalist Peter Taylor: "As for the special interrogation techniques, they were damned stupid as well as morally wrong... in practical terms, the additional usable intelligence they produced was, I understand, minimal." Certainly the last quarter of 1971, the period during which these techniques were most employed, was marked by mounting not decreasing violence – a fairly obvious yardstick by which to measure their efficacy.

Military Operations

The final incident to have a major impact on the evolution of IRA violence in the period 1971-1972 was the event that has become known as *Bloody Sunday*. On January 30th, 1972 soldiers from the British Parachute Regiment opened fire on civilian demonstrators in Londonderry/Derry killing 13 and wounding 29. The march that sparked the violence had been called to protest internment, rocks had been thrown at the soldiers and a shot allegedly fired, but the disproportionate British response prompted widespread international condemnation. In Dublin an enraged mob stormed the British Embassy burning it to the ground. The British government appointed the Widgery Tribunal to investigate the incident but it exonerated the soldiers involved handing the Republican community yet a further propaganda victory.

The nature of IRA violence changed dramatically after *Bloody Sunday* as the incident prompted the first mainland bombing of the Troubles in February 1972 when the Official IRA left a car bomb outside the Officer's Mess of the Parachute Regiment in Aldershot, Hampshire. An Official IRA spokesman issued a statement in Dublin that the attack had been carried out "in revenge" for the *Bloody Sunday* killings. Deliberate attacks on civilian targets on the British Mainland soon followed including four simultaneous car bombs left in London in March 1973, bombs at mainline London railway stations in September 1973 and in public houses in Guildford and Birmingham in the autumn of 1974.

Throughout the Troubles Britain found itself defending the use of deadly force against terrorist suspects in a succession of European Convention on Human Rights cases. In perhaps the most damaging case - *McCann and Others v. United Kingdom* (1995) - the court found that three members of a PIRA Active Service Unit (ASU) had been killed unlawfully when British Special Forces troopers interdicted their operation on the British overseas territory of Gibraltar. Lingering suspicions that Britain operated a 'shoot-to-kill' policy in its counterterrorist operations against PIRA were extremely damaging to the

country's international reputation and became a major source of resentment in the nationalist community.

How is UK government counterterrorism work organized, compared with that in the US, to prevent and disrupt terrorism plots?

Coordination

The greatest single strength of the British approach to counterterrorism is the high degree of coordination that now extends throughout the national security hierarchy. This was not something that happened overnight but has evolved over several decades. At the apex of this system is the Joint Intelligence Committee (JIC) comprised of the heads of each intelligence agency and chaired by a senior civil servant with experience of, but not necessarily from, the intelligence community.

The Committee meets weekly or more frequently should circumstances require it. Its primary role is to produce definitive top-level all-source assessments for British ministers and senior officials. These assessments are produced by Cabinet Intelligence Groups (CIGs) chaired by Cabinet Office staff and comprised of subject experts from the intelligence community. Every relevant party is represented and the objective of the group is to agree a corporate assessment that reflects a consensus view across government. Thus ministers are not bombarded by conflicting information and left to reach their own conclusion regarding the most compelling interpretation.

Each Service also submits an account of its overall performance to the Joint Intelligence Committee (JIC) for consideration by the Security and Intelligence Coordinator as part of the Agency Performance Review. The JIC reviews and validates the Services' plans and priorities for the forthcoming year as part of this process.

Subject experts from different agencies frequently have the formal opportunity to add their comments to intelligence reports issued by other agencies ensuring that key intelligence – HUMINT and SIGINT – is presented along with corroborating or discrediting material from other sources. Finally, it is worth noting that the relatively small size of the British intelligence community allows subject experts to develop strong relationships with their counterparts in other agencies. This greatly facilitates the flow of information between agencies and helps to reduce inter-service rivalry.

The Joint Terrorism Analysis Center (JTAC) was established in June 2003 as the United Kingdom's center for the analysis and assessment of international terrorism. JTAC sets threat levels and issues warnings of threats and disseminates in-depth reports on trends, terrorist networks and capabilities to its partners in government. Eleven government departments and agencies are represented on the staff of JTAC and the center is based in Thames House, the headquarters of the British Security Service. The head of JTAC reports directly to the Service's Director General.

The Role of the Security Service (MI5)

The Security Service has primacy in all counterterrorism intelligence investigations conducted either on the British mainland or overseas. According to the Intelligence and Security Committee report on the July 2005 London Transport bombings, the number of MI5's "primary investigative targets" rose from 250 to 800 between September 11th, 2001 and July 2005. Intelligence-gathering operations relating to these "primary targets" are the Service's main priority.

The Security Service also acts as an interface between the intelligence community and law enforcement. It has developed a deep institutional understanding of the demands and operational constraints of each paradigm. The Service is not an executive agency and its officers have no powers of arrest. Executive action can only be taken by the nation's law enforcement agencies although Chief Constables have the option of requesting military support in certain circumstances. Post-incident primacy rests with the police service in whose force area a terrorist incident has occurred, although MI5 can continue to act in a supporting role to the police investigation. The Service can bring a range of resources not usually available to Chief Constables to support local operations. The Northern Ireland Police Service still enjoys intelligence primacy in Northern Ireland although this status is currently under review.

As the central coordinating point in Britain's pre-emptive counterterrorist effort, the Security Service also disseminates intelligence to regional police forces and other governmental partners in the form of both actionable reports and background bulletins which can cover anything from briefings on different terrorist organizations to technical reports on terrorist weapon systems. The Service advises Whitehall and the business community on protective security measures and runs training courses for external – even foreign - personnel. It spearheaded the installation of nationwide secure communications system for police Special Branches and provides national coverage in a system which is otherwise robustly regional in character.

The Security Service can be seen as the glue that holds the architecture of the British counterterrorist effort together. There are currently forty-three regional police forces in England and Wales most with less than 4,000 officers, another eight in Scotland operating under a separate judicial system, the Northern Ireland Police Service and a small number of forces with specialized roles such as British Transport Police or the Ministry of Defence Police. There is no national police force equivalent to the Federal Bureau of Investigation (FBI) although the newly created Serious Organized Crime Agency (SOCA) is beginning to partly develop in this direction. The fact that the government chose a former Director General of the Security Service, Sir Stephen Lander, as the first head of the SOCA is an important illustration of the reputation MI5 has established for building effective coalitions within the law enforcement community.

Oversight

It is probably fair to say that the British public lacks "the dread of government" often ascribed to the American people and this can be seen in the relatively benign oversight mechanisms that govern the operations of the security and intelligence agencies. Although a former Director General of the Security Service, Dame Stella Rimmington, has observed that accountability lies at the heart of the tension between liberty and security, this is an area in which the United Kingdom differs markedly from the United States.

In the United Kingdom the oversight applied to the operation of the intelligence and security services is primarily either Ministerial (the Home Secretary or Foreign Secretary) or bureaucratic (the Joint Intelligence Committee and National Audit Office) although some public mechanisms for redress exist through designated Tribunals or Commissioners. Parliamentary oversight is limited to a single statutory committee with a legally defined brief restricted to matters of expenditure, administration and policy. This is a constitutional oddity – the parliamentary oversight of governmental bodies is usually conducted by Parliamentary Select Committees which have greater freedom to set their own agendas. More details on the oversight regime in the United Kingdom can be found at Annex A.

What aspects of MI5's organization could usefully be adopted by US counterterrorism and security environments?

Post incident investigation and pre-emptive intelligence gathering require a different – and not always symbiotic - skill set. Furthermore, from a managerial perspective prosecution and intelligence exploitation can frequently be mutually exclusive objectives greatly detracting from clarity of purpose. While clearly there is no *a priori* reason why both functions cannot effectively be undertaken by the same agency, the British experience suggests that this can prove problematic.

The counterterrorist function in the United Kingdom was initially vested in Police Special Branches (SB) comprised of detectives operating within regional constabularies. The first Special Branch was established by the Metropolitan Police in 1883 to counter the threat from the Irish Republican Brotherhood. Police Special Branches, coordinated by the Metropolitan Police, enjoyed primacy in counterterrorist intelligence investigations on the British mainland for most of the Twentieth Century.

At the outset of the 1990s a degree of governmental dissatisfaction at the lack of success of this arrangement, coupled with an expectation that the collapse of the Warsaw Pact would free up intelligence resources, led in 1992 to the transfer of primacy from the Special Branches to the Security Service. The Special Branches had been able to boast very few successful intelligence-led arrests. The Service by contrast had an almost immediate impact and the number of pre-emptive disruptions of terrorist activity

increased, with Service operations leading to 21 convictions for terrorism-related offences between 1992 and 1999.

However, this consideration also needs to be balanced against another important lesson of the British experience, which is that institutional relationships need time to bed down and that once agencies start operating effectively these relationships improve and strengthen over time. Police Special Branches have been working closely with the Security Service since 1910 when the then Home Secretary, Winston Churchill, provided MI5's first Director General, Vernon Kell, with a letter directing the chief constables to extend him "the necessary facilities for his work." The Security Service and the Secret Intelligence Service were both born out of the same government agency, the Secret Service Bureau, and ties have remained close. The key to this virtuous circle in the United Kingdom has been effective executive leadership. There is definitely a sense in which disrupting existing relationships can have a retrograde effect on effective cooperation.

In your understanding, to what degree, if at all, has UK foreign policy contributed to what has been called "homegrown" terrorist activity?

British foreign policy has probably played a part in the emergence of "homegrown" terrorists such as those who participated in the July 2005 London bombings but clearly other factors, such as social exclusion or radical proselytizing, also play an important role. To some extent, it is inevitable that terrorist groups or causes will arouse sympathy within small segments of the domestic population. For example, the Provisional IRA attracted some support from amongst fringe Marxist groups in England. In January 1993 two English members of Red Action, one of them a former private in the British Army, planted a small explosive device in a litterbin outside the upscale London department store, Harrods, an action they took on behalf of PIRA. Government policies, both foreign and domestic, often have the potential to contribute to the radicalization of groups in society where some predisposition towards violence exists.

How do UK civil liberties laws compare to those in the US?

There appears to be a perception in the United States that there are fewer civil liberties protections in the United Kingdom and that the British government consequently has a far freer hand to develop stringent counterterrorist measures. However, this impression is not entirely accurate. The protective framework for civil liberties in the United Kingdom is dense and complex, and at times can be both more flexible and more implacable than the equivalent protective measures in the United States.

Unlike the United States, Great Britain does not possess a single foundational document that amounts to a written constitution. Constitutional practice has evolved over centuries and is embedded in common law and a series of legislative instruments. In this sense there is a great deal of flexibility for British legislators to shape the legal landscape.

However, in past fifty years a significant external check on this power has emerged in the shape of the European Convention on Human Rights (ECHR).

The ECHR is a treaty that operates within the framework of the Council of Europe. It was ratified by Britain in 1953, which is currently one of forty-six Contracting States. The original draft of the Convention was inspired by the United Nations' 1948 Universal Declaration of Human Rights. The closest that Britain comes to a Bill of Rights, in the American sense, is the Human Rights Act of 1998. This Act of Parliament was passed to "give further effect" to the rights and freedoms detailed in the ECHR by enshrining them in British law.

As a signatory of the ECHR, Britain has voluntarily submitted to a binding enforcement mechanism in the shape of the European Court of Human Rights in Strasbourg, France. Britain, like the other Contracting States, has accepted the Strasbourg Court's ultimate jurisdiction in adjudicating matters arising from alleged breaches of the Convention. This means that the judgments of British courts are no longer sovereign in such cases but must give way to a higher authority staffed by foreign judges. The Court seeks to empathetically balance Contracting States' individual circumstances against the human rights standards embodied in the Convention by allowing each state "a margin of appreciation" in interpreting their treaty obligations. In such instances, the basic test applied by the Court is whether or not the disputed practice answers a pressing social need and, if so, can be considered proportionate to the legitimate aim pursued. The domestic margin of appreciation is thus accompanied by a level of European supervision.

This margin of appreciation has been applied by the Court in considering cases related to terrorism and other threats to parliamentary democracy with a flexibility not enjoyed by the US Supreme Court. For example, in 1972 the Federal Republic of Germany adopted a decree aimed at excluding political extremists from employment in the civil service and reiterating all civil servants' legal duty of loyalty to the free democratic constitutional system. In a series of cases arising from the dismissal of members of the left-wing German Communist Party (KPD) and right-wing National Democratic Party (NDP) from Civil Service positions (most often in the teaching profession), the Court accepted that "a democratic state is entitled to require civil servants to be loyal to the constitutional principles in which it is founded" and took into account "Germany's experience under the Weimar republic and the bitter period that followed the collapse of that regime" (*Vogt v. Germany*, 1995).

In questions of free speech the Court has recognized that there is a balance to be struck between protecting national security and protecting fundamental human rights. The Court has explored where this balance lies most carefully in a series of complaints from Turkey arising from the local prosecution of articles and statements critical of Turkish government policy towards the Kurdish Workers' Party (PKK) finding for the government in *Zana v. Turkey* (1997) and against it in *Incal v. Turkey* (1998) and *Arslan v. Turkey* (1999). In its deliberations the Court weighed such factors as the prominence of the individual concerned, the circumstances of publication, the political climate at the time the statement was made and the 'virulence' of the language used. It is therefore

unlikely that the Court will strike down the most controversial section of Britain's *Terrorism Act* (2006) which creates a new offence of "glorifying terrorism."

The Court made it clear in *Ireland v United Kingdom* (1978) that it did not see that it was any part of its function "to substitute for the British Government's assessment any other assessment of what might be the most prudent or most expedient policy to combat terrorism." The Court restricted its role to reviewing the lawfulness, under the Convention, of the measures adopted by the Government in Northern Ireland. In this context, in *Ireland v. United Kingdom* the Court did not find extra-judicial internment a breach of the Convention nor did it find the British primary focus on Irish nationalist groups discriminatory. It did, however, rule against the use of coercive interrogation methods in detention centers in the Province (of which more below).

The reason for this discrepancy is that, although States do have the right under Article 15 of the ECHR to lodge a derogation from some aspects of the Convention - during a period of public emergency "threatening the life of the nation" to the extent strictly required by the exigencies of the situation - there can be no derogation from the core values embodied in Article 2 (right to life), except in respect of deaths resulting from lawful acts of war, Article 3 (prohibition on torture or inhuman or degrading treatment), Article 4 (prohibition on compulsory labor) and Article 7 (prohibition on retrospective criminalization).

The United Kingdom was the only European state to register a derogation from the Convention after the attacks in the United States on September 11th, 2001. The British government formally derogated from article 5(1)(f) of the ECHR, which protects against deprivation of liberty except for purposes of deportation or extradition. The reason for this decision was to allow the government to operate a special detention regime for political asylum applicants to the United Kingdom suspected of involvement in terrorism, where it was not possible to deport them because they would be at risk of torture or death if returned to their country of origin.

Introduced in December 2001 as part of the Anti-Terrorism Crime and Security Act (ATCSA), this detention regime was finally overturned by the Law Lords (the British equivalent of the US Supreme Court) in December 2004 as a breach of Britain's Human Rights Act (1998). In all, sixteen individuals were detained under the ATCSA and all were subsequently released although most are still subject to control orders restricting their freedom of movement.

Britain has contributed more to the evolving jurisprudence of the European Court in the area of national security than other nation (except perhaps for Turkey) because of the Troubles in Northern Ireland. A number of landmark cases have had a major impact on British counterterrorism practice in areas such as the use of telephone intercepts, the legal status of the intelligence services, the use of military forces in a civilian context, oversight mechanisms, and the use of coercive interrogation methods.

Explain the UK Official Secrets Act and what impact an equivalent piece of legislation in the US would have on US counterterrorism efforts

The original Official Secrets Act (OSA) was passed by Parliament in 1911 as fears grew, fueled by a naval arms race, of German espionage activity in the United Kingdom. The Act was updated in 1920 to address additional requirements that had come to light during the First World War and then again in 1989. The original purpose of the OSA was to provide a legal framework for prosecuting acts of espionage although it also more generally circumscribes the unlawful dissemination of restricted government information. The 1989 Act attracted particular attention for removing the public interest defense originally recognized in the 1911 Act. This was a response to the successful use of the public interest defense in 1985 by the former British civil servant Clive Ponting who disclosed documents relating to military operations during the Falklands conflict to an opposition Member of Parliament who subsequently exposed this material to the press.

The OSA has been used successfully as a tool to prosecute foreign spies, perhaps most notably in the case of the KGB mole within the Secret Intelligence Service, George Blake, who was sentenced to forty-two years in prison in 1961. Its history as a tool to punish the leaking of classified information is less impressive. Even egregious breaches of the Act seem to attract relatively minor sentences (less than year in most recent cases) and prosecutions typically result in far greater exposure for the secrets the government had hoped to protect. Perhaps the best illustration of this dilemma is the 1987 Spycatcher Case in which the British government sought to prosecute a former Security Service officer, Peter Wright, for betraying the secrets of an organization that, at the time, it simultaneously refused to admit existed. The case was a debacle for the British government. Furthermore, foreign governments are typically reluctant to extradite individuals accused of OSA offences because of the political character of the offence. Australia ultimately declined to extradite Peter Wright who had retired to Australia prior to the publication of his memoirs and France has twice refused in recent years to extradite former British intelligence officers to the United Kingdom for trial on similar OSA-related charges.

Annex A

Oversight

Prior to 1985 none of the work of the British intelligence or security agencies was done on a statutory basis. The Government denied the very existence of the Secret Intelligence Service (SIS) and the Security Service (MI5). The agencies derived their authority from ministerial directives, such the Maxwell Fyfe Directive[1] which governed the operation of MI5, and the royal prerogative. There were no oversight mechanisms outside the chain of command of both agencies other than those afforded by the government departments to which they reported – the Foreign and Commonwealth Office and Home Office respectively. Financing for the agencies was obtained through an annual "Secret Vote" which approved a global figure submitted to Parliament without any supporting explanatory material. As a former Home Secretary, Jack Straw, has publicly acknowledged, the main catalysts for change were a series of cases before the European Court Human Rights, commencing with *Malone v. United Kingdom* (see Annex A), which incrementally addressed issues relating to the gathering of intelligence material and the operation of the intelligence agencies.

The government responded to this criticism by introducing the Security Service Act in 1989. This placed the UK's domestic intelligence agency on a statutory footing for the first time. The Act also established a Security Service Commissioner and a Complaints Tribunal. Between the introduction of the Security Service Act in 1989 and the end of 1997 the Tribunal investigated 275 complaints. No complaint was upheld. In the great majority of cases, the complainants were unknown to the Service.

The European Court of Human Rights considered that the Security Service Act placed the Service on sufficient legal footing for two pending cases involving alleged Security Service investigations to be discontinued. In the 1993 case *Esbester v. UK* the Court explicitly recognised that the Security Service Act struck a reasonable compromise between the requirements of defending a democratic society and the rights of the individual.

Although the Security Service Act went far enough to satisfy Britain's European Convention on Human Rights obligations it still fell short of providing for the sort of parliamentary oversight that many critics of the intelligence apparatus were calling for. It also made no mention of the Secret Intelligence Service (SIS) the existence of which was only avowed for the first time by Prime Minster John Major in 1992. These shortcomings were addressed in the Intelligence Services Act of 1994 which in addition to placing both SIS and GCHQ on a statutory footing and creating a complaints apparatus to cover both agencies also created a committee of Parliamentarians, the Intelligence and Security Committee, to "examine the expenditure, administration and policy" of all three intelligence and security agencies (SIS, GCHQ and MI5).

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[1] The Maxwell Fyfe Directive is named after the Conservative Home Secretary and former Nuremburg Prosecutor who issued it on the occasion of the Security Service's formal transfer from the authority of the War Office to the Home Office.

The Intelligence and Security Committee (ISC) is constitutionally unique within the British system. Despite the fact that it is made up of Parliamentarians, it is not a Parliamentary Select Committee but a statutory committee with a legally defined brief. In some respects this gives it greater authority, adding weight to the Committee's requests for information. Its members are appointed from both Houses of Parliament by the Prime Minister after consultation with the Leader of the Opposition. Despite the executive's control over its appointments, the Committee has been characterized by its bipartisanship.

The bulk of the Committee's work is done *in camera* and its findings must effectively be taken on trust. The Committee also reports to the Prime Minister rather than to Parliament. As with the Commissioners' reports, the Prime Minster is free to withhold material from Parliament out of security concerns. In the words of one former Committee member: "A good oversight committee will never be able to answer all the questions that are raised by honourable Members about the secret agencies or their work. It may never be able to answer questions about all the issues that it is investigating. That is inevitable. However, colleagues in the House should be able to feel confident that someone is investigating issues on their behalf and has the power to do the job properly, even if ordinary Members of Parliament are not able to get the answers themselves."

The Committee's original remit was strictly limited by the Intelligence Services Act to the examination of ancillary issues. Any responsibility for the oversight of operational matters was pointedly omitted from the Act. However, the members of the ISC have been effective advocates for some extension of their powers in this area and in recent years they have been briefed on a wide range of the Services' operational work – often at the request of ministers who see the utility in gaining independent validation for policy decisions. Since 1998 the ISC has employed an Investigator to undertake specific enquiries under the Committee's direction. Intelligence officials themselves have largely embraced the ISC as a new source of legitimacy for their work.

STATEMENT OF BARONESS FALKNER

Ms. FALKNER. Mr. Chairman, you are in the chair. I am in your hands. Let me start, Mr. Chairman, by thanking you for your very warm welcome. It is very good to be here and I hope I can, to some extent, illuminate the discussions a bit from the other side of the pond. I—as means of caveat, I have put my written evidence to you, but I would like to just point out, and wish the committee should note, that I am speaking in a personal capacity. In that respect, it neither represents the findings of the Prime Minister's extremism task force nor, indeed, those of the British government.

In your inquiry today, Mr. Chairman, I think they are looking at the motives planning and tactics of the recent London bomb plotters, the bomb plotters as of August 10th, alleged bomb plotters, I think all we can do is speculate. We—people have been arrested. Some have been charged. Some have been released. And due process will take its course. But we are not likely to know the details, particularly of their motives and planning, until we come to court, and that is unlikely to be before the end of 2007, some say early 2008. However we have an official report of the London bombings of July 7, 2005.

And if we assume that some of the characteristics are similar, then we can also assume that we can draw some lessons from that.

In that case, we found out that most of the suspects were mainly of Pakistani origin, they were male, and second-generation British citizens. Three of those four in that case were from the same generation ethnic origin and social background.

They were not educational high fliers, and they had become religious in the period preceding the events of 7/7.

They became radicalized it is assumed, in the period after 9/11, when intense media attention would have focused on Al Qaeda. And they would have become more aware of arguments about and in the Muslim world about western foreign policy.

The questions to whether recent suspects were directed from abroad is, I think, again, speculative, but it is likely that some element of indoctrination and support could have come from abroad. This is unsurprising.

Much has been made in Britain and in the U.S. media of home-grown terrorists.

I would argue that home-grown terrorism is not a new phenomenon. In fact, is most terrorism, it is the state's own citizens that have carried out those egregious acts. Other examples of recent home-grown terrorism include France, Canada, only very recently, Indonesia, Turkey and several countries. Let us not also not forget that in the U.S.A. itself, of course Timothy McVeigh and John Walker Lindh were both U.S. citizens.

I think it is a matter of prevention and a matter of loyalty as to whether one's own citizens decide to carry out certain egregious acts or not. And I don't think any one country is particularly blessed to have citizens that don't disagree with its policies to the extent that they carry out those acts.

To the extent that British and U.S. laws respectively hinder or help terrorism prevention, I think, Mr. Chairman, there is a philosophical difference in the U.K. and U.S. approaches to legislation since 9/11. In the United Kingdom, we still have a strong emphasis

on the common-law tradition of jurisprudence, and I would argue that we are coming to a consensus that we probably have sufficient legal instruments in place, and we need to see how they bear down.

We have passed two controversial pieces of legislation only in the last 2 years, after much debate. And if we see a third piece of legislation now, as it has been hinted to by the home secretary, I think we are going to see that it is a consolidation of the last four acts rather than breaking particular new ground.

What is very clear, though, I think across all sides in Parliament, if there is further legislation likely, it will have to undergo prelegislative scrutiny on a full evidential process prior to being tabled in parliament. There is no stomach any longer for rushed bills.

One of the innovations that we have in the U.K., which I think is of great value in terms of public confidence and transparency in the working of terrorism legislation, is the establishment of the independent reviewer of terrorism legislation. The U.K. independent reviewer at the moment is Lord Carlisle of Berriew QC. He has been the independent reviewer since the establishment of the 2000 Terrorism Act.

He makes judgments of the working of the acts, from the perspectives of all the interested parties, including those, of course, who might have been arrested under the provisions of the various acts.

The effect of having an independent reviewer is that interested parties have the ability to feed into what they see as a nonpartisan process of assessment to the provisions of the act.

As I implied, this increases public confidence and provides a measure of how provisions are bedding down in practice.

He has sight of sensitive material and can seek insights into why certain actions are taken by administrative authorities. His reports are made public and he encourages public feedback and comment.

In terms of U.S. legislation and its effectiveness in terms of terrorism, I believe that U.S. law and or the lack of adherence to international law in the United States would not be acceptable in the U.K. context. As for practical issues involving due process, there is a strong view within British opinion that adherence to due process, including criminal proceedings, as pointed out by Tom Parker, culminating in trial and conviction is the most suitable way forward, and this is across the political spectrum that this view is held.

Apropos, the recent arrests of terrorist suspects after 10 August and to do with issues, acts preparatory to terrorism, this is an innovation of the 2006 act—well it is not an innovation to be honest, it was there in the 2000 act, but it has been broadened to include acts preparatory to terrorism, the suspects arrested in August were arrested under some of these provisions, and it will be very interesting to see whether now these very wide ranging offenses, which are available are used, and to what extent they play a part in gaining convictions if the latter are secured.

To the extent that U.K., and I would argue, U.S. foreign policy, sometimes some of us think they are almost indistinguishable, to the extent that U.K. foreign policy has contributed to what has been called home-grown terrorist activity, I am skeptical of whether there is a causal link between our foreign policy. I would rather

see a consequential link. And what I mean by that is that I think foreign policy facilitates indoctrination.

Mr. SHAYS. These are just bells that tell us when the House opens up and when there are votes and all of that. And I have been here 19 years and I still haven't figured it out. So don't you worry about it.

Ms. FALKNER. OK, as you will see my evidence, I detail the extent to which British citizens were radicalized from the 1990's onwards. And I don't think that the conduct of foreign policy, in terms of engaging in the Iraq war, is necessarily a causal link for terrorism. But it is undoubted to me that it has effected an increased radicalization and facilitate indoctrination.

As I say in my written evidence the extent of which conduct of foreign policy continues to divide the government and the country cannot be understated.

Four western Muslims and there are 20 million of us, the facts of hypocrisy, the practice of double standards and the contempt for international law as practiced by the United States, and to a lesser degree, the U.K. on European countries remains baffling. The question asked in the U.K. now is what the course of events might be if the U.K. were to withdraw its forces from Iraq irrespective of what the United States might do. I would say that the consensus is building across the political spectrum that a more independent foreign policy is in our country's interest.

How do U.K. civil liberties laws compare to those in the United States? In winding, in summing up I would say that I think I really do want to comment on U.S. Constitutional structure as it is so different from the U.K., particularly as interpreted since 9/11.

If that makes comparison extremely difficult, the current—suffice it to say that the tendency currently in the United States to move away from its obligations in international law and its own constitutional safeguards is regrettable.

I am sure you will want to continue this discussion in your questions. And on that note, I will sum up, Mr. Chairman. Thank you.

Mr. SHAYS. Thank you, very much, Baroness.

[The prepared statement of Ms. Falkner follows:]

I wish to thank the sub-committee for seeking my views in the conduct of enquiry. By way of background I should explain that I am a member of the Liberal Democrats in the House of Lords. During my time in Parliament, I have scrutinized the Prevention of Terrorism Act as a member of the House of Commons/House of Lords Joint Committee on Human Rights and in 2005, I served as a member of Prime Minister Blair's Taskforce on Muslim Extremism.

I would wish the Committee to note however, that I am speaking in a personal capacity and my perspective neither represents the findings of the Extremism Taskforce, nor indeed those of the UK Government.

Explain your understanding of the motives, planning and tactics of the London bomb plotters.

Information on the alleged suspects of the Heathrow bomb plots is on the whole speculative at this stage. We know the identities of most of those arrested but few details other than this have been officially verified. What we do know is that the suspects are mainly of Pakistani origin, are male, and are second generation British citizens.

If the assumption is that these suspects are similar to the July 7th, 2005 (7/7) bombers then we are able to deduce several factors:

Motives: Three of the 7/7 bombers grew up in the same town, were of the same generation, ethnic origin and social background, in an area which suffered from economic deprivation. They were not educational high flyers, and had become religious in the period preceding the events of 7/7. They became radicalized, it is assumed, in the period after 9/11, when intense media attention would have focused on Al Qa'ida and they would have become more aware of arguments about and within the Muslim world, about 'Western' foreign policy.

Their disapproval of US and UK foreign policy was evidently a factor in the radicalization of the 7/7 bombers – we know from videos that two of the four, Mohammed Sadique Khan and Shehzad Tanveer documented their reasons for the bombings by drawing a direct link between the actions of Western governments perpetrating 'atrocities' against Muslims (apparently a reference to the Iraq war), and their suicides.

Planning and Tactics: We will not really gain very much insight into the detailed planning of the alleged 10 August 2006 plots until the suspects are brought to trial. At present it appears likely that this may not happen till late 2007 or 2008. Again, if what we know of the 7/7 bombers is accurate, then small amounts of money (approximately GBP 8,000) and information widely available in open sources, enabled the bomb-making and logistical aspects of the plot. In the recent plots however, it would appear that larger financial sums were involved and that funds were transferred from Pakistan to the UK. This would make sense if significant numbers of transatlantic airline tickets were to be purchased for dry runs and then the operation itself.

If the question is whether the recent suspects were directed from abroad, then, like the 7/7 bombers, it is likely that some element of 'indoctrination' and support could have come from abroad. This is unsurprising. If one wishes to find validation for ANY point of view, it is possible to do through ICT. If you are a Muslim, seeking validation of the view that injustices are being perpetrated against other Muslims collectively, and that tangible acts, however abhorrent, are needed to bring attention to these issues, you will find support. Where there is tacit support, there will undoubtedly be those who will go beyond moral support to provide actual assistance.

Much has been made in the media of British 'homegrown' bombers working with Al Qa'ida operatives in Pakistan. Much has also been made of Pakistan's 'unwillingness' to tackle international terrorism. As the *Official Account of the Bombings in London on 7th July 2006*, published by the British government notes,

> Extended visits to Pakistan by young men are not unusual. Many go to visit family, attend schools for Islamic studies and sightsee .... There were nearly 400,000 visits by UK residents to Pakistan in 2004, of an average length of 41 days.

There is undoubtedly support for the objectives of Al Qa'ida in some small sections of Pakistani society. This low level support exists throughout the Muslim world, as injustices and double standards on the part of the West appear to be ubiquitous in their application to Muslim interests. Turning to Pakistan, where the federal structure specifically restrains the hand of central government in the Federally Administered Tribal Areas, and where medieval structures of tribal governance still exist, the eradication of extremism is going to be a long haul. It will involve education, economic development and a concerted investment on the part of the West in the exercise of 'soft power'. It is not something that the military or governments in Pakistan can change overnight. As an observer of the 2001 parliamentary elections in Pakistan, I note that Western calls for democracy in Pakistan, albeit laudable, delivered two out of four provinces to the religious parties – none of whom have been notable in their support for US interests.

To what extent do British and US laws respectively hinder or help terrorism prevention?

There appears to be a philosophical difference in UK and US approaches to legislation in the period since 9/11. In the UK there is still a strong emphasis on the common law tradition of jurisprudence, which results in a consensus that we probably have sufficient legal instruments in place to counter terrorism, but what we need is to 'up our game' in terms of counter terrorism strategy and practice. In the US there continues to be a debate about the need for more and more legislation to protect against further terrorism.

In the UK, after the controversial passage of the Prevention of Terrorism Act 2005, and the Terrorism Act 2006 (both of which were hotly contested and subsequently amended), there seems to be little appetite for more legislation. Added to two previous comprehensive pieces of legislation, the Terrorism Act 2000 and the Anti-Terrorism, Crime and Security Act 2001, there is also a sense that if we pass further legislation in

this area, it must be accompanied by deliberative scrutiny and evidence taking and cannot be rushed through as the PTA was in 2005. It is therefore likely that if further legislation were to be tabled, it would have to undergo pre-legislative scrutiny and a full evidential process prior to being tabled in Parliament.

An innovation in the UK which the US might wish to emulate is the establishment of an Independent Reviewer of Terrorism Legislation. This post was initially created with respect to Northern Ireland terrorism legislation in 1984, and has been upgraded and recast with the passage of the Terrorism Act 2000 (which was the most comprehensive updating of terrorism legislation in the last 30 years). Subsequently, the Independent Reviewer has been given oversight of all four recent Acts and is currently charged with recommending a definition of 'Terrorism' for the purposes of the Acts.

The UK Independent Reviewer is Lord Carlisle of Berriew, QC. The Secretary of State for Home Affairs publishes an annual report by the Independent Reviewer, who inter alia *'makes detailed enquiries of people who use the Act[s], are affected by it, and may see sensitive material'*. The effect of having an independent reviewer is that the interested parties have the ability to feed into a non-partisan process of assessment on the provisions of the act. This increases public confidence and provides a measure of how provisions are bedding down in practice, particularly as the reviewer has sight of sensitive material and can seek insights into why certain actions are taken by administrative authorities. His reports are made public and he encourages public feedback and comment.

In terms of US legislation and its effectiveness in terms of terrorism, I believe that US law, and/or the lack of adherence to international law in the US, would not be acceptable in the UK context. In evidence given to the Home Affairs Select Committee (14 February 2006) on the subject of preventative detention, in arguing for greater public information in the UK, Lord Carlisle gave an insight into his view of the US Patriot Act

> I think this [greater public awareness] is one of the few things in the area of terrorism legislation that the Americans are better than us. I hasten to add that I think that their legislation, the Patriot Act, for example, would never have got though the two Houses of this Parliament and it probably would have brought a government down, but, in terms of public information, they give much more.

As for the practical issues involving due process, there is a strong view within British opinion that adherence to due process, including criminal proceedings culminating in trial and conviction, is the most suitable way forward. However, while innovations have been adopted such as control orders for the detention of terrorist suspects, the use of Special Advocates and Special Immigration Appeals Commissions and agreements (Memoranda of Understanding) with other countries (to the effect that deported terrorist suspects should not be tortured on return), there continues to be controversy about the difficulty of securing convictions. One such area is the use of intercept (surveillance) evidence in court. UK security services appear to be opposed to its use on the grounds that it would compromise their technology and sources. Those who prefer its use as a means to facilitating trial rather than detention without trial, argue that *in camera* proceedings, the

use of obsolete technology for trial purposes and changes in rules for questioning suspects could be undertaken and merit consideration.

Apropos the recent arrests of terrorist suspects after 10th August 2006, and issues to do with 'acts preparatory to terrorism', there is much interest in whether the wide-ranging offences now available under the Terrorism Act 2006 will be used, and to what extent they will play a part in gaining convictions, if the latter are secured.

In your understanding, to what degree, if at all, has UK foreign policy contributed to what has been called 'homegrown' terrorist activity?

The extent to which the conduct of foreign policy continues to divide the government and the country in Britain cannot be understated. Moreover, for Western Muslims (some 20 million of us), the facts of hypocrisy, the practice of double standards and their contempt for international law as practiced by the US, and to a lesser degree the UK and European countries remains baffling.

However, as my article in The Independent (15th August 2006) indicates, I am skeptical of a **causal** link between UK foreign policy and its 'homegrown' terrorist activity, but rather see a **consequential** link. As the *Report of the Official Account of the Bombings in London on 7th July 2005* suggests, radicalized young British men were traveling to support jihad overseas in the 1990s, at a time when British foreign policy was directed towards assisting Muslims in conflict in Bosnia and subsequently in Kosovo. In November 2000, two British citizens or Bangladeshi origin were arrested in Birmingham on suspicion of preparing a large quantity of homemade explosives. In 2001, a British citizen attempted to blow up a plane en route from Paris to the US. In 2002, a British citizen was arrested for involvement in journalist Daniel Pearl's murder in Pakistan. In 2003, two British citizens traveled to Israel as suicide bombers. These acts, I would argue, were symptomatic of the increasing radicalization of a small section of British Muslim youth. This radicalization has been assisted by the rise of Al Qa'ida – although several extremist groups existed before – and the acts of 9/11 serve to demonstrate to those inclined to take a nihilistic world view, that they too can join the 'glorious martyrs'.

The United Kingdom's unconditional support for the US invasion of Iraq, and the subsequent inability of the UK to positively influence either the reconstruction of Iraq or indeed to leverage the Middle East peace process has had costs in alienating British Muslims from their government. Large sections of domestic public opinion in the UK, and almost all of the UKs 1.7 million Muslims were against its involvement in the Iraq war. This sentiment has grown, as the extent of the false premises on which the war was undertaken has come to light. More recently, in the case of the Israeli invasion of Lebanon, the inability of the UK government to condemn the disproportionate action against Lebanese civilians, stoked more anger towards the Prime Minister, arguably leading to his early resignation.

The question actively asked in the UK now, is what the course of events might be if the UK were to withdraw its forces from Iraq, irrespective of what the US might do. A

consensus is building across the political spectrum that a more 'independent' foreign policy is in the UK's interest. This has recently been confirmed in the Conservative Party's leader's speech of 9/11 last week. The question remains as to whether it will eliminate UK homegrown terrorism. My view is that it will not, but it may well serve to reduce the sense of injustice, and hence alienation, that young British Muslims feel so palpably.

How do UK civil liberties laws compare to those in the US?

The erosion of ancient rights and hard won civil liberties has elicited an ongoing debate in the context of terrorism in the UK. The Labour government won enormous support for its incorporation of the European Convention of Human Rights into UK law in 1998 (The Human Rights Act). However, since the passage of the Terrorism Act 2000, and subsequent legislation, including a derogation from Article 5 of the convention, there has been disappointment that civil liberties are being compromised.

At a constitutional level, cases have been heard by the Judicial Committee of the House of Lords that have curbed the Executive's attempts to curb rights. Famous among these was the ruling of December 2004 which struck down the Government's policy of holding foreign terrorism suspects without charge indefinitely. This was found to be both 'discriminatory' and 'disproportionate', and resulted in the regime of control orders being established. Other cases testing aspects of terrorism legislation are in the pipeline.

There is a view that the public does not wish to see further legislation at this stage but rather wishes to see the security services better resourced and provided with the tools to do their job. This is underway and significant attempts have been make to upgrade intelligence.

I do not wish to comment on the US position vis a vis civil liberties laws in detail, as the constitutional structure and Bill of Rights make it invidious, especially for a non-lawyer. Suffice it to say that the tendency, currently in the US to move away from its obligations in both international law and its own constitutional safeguards is regrettable. The current debates about Executive authority over wire-tapping; over Common Article 3 of the Geneva conventions, and other aspects of the Patriot Act give an external observer, however supportive of the US, cause for concern in the land of 'freedom and justice for all'.

Kishwer Falkner
(Baroness Falkner of Margravine)
September 2006.

Mr. SHAYS. Dr. Lewis.

STATEMENT OF JAMES LEWIS

Dr. LEWIS. Thank you, Mr. Chairman. And I would like to thank the subcommittee for inviting me to testify on this important subject and for the valuable work it has done in this and other areas.

We find ourselves in a fierce ideological conflict with a new kind of opponent. The jihadis remain skillful and inventive, and I think that is one of the things that the London plot showed. One thing they use is commercial networks for travel and communications and finance. And this helps them create a global presence so they can plan in Pakistan and attempt to strike in the U.K. or the United States.

Winning this ideological struggle will take years. In the interim, the United States and other nations must be able to protect themselves from attack. The U.K.'s success this August provides useful lessons, first, the reliance of the jihadis on global travel and communications networks is a vulnerability. The U.K. arrests show that surveillance of travel, finance and communications is essential for effective counterterrorism. The use of commercial networks by terrorists creates an opportunity for western intelligence services that we should take advantage of.

Second, many countries have refocused the work of their intelligence and security services to meet the threat posed by Jihad. The work of these services, particularly in domestic intelligence, is our main defense against terrorism.

Domestic intelligence, which is the collection of information within the Nation's borders for security purposes, often involving clandestine methods, and including collection on citizens who have not violated any law, is essential for counterterrorism.

Third, the arrest show that international cooperation has improved, but sustaining this cooperation will be a major challenge for the United States.

This combination of network surveillance, domestic intelligence and international cooperation is what thwarted the plan to blow up airliners over the Atlantic. The success is encouraging and points to the ingredients of an effective defense.

It also led to renewed calls for an American MI–5, and I should note that MI–5 of course in the U.K., is known as the security service.

These calls have appeared regularly since September 11th, and they led President Bush to direct the FBI to merge its counterterror and counterintelligence division into a new national security branch. Expanding the FBI's role makes sense. It avoids many of the problems that a new agency could face. It avoids upheaval. But many people doubt the FBI's enthusiasm for this task and these doubts explain why we continue to hear calls for an American MI–5.

That said, Mr. Chairman, restructuring the FBI might be as far as the United States can go without significant constitutional issues. The differences between how the United States and U.K. conduct counterterrorism grow out of very different constitutions. While both countries share a heritage of common-law, there are significant differences that have emerged.

First, the separation of powers is much less of an issue in a Parliamentary system. And the British official known as the home secretary, whom you've heard very little about, has much greater discretion in proving electronic and physical surveillance in the counterterrorism investigation.

The home secretary heads the home office, a ministry that combines many of the functions of both justice and homeland security.

We don't have an equivalent.

The relationship of the security service to the local police is also very different, as you have already heard.

Britain has the national police service. The home secretary has a degree of control and oversight over both local police and domestic intelligence. We could not match this in the United States, given our Federal structure.

Based on its experience in Northern Ireland, the U.K. has gone through several efforts to refine and adjust its anti terror laws. The most important is the Regulation of Investigatory Powers Act [RIPA], which is really a good name for counterterrorism law. RIPA spells out the conditions for both electronic and physical surveillance and it gives considerable authority to the U.K. Government and to the home secretary. It also establishes independent oversight bodies to protect civil liberties.

The prevention of terrorism acts, which you have heard about from some of the previous witnesses, also provide important authorities to prevent terrorist acts before they occur, including authorizing the home secretary to impose control orders that restrict the movements and activities of suspected terrorists.

An effort to duplicate RIPA and the Terrorism Act in the United States would produce objection if not consternation. In a similar vein, I believe it calls for an equivalent to the Official Secrets Act that would also face serious constitutional objections.

One crucial difference worth noting is that the U.K. did not have the rigid separation the United States has between foreign and domestic intelligence. Watergate era concerns led to reforms in the 1970's that divided our authorities for domestic and foreign intelligence, increased importance of domestic intelligence in the fight against terrorism, makes this divide problematic.

On the other hand, a change in the existing rules governing domestic surveillance could put civil liberties at risk. This makes any effort to refine and adjust U.S. anti terror and domestic intelligence laws complex and challenging. Let me note that the British approach is not foolproof. The UK's difficulty in assimilating its Muslim immigrants has created a major vulnerability. Their recent successes must be weighed against these larger problems in immigration and assimilation, and in this, the United States may have an advantage. However, our Federal system and the separation of powers means that the United States cannot duplicate Britain's security service.

There are useful lessons we can draw from the U.K., and their experience, I would say these include lowering the threshold for approving terrorist surveillance, or surveillance of potential terrorists, a greater dependence on the legislative rather than judicial oversight, and better integration of intelligence, police, and communications surveillance into an effective counterterrorism program.

Now, Americans don't like domestic intelligence as you noted, Mr. Chairman, this dislike goes back to probably some time in the 1770's, and they have made efforts to make sure that these kinds of activities have good oversight and are well restricted. However, an intelligence system that was designed for the 1970's is not suited for today's conflict. We need to do more to improve our domestic intelligence capabilities.

On a final note, Mr. Chairman, and in conclusion, let me point out that the combination of surveillance, domestic intelligence, and international intelligence cooperation can provide for effective counterterrorism. We should recognize however that defeating terrorism requires more than an effective defense.

It will require convincing both the jihadis and western skeptics that terrorism is not a solution. Thank you. I look forward to your questions.

Mr. SHAYS. Sorry we left that red light on when we should have turned it over, but are you complete?

Dr. LEWIS. I took the 5-minute rule seriously, sir.

Mr. SHAYS. Thank you, Dr. Lewis.

[The prepared statement of Dr. Lewis follows:]

Combating Terrorism: Lessons Learned from London
Testimony before the
House Government Reform Subcommittee on National Security, Emerging Threats and International Relations
September 19, 2006
James A. Lewis, Center for Strategic and International Studies

I would like to thank the Committee for inviting me to testify on this important subject. We can begin the discussion by noting that those who wrote in the 1990s that we had reached the end of history because of the emergence of a remarkable global consensus on the values of liberal democracy were somewhat premature. In fact, we are now in a fierce new ideological conflict with an entirely new kind of opponent. We are not fighting another country, we are not leading an alliance, and there are no opposing armies. Our opponents hope to win the war of ideas by using terror. The jihadis remain skillful and inventive. They use the commercial networks created for travel and communications to create a global presence, allowing them to plan and coordinate an attack in Britain from Pakistan. And the supply of recruits among the disgruntled and confused for religiously-motivated murder and suicide remains large.

Winning this ideological struggle will take years. In the interim, the U.S. and other nations must be able to protect themselves from the irrational blows launched by jihad. The UK's success in August in stopping the planned attack against several airliners can provide useful lessons. First, the reliance of the jihadis on global travel and communications is a vulnerability that can give the U.S. an advantage in preventing terror attacks. The UK arrests show that surveillance – of travel, finance, and communications – is essential for effective counter-terrorism. The commercial networks that provide these services allow al-Qaeda and its sympathizers to have a global presence, but this also creates the opportunity for Western intelligence services to intercept and disrupt their operations. The West built these networks and must find ways to use them against terrorists more effectively than the terrorists use them against us.

Second, many countries have refocused the work of their intelligence and security services to meet the threat posed by jihad. The work of these services, particularly in domestic intelligence activities, is the main defense against terror attacks. Domestic intelligence – the collection of information within a nation's borders for security purposes, often involving clandestine method, and including collection on citizens who have not violated any law – is a central element of counter-terrorism. The ability to identify and disrupt terrorist plans before they get to the airport or train station is the key to countering attacks, not more screening at airports or harbors.

Third, the arrests also show that international cooperation – in the London case, between the UK, Pakistan and the U.S. - is much better than it was five years ago. A national counter-terror effort will not by itself prevent attacks by a jihad that spreads across the Middle East, Europe and Asia. Building this cooperation has been one of the unspoken successes in response to terrorism, but sustaining this cooperation in the face of the growing hostility to the U.S. found in Europe and the rest of the world will be a major challenge for the United States.

This combination of network surveillance, domestic intelligence, and international cooperation is what thwarted the plan to blow up twelve airliners over the Atlantic. This success is encouraging

and points to the ingredients of a defense that can frustrate the attacks of global jihad. Britain's success in stopping the airline plot has also led to renewed calls for an American MI5 (the former name of Britain's Security Service). The desire for an American MI5 has appeared regularly since the 9/11 attacks. The Report of the Commission on Iraqi WMD came closest to such a recommendation when it called on the president to establish a National Security Service. This recommendation led President Bush to direct the FBI, using existing authorities and resources, to merge its counter-terror and counterintelligence division into a new National Security Branch.

Expanding the FBI's role in domestic intelligence avoids many problems concerning oversight, court authorization, and the relationship between intelligence gathering and police powers that a new domestic intelligence agency would face. It also avoids the upheaval that creating yet another major new agency would cause. However, some doubt the FBI's ability or enthusiasm for this task – these doubts explain the recurrent calls for an American MI5 - and it is unclear whether simply restructuring the FBI will be sufficient for effective counterterrorism.

That said, restructuring the FBI might be as far as the U.S can go towards having its own MI5 without significant challenge to constitutional protections. The differences between how the U.S. and the UK conduct counterterrorism grow out of very different constitutions. While both countries share a heritage of common law, there have been significant divergences. The drafters of the Constitution were careful in the Bill of Rights to forbid many Crown activities used against them as colonials – arbitrary search and seizure, arrest without a warrant, and detention without recourse to a court. These Constitutional amendments explain in part why U.S. practice has developed in a different fashion from that found in the UK, such as why the U.S. gives more authority to judges and courts, why the relationship between local police and national security services in the UK is closer and unencumbered by Federalism, and why the UK approach to counterterrorism would be difficult to duplicate in the U.S.

Difficult as it may be for Britons to believe, UK counterterror efforts may be better organized than that of the U.S., and a federal system of government and the constitutional separation of powers prevent us from matching this organization. Whereas counterterror responsibilities in the U.S. remain diffused among several agencies, even after a series of legislative reforms, the Home Secretary's dual responsibilities for police and domestic intelligence (something not matched in the Department of Homeland Security) provide a greater degree of focus in the UK.

The doctrine of the separation of powers is much less of an issue for a parliamentary system where the Prime Minister and his cabinet are at the same time sitting members of the legislature. British laws give the Home Secretary (whose formal title is the Secretary of State for the Home Department) great discretion in approving electronic and physical surveillance in a terrorism investigation. The Home Secretary heads the Home Office, a Ministry that combines many of the functions of the U.S. Departments of Justice and Homeland Security and has authorities that in the U.S. are usually reserved for the courts.

The UK's approach to domestic security also has very different precedents. MI5 was founded in 1909 to watch for German spies and saboteurs. Its twin, MI6 (now known as SIS – the Secret Intelligence Service), was created at the same time to collect of foreign intelligence. This

common background makes for agency cultures that are very different from the FBI and the CIA. Until recently, the two U.S. agencies were often seen as competitors. While cooperation between the Security Service, SIS and the Government Communications Headquarters (GCHQ, the British equivalent of the National Security Agency) is not seamless, it has faced fewer obstacles than has cooperation between FBI, CIA and NSA.

The relationship of the Security Service to the local police is also very different. Britain has a national police service. The Security Service has a long experience in working with the police 'special branches' and with GCHQ to protect against terrorism from the conflict in Northern Ireland. This experience of cooperation among police and intelligence agencies is hard to duplicate. Oversight of the police services are divided among chief officers for each force, regional police authorities - committees whose members include magistrates, elected officials, and community representatives, and the Home Office. The Security Service also reports to the Home Secretary. This means that the same Cabinet Minister has a considerable control and oversight for both local police and domestic intelligence. This combination of national and local agencies is unthinkable in the U.S. given our Federal system. There are several thousand independent police forces in the U.S., reporting to mayors, councils, governors and others. The relationship between local police and security services is impossible to duplicate here.

The Security Service may also have an advantage over its American counterparts given its status as an intelligence agency that reports to an elected Member of Parliament, rather than a law enforcement agency that gets some of its directions from prosecutors and judges. Prosecutors want to build a case and go to trial. This may bias them against the long-term intelligence activities that are essential for understanding an opponent's nature and intentions, but which may not lead to a court case. The distinction between legislative and executive is much less pronounced in the UK, and the smaller size and parliamentary nature of the British government may also give it an advantage.

Perhaps more importantly, in the face of the long threat of Irish terrorism, the UK has gone through several efforts to refine and adjust its anti-terror and domestic intelligence laws. The most important laws are the Security Services Act of 1989, the Intelligence Services Act of 1994; the Regulation of Investigatory Powers Act of 2000; the Terrorism Act of 2000; the Anti-Terrorism, Crime and Security Act of 2001 (passed in response to 911); and the Prevention of Terrorism Act of 2005, which was revised in the Terrorism Act of 2006 to meet civil liberties objections.

The Regulation of Investigatory Powers Act of 2000 (known as 'RIPA') is the key UK aw for domestic intelligence. RIPA spells out the conditions under which both electronic and physical surveillance may take place in the UK. It gives considerable authority to the Home Secretary – rather than to courts and judges - to initiate such actions. It establishes independent oversight bodies (one for communications surveillance and one for physical surveillance – including what the British call 'intrusive surveillance') to ensure that the conditions and safeguards imposed by the Act are being met. In contrast, U.S. oversight bodies are usually housed in the agency they are overseeing. RIPA even created an independent body to which British citizens can complain if they feel they are the victims of unwarranted surveillance or if an error had been made.

The UK's Prevention of Terrorism Act of 2005 also provides important authorities that are likely unmatchable in the U.S. The Act authorizes the Home Secretary to impose 'control orders.' These orders restrict the movement and activities of suspected terrorists. The Home Secretary can use intelligence information to apply to a court to impose a control order, and in an emergency, he can impose an order on his or her own authority for up to a week. There is an annual review of control orders, again by an independent reviewer, and the Home Office must report to Parliament every year on the implementation of the Acts authorities. The Terrorism Act of 2006 creates new authorities designed to prevent terrorist acts before they occur. Acts preparatory to terrorism are illegal, as are the encouragement of terrorism, and the dissemination of terrorist publications or terrorist training documents or activities. Groups that glorify terrorism can be proscribed. The Act allows police to detain suspected terrorists for two days on their own authority and up to 28 days with the approval of a court. The Act is controversial in the UK and Parliament is likely to revise some provisions.

One crucial difference with the U.S. is that the UK's laws do not have the rigid separation between foreign and domestic intelligence. Watergate-era concerns over the use of intelligence and law enforcement assets for domestic political ends led to reforms in the 1970s, which split domestic and foreign intelligence. The increased importance of domestic intelligence in the fight against terrorism erodes the effectiveness of the 1970s legal structure the U.S. has used to govern domestic intelligence activities. Effective counterterrorism must avoid cumbersome handoffs between foreign intelligence and domestic law enforcement. For this reason, the line between foreign and domestic intelligence that the U.S. put in place in its laws and policies no longer makes sense. At the same time, since our safeguards for domestic intelligence depend on these 1970s reforms, an effort to reduce the foreign/domestic divide to meet the challenge of borderless terrorism could put civil liberties at risk unless some alternate form of protection is devised. This makes any effort to refine and adjust U.S. anti-terror and domestic intelligence laws more complex.

An effort to duplicate RIPA and the Terrorism Acts would produce objection (if not consternation) in the U.S. The Judicial branch might be reluctant to surrender this degree of authority. Civil libertarians would point out that control orders, suppression of publications and broad surveillance power raise serious and perhaps insurmountable constitution objections. In a similar vein, calls for an American equivalent of the Official Secrets Act could face civil liberties and constitutional objections. In any case, the U.S. already has laws that criminalize many leaks of classified information and it is not clear that adding more laws would change anything.

Not that the British approach is foolproof. The UK's difficulty in assimilating Muslim immigrants has created a major vulnerability. A third of British Muslims, according to some polls, believe jihad against their fellow citizens is acceptable and that the UK would be better off operating under sharia law. UK immigration policies were badly managed for many years, and like other European countries, there appears to have been an unspoken agreement that let Muslim radicals reside in the country as long as they confined their attacks (usually verbal) to targets outside the UK. Now there are reportedly several hundred potential terrorists living in the UK, mostly radicalized UK citizens, and it is difficult for the police and Security Service to monitor them. The recent success in London must be weighed against these larger problems in immigration and assimilation, and in this, the U.S. may have an advantage.

Our federal system, the rigid separation of powers, and a different history for domestic intelligence, mean that the U.S. cannot duplicate Britain's Security Service. That said, it is worth drawing lessons from the UK's combination of a lower threshold for approving terrorist surveillance, a greater dependence on legislative rather than judicial oversight, a better integration of intelligence, police and communications surveillance, and expanded authorities for detention and other restrictions on terrorist-related activities. We cannot recreate the British system, but we can learn from their more extensive experience to identify useful authorities and civil liberties safeguards that would benefit our own counter-terror efforts. Despite the Patriot Act, the Homeland Security Act and the Intelligence Reform and Terrorist Prevention Act, the U.S. has not come up with a formula for domestic intelligence. Some would say this is for the best, but this delay only prolongs the conflict with terrorists and increases the risk of a successful domestic attack.

Americans do not like the idea of domestic intelligence. This dislike drives our public debate. However, the threat posed by terrorism, as 9/11 made clear, is very different from previous challenges. We are not fighting a traditional war against other nations and changes in technology and the global economy increase our opponents' capabilities and shorten the time available to prevent attacks. While the FBI has authorities for domestic surveillance that are very similar to the UK's Security Service, the process for authorization and oversight of surveillance is very different. There is now a much greater need to use the National Security Agency's communications surveillance capabilities to support domestic intelligence and counter-terrorism. A reliance on the judiciary alone for oversight may not be enough to address public concern. An intelligence system designed in the 1970s to operate against other government's intelligence bureaucracies is ill-suited for the opponents we face today. Reorganization and consolidation of agencies is not reform, although it can provide an opportunity for change. Further reform is still essential for better domestic intelligence.

The combination of surveillance, domestic intelligence and international intelligence cooperation can provide for effective counter-terrorism. We should recognize, however, that defeating terrorism will require more than an effective defense. It will require convincing both jihadis and western skeptics that the ideology of an Islam oppressed by the West whose only defense is terror is false, and that restoring the Caliphate or Sharia is no solution. Airline bombings are a symptom of this larger ideological struggle and, as in the previous struggles against fascism and communism, the obstacles to success include not only the beliefs of our opponents but our own self doubt about the values of the West.

Mr. SHAYS. I am going to have you give back that mic to Mr. Parker. When we start the question and I am going to have you take that mic. Thanks.

STATEMENT OF DAVID B. RIVKIN

Mr. RIVKIN. Mr. Chairman, ranking member, it is a pleasure to be with you.

British success in disrupting the plot to attack airplanes over the Atlantic has been much celebrated. The question of what has enabled that success has also been extensively discussed and has not been particularly disputed, at least on this side of the Atlantic. By comparison, the question, what losses can we draw from the British experience, especially taking into account the considerable differences between our institutions and legal regimes, has been more controversial.

In my time, I hope to run through a few basic aspects of it. One is a nature of threat and unavoidably some overlap, being the last one to speak between the points already been made and what I am planning to say, but it is fair to say on the nature of the threat side that both the United States and U.K., quite prominently on the list of targets envisioned by various radical groups, in both instances, the threat is mixed in nature and comes from individuals who reside in the countries involved, and I refer to the second generation or by foreign personnel.

It is somewhat hazardous to draw generalizations in this area, especially you in the presence of British colleagues, but it seems to me that it is generally accepted that the Muslim communities in Britain is more radicalized and feels more alienated from the British mainstream, thereby presenting perhaps somewhat more fertile ground for terrorist recruitment than the case of the United States.

In the United States the Muslim community is better integrated, generally more prosperous, most of its mainstream representatives are supportive of counterterrorism policies, and the threat to the United States seems to be more driven by foreign entities and personnel.

But I would submit to you one can make too much of these differences. I certainly don't agree with a notion that has been advanced by some observers that British attacks are largely driven by domestic factors, poverty, sense of anger discrimination or the foreign policy side. In fact, to me, it is impossible to decouple the activities by various jihadi organizations in the Middle East, be it Al Qaeda, Taliban, Iraq-based jihadis, or even exploits of Hezbollah and Hamas from the activities of home-grown terrorists, because they clearly serve as a source of inspiration and technical expertise, even to those home-grown terrorists that never travel to an Al Qaeda camp, or even met an Al Qaeda recruiter. In my opinion, the global war on terrorism is truly seamless.

Now again, it is hazardous to delve into criminal investigations, not being a Brit myself, but I would submit to you that the British law enforcement officials in toto clearly have a more robust ability to investigate suspected terrorist persons than the U.S. police agencies. This is true in the range of areas where you heard about tighter cooperation, intelligence police services, no wall of separation to foreign intelligence, and law enforcement functions that we

had prior to September 11th. Very important, no need to meet the strict requirement of probable cause to obtain warrants that the U.S. investigative bodies must satisfy under the bill of rights, in the British case, you get reasonable suspicion. We heard about those extraordinary tools, particularly the control orders to be fair is a disputed body in Britain itself, but in my opinion, I am corrected by my British colleagues, it is primarily about the scope of such controllers because you had some, Mr. Chairman, very exceptional controllers that really put people sort of 24-hour restrictions. And there is restrictions as to travel, daily contacts and meetings, not about the control orders of such.

These control orders are very useful, because obviously what we have been able to do not only isolate dangerous individuals, but sort of precipitate folks who may be hiding from you because if you impair the ability of one set of people to function that requires others to step more into the limelight.

Profiling it is ironic to me that while Britain, I think again, all generalities are hazardous leans a little bit more to the left than does the United States, the British attitude toward ethnic and religious profiling appear to be more pragmatic than the United States the very idea of profiling, which is a means of allocating scarce law enforcement and surveilling resources is a virtue taboo, I think in Britain law enforcement and intelligence officials can better target communities of interest.

And they certainly are able to infiltrate more directly the extremist portions of a community without me having to worry about the absence or presence of a criminal predicate which by the way Mr. Chairman is still very much the FBI standard, even in the post-September 11th environment for FBIs to rely mostly on informers.

Privacy, the British have certainly virtually invented the notion of privacy, the saying the Englishman's home is his castle, can be traced at least to 16th century, the concept is not as broadly defined in law and politics as in America most public spaces in Britain are wired for surveillance.

And by contrast in the United States, we are taking the privacy well beyond the basic contours of the fourth amendment and progressed to the point where individuals seriously consider to have a privacy interest in, essentially can be described as public activities and activities in the public space.

Secrecy, a lot less, allergic attitude toward secrecy, here we certainly have people who believe that any government action to act secretly or punish people for disclosing sensitive information be fundamentally illegitimate. I am not going to repeat the business about cooperation and MI–5 being the senior service. There is also less of a culture of leaks and sort of the bureaucratic warfare seems to be more manageable and less threat recital than the one we experience in Washington.

Excellent discussion, but we heard about the experience not that one would wish that upon anybody, but certainly, 30 years of being able to refine the coordination between military and law enforcement agencies in the context of fighting that area has been very useful.

Let me just briefly summarize the lessons, and of course, there are some things we cannot adopt. And the official secrets clearly

would be antithetical to our first amendment values and would not pass, if it were to pass it would be struck down.

But there are some things we can clearly do, and in my opinion, it is not the new laws and certainly not the question of dispensing of our constitutional heritage, and it is not even bureaucrat institutions and I know about the criticisms of FBI. To me it is not particularly surprising that FBI has traditionally been a law enforcement institution, is incapable of replicating this pure and sort of crystalline focus on counterterrorism, but MI–5 would do and, in an ideal world, I don't think it would be unconstitutional to have an MI–5 organization, but I think that pragmatism is an essential attribute of good statecraft.

To me, the notion that we can really recreate an MI–5 type entity would be so difficult to stomach, it would be politically, legally and bureaucratically impossible, in my opinion, would be not worth trying. What is worth trying, and even here I am not kidding myself into believing it would be easy, is to change not our constitution but at least political and cultural discourse in the areas of privacy, secrecy and profiling.

What I would say, suggest, is we can and should accord the government, difficult as it may be for some, greater investigative latitude and accept some compromise of privacy in exchange for greater security. At the very least, we should launch a serious national debate about it, a debate conducted in open and candid fashion instead of slamming hard at people espousing different positions.

I would like to finish by pointing out that the critics of the administration would think that already we have had too much of a tilt toward public safety and away from individual liberty, often misquote Benjamin Franklin as having said that those who would "trade liberty for security deserve neither." That is actually not a correct quote. What Franklin actually said was a balancing test, they that would give up essential liberty to attain a little temporary safety deserve neither liberty nor safety. In my opinion, in fighting this terrorism, British appear to be striking this balance reasonably successfully and our balance is less than perfect. Thank you, very much.

Mr. SHAYS. Thank you, Mr. Rivkin.

[The prepared statement of Mr. Rivkin follows:]

Testimony of David B. Rivkin, Jr.

before the House National Security Subcommittee

September 19, 2006

The British success in disrupting a plot to attack numerous airplanes over the Atlantic has been much celebrated. The question of what enabled Britain's success has also been extensively discussed and has not been particularly disputed. By comparison, the question of what lessons we can draw from the British experience, considering the considerable differences between the U.S. and U.K. anti-terrorism institutions and legal regimes, has been more controversial. This is a question, however, very much worth answering.

In doing so, we should begin with the proposition that the United States and Britain share the same common law heritage, with its emphasis on individual rights and limitations on state power, and many of same basic political values. That said, British law, political culture and sensibilities are far more attuned to the practical needs of preventing terrorist attacks than their American counterparts. It is also the case that while both Britain and the U.S. face common threats from Islamist terrorism, the particulars of these threats differ in some notable respects. Some specific examples of the key differences and similarities between the U.S. and British anti-terrorism-related systems include the following:

Nature of the Threat: Both the U.S. and U.K. figure prominently on the list of targets drawn by various radical Islamist groups. In both cases, the threat of attack comes in part from individuals who have traveled to Britain or the U.K. – the September

11 attack is the most prominent example of an attack carried out exclusively by foreign personnel – and in part, from radicalized individuals residing in Britain and the United States. It is difficult to draw generalizations in this area, but it certainly appears that the British Muslim community in Britain is more radicalized and feels more alienated from the mainstream of the British society, thereby presenting a more fertile ground for terrorist recruiting, than is the case in the United States. The 2005 London subway bombings are an example of the terrorist attack carried out largely by home-grown terrorists. And while the current investigation into the particulars of the airline bomb plot is still continuing, it also appears to be largely planned by British nationals. By contrast, the U.S. Muslim community is certainly better integrated into the American society, most of its mainstream representatives have vigorously condemned terrorism and the terrorist threat to the U.S. appears to be largely driven by foreign entities and personnel.

However, one can make too much of these differences. I particularly do not agree with the notion, advanced by some observers, that British attacks are largely driven by the domestic factors, e.g., poverty in the British Muslim community, sense of anger at the alleged discrimination emanating from the mainstream of the British society, or another factor favored by many pundits – anger about British participation in the wars in Afghanistan and Iraq. It is impossible to decouple the activities of Jihadi organizations in the Middle East from the activities of even ostensibly home-grown terrorist cells. To put it differently, activities by al Qaeda, Taliban, Iraq-based Jihadists, or even the exploits of Hezbollah and Hamas serve as a source of inspiration and technical expertise even to those British or American terrorists who have never traveled

to the Middle East or met an al Qaeda recruiter. In my view, the global war against terror is truly seamless.

Criminal Investigations: British law enforcement officials clearly have a more robust ability to investigate suspected terrorist activity than do U.S. police agencies. This is true in a range of areas. For example, traditionally there has been much more direct cooperation between British intelligence and police services; there was never the sort of "wall" between foreign intelligence and law enforcement functions that the United States maintained before September 11. Similarly, British officials need not meet the very strict requirement of "probable cause" to obtain warrants that U.S. investigative bodies must satisfy under the Bill of Rights. (In Britain, a warrant can generally issue on a showing of "reasonable suspicion.")

In addition, the British police have certain extraordinary tools designed specifically to fight terrorism, such as "control orders" issued by the Home Secretary which not only allow the police to monitor terror suspects, but which may control the travel, daily routine and contacts of such individuals. These orders also enable law enforcement authorities to identify more easily the overall pool of potential terror operatives, since the close supervision of some suspects requires their undiscovered colleagues to assume more active roles.

Profiling: Ironically, although today's Britain leans far more to the left than does the United States, British attitudes towards ethnic and religious profiling appear to be far more pragmatic. In the United States, the very idea of profiling – even as a means of allocating and concentrating scarce investigative or surveillance resources—is highly controversial, virtually taboo. By contrast, in Britain, law enforcement and intelligence

officials clearly target their resources on the communities most likely to produce terror recruits, and further on the most radicalized segments of those communities. They are also able directly to infiltrate extremist Mosques, community centers and Islamist gatherings, instead of relying almost entirely on informants as is the case with the FBI. In this regard, even today the FBI feels that there must be some evidence of a criminal "predicate," before it can assign agents to cover even public events.

Privacy: Although the British virtually invented the notion of personal privacy – the saying "an Englishman's home is his castle" can be traced at least to the 16th century – the concept is not as broadly defined in law or politics as in contemporary America. Not only have the courts created broad rights to privacy, above and beyond the Fourth Amendment's requirements, but our society has progressed to a point where individuals are considered by some to have a "privacy" interest in what can only be described as public actions – such as giving personal information to third parties who are not bound by any formal privacy agreement or participating in widely used fora like the Internet. Indeed, judging by some of the more extreme criticism levelled against war on terror policies, there are those who consider as the purest tyranny any compromise of individual autonomy to meet the community's needs.

Secrecy: Similarly, there is a substantial body of opinion in the United States which seems to consider *any* governmental effort to act secretly, or to punish the disclosure of sensitive information, to be illegitimate. Thus, for example, critics of the Bush Administration persistently attacked the President's decision to have the National Security Agency ("NSA") intercept al Qaeda's international electronic communications without a warrant in part because of its secrecy, even though the relevant members of

Congress had been informed of the NSA's program from the start. By contrast, there appears to be much less hostility in Britain towards government secrecy in general, and little or no tradition of "leaking" highly sensitive information as a regular part of bureaucratic infighting – perhaps because the perpetrators could far more easily be punished with criminal sanctions in the U.K. than under current U.S. law.

Domestic/International Intelligence Cooperation: The MI5, Scotland Yard, and MI6 cooperate reasonably well on terrorism-related issues and bureaucratic rivalries are far less pronounced than is the case in Washington. There is certainly no counterpart in the British experience to the virtual "war" that has been waged by portions of the CIA against the Bush Administration. Britain also takes a much more pragmatic attitude towards the necessity of cooperating with regimes, or their intelligence services, that have poor human rights records. This has periodically been an issue in both countries, and presents a difficult choice for any democracy. However, working with foreign intelligence services (like Pakistan's) with similar interests but questionable practices will continue to be a necessary part of the war on terror. This also means doing well militarily, since such regimes are highly sensitive to what they perceive to be Western staying power and ability to take the fight to al Qaeda and its allies.

Experience: There is, of course, no substitute for experience and there is no doubt that Britain benefits (if that is the right word) from its experience in fighting IRA terror. Although the IRA was arguably a less dangerous threat than al Qaeda and its allies, if only because the IRA eventually concluded that minimizing civilian casualties was in its political interests, it was nevertheless well-organized, ideologically committed and vicious. For thirty years, Britain's military and law enforcement forces investigated,

infiltrated, surveilled and openly fought the IRA and won, deriving two important advantages in the process. First, Britain's armed forces and police have been thoroughly schooled in the most advanced techniques of surveillance and counter-terrorism. Second, its political establishment and population (obviously, with some exceptions) have become accustomed to the measures, sometimes intrusive and burdensome, necessary to prevent terrorist attacks.

The Relevant Lessons. American anti-terror and intelligence capabilities have, of course, improved substantially since September 11, and can boast a number of important successes in thwarting potential terror attacks, including important arrests in New York, Florida and Virginia. Moreover, the existence of the NSA and SWIFT surveillance and monitoring programs indicates that the Bush Administration, at least, is fully aware of the intelligence imperatives presented by the Islamist threat. Further improvements, however, are both possible and necessary and the British counter-terrorism successes offer instructive lessons.

The United States cannot, of course, adopt all aspects of the British system; our constitutional systems are really quite different. One perfect example of these differences is in the area of free speech. Given the existence of the First Amendment and the case law which construes it, it would be both impossible and undesirable to try to replicate the U.K. Official Secrets Act in this country. However, we can clearly adopt at least some aspects of the British counter-terrorism system.

For me, the key lessons to emulate and the areas for improvement are not primarily about passing new laws or restructuring the existing bureaucratic institutions. I am, of course, aware of the continuing criticism of our existing counter-terrorism

organizations, and particularly, of the FBI. It is not particularly surprising that the FBI, which traditionally has been a law enforcement entity, has not developed a bureaucratic culture capable of focusing on counter-terrorism operations with the level of clarity and intensity achieved by Britain's MI-5. And, in the ideal world, if we could create an MI-5-type entity in the United States, and leave the FBI to deal with all of the remaining law enforcement responsibilities, we would be better off. However, realism is an essential virtue in statecraft and, in my view, trying to break up the FBI and to create an MI-5-type entity in this country would be so disruptive and difficult – politically, legally and bureaucratically – that it is probably not worth trying.

What should be more doable, although I do not kid myself into believing that it would be easy, is to change our current legal and political culture in the areas of privacy and secrecy. To emphasize, I am not suggesting that we need to alter in any way our constitutional traditions or even pass new laws. However, we can and should accord the government greater investigative latitude and accept some compromise of privacy in exchange for a greater security. We should be able to have a serious discussion about different profiling techniques. Indeed, at the very least, we should launch a serious national debate on how to balance individual liberty and public safety. Bush Administration critics often misquote Benjamin Franklin as having said that "those who would trade liberty for security deserve neither." What Franklin actually proposed was a balancing test: "They that would give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." In fighting terrorism, the British appear to have been striking that balance successfully and our balance is still less than perfect.

Mr. SHAYS. We are going to start with Mr. Kucinich with you. Eventually, we need to go to the floor of the House so we will start with him.

Mr. KUCINICH. Thank you very much Mr. Chairman. Mr. Rivkin, the suggestions that you have, and the observations that you have with respect to privacy and secrecy and civil liberties, how do you help those hold in a condition where there is widespread belief that the government isn't telling the truth about the conditions that led to the imposition of such changes in constitutional governance?

Mr. RIVKIN. Mr. Kucinich, I appreciate the question. It's the question I often get asked, certainly in the public sphere when I speak in radio and television.

My answer to that is—is as follows: I'm not going to try to convince folks to change the opinion of the Bush administration, but what I usually say is the political portion of our government, our national security establishment, is tiny. Most of the people you interact with is as a citizen, career, civil officials at the State, local and Federal level, and it's a little unfair, whatever one thinks about George W. Bush or Dick Cheney, to impute to the career civil servants any degree of exaggeration, bad faith.

In fact, I think the British are a perfect example. Congressman, to be perfectly rational about it, Tony Blair is hardly more popular than George W. Bush, but yet the British don't seem to have a problem distinguishing between cooperating with a particular MI5 or Scotland Yard official, whatever you think about Tony Blair. We seem to be painting everything with a broad brush.

Again, I don't want to turn this into a debate on Iraq, and I obviously don't agree that the Prime Minister and this administration has lied, but even if we assume that it did what does that have to do with a terrorist investigation in Detroit conducted by career officials, and I can tell you, in my 9 years in government I've not met anybody who was not dedicated on the career side, sincere, law abiding. So, to me, it just doesn't follow, whatever your assessment of the role or strategic aspects of American foreign policy, why it should induce people to cooperate less with our law enforcement entities.

Mr. KUCINICH. You didn't answer my question, and that is that how do you establish the legitimacy of regimes for privacy and secrecy and retrenchment of civil liberties, the retraction of civil liberties, if they're being offered under circumstances where the credibility of the overarching policies themselves have been under substantive attack and even have been refuted.

Mr. RIVKIN. Well, I would—all right. Let me try. I understand. Let me try it a little differently.

It seems to me that you'll have to look at the nature of a threat. If one seriously believes we're facing a grave existentialist threat, then whatever one might think about the wisdom of like—of a particular policy does not negate the need to change the balance between liberty and order because the threat is very serious. Let me submit to you and the quote, you know, from a pretty well-known book by late Chief Justice Rehnquist called All Laws But One.

Throughout American history we have always struck a different balance, Congressman, between liberty and safety, and safety is really nothing more than collective liberty, collective safety. It's not

really the government versus the individual. It's public safety versus individual safety, public liberty versus individual liberty. We buried this. It ebbed and flowed. It's always been the case.

I would submit to you that one needs to tell the American people and have a serious dialog that there's nothing exceptional about restricting individual liberty in the way it was not restricted 15 years ago, and if we're successful in this war, God willing, 10 or 15 years from now, we may go back to the peacetime ballots. To me, it just is not very useful to sort of take the position that because you disagree with a particular administration, the particular thrust of their policies, that nothing needs to be done.

It reminds me, during the cold war you had a lot of people who would harp about waste, fraud and mismanagement in the Defense Department, $900 toilet seats and what not, and most people typically were against defense spending, and I frankly think it's ludicrous because what everyone thinks about the wisdom of the particular procurement decisions had nothing to do with the reality of the Soviet threat. If you recall, the Soviet threat was real. It was worth investing money in defense procurement while trying to minimize the occurrence of $900 toilet seats. The same paradigm, seems to me, would apply now.

Mr. KUCINICH. I appreciate the gentleman's willingness to engage in a discussion here. I would like to point out, Mr. Chairman, that it wasn't the career intelligence officials who clearly claimed that Iraq had WMDs. It was administration political officials who sold the war and pushed for it, and the reason why I asked the question, Mr. Rivkin—and I didn't bring up the name of the President or the Vice President. The reason I asked the question is how in the world can you expect the American people to willingly see a rollback of their civil liberties if the circumstances which have been described, the exigent circumstances which have been described to them, turn out to have been not true. For example, Iraq did not have weapons of mass destruction. Iraq did not have a connection to Al Qaeda. Iraq did not plan to attack the United States, and so I just—and I could go on, but I won't, the point being that there seems to me to need to be some symmetry with respect to the integrity of the assertion of the danger and the policies that follow that are subsequent to the claims of danger. I'll just offer that for your consideration, and I appreciate every panelist being here.

Mr. Chairman, I have a number of bills I'm going to be in debate on on the floor, and I appreciate the opportunity to be here.

Mr. SHAYS. Thank you.

I'd like all of you to respond to a number of issues, but first, I'd like to know where you disagree with each other. So, in other words—and by that, I mean, Baroness, you may have heard Dr. Lewis say something, Dr. Rivkin say something that you would disagree with.

Dr. Lewis, you may have heard Mr. Parker say something that you would see—because I want to just start to get a sense of where people are coming from on a variety of issues.

Mr. Parker, I'll tell you what I disagree with, but I could be so dead wrong. You went after my most heartfelt belief that terrorists aren't criminals, and I'll tell you my most heartfelt belief, and I'm going to think about it because you're telling me that Great Britain

has already been there and done that, but to me, to equate a terrorist as a criminal and give them 10 years of legal rights I find absurd, and I think—I just think we are dead in our tracks. I mean your just even mentioning that there's not going to be a court case against the individuals in the August 10th until potentially 2008 tells you already how I wrestle with this. So I'm just kind of illustrating the points, and I am so eager to have a really interesting dialog with all of you about this.

So, Baroness, do you want to start? You need to pull that mic a little closer and more in the front of you, too, if you don't mind. Thank you. That's it.

Ms. FALKNER. Mr. Chairman, I'm not sure I disagree very much, but I was going to say that I possibly slightly disagree with you in your—in what you've just said about how you found it incomprehensible that there won't be a case until 2007, as I said, or early 2008. If you see how long the United States has incarcerated people in secret prisons or in Guantanamo Bay without having laid charges against them, then, frankly, to be open and transparent and arrest people under criminal law and apply due process, terrorism law and apply due process, I think is the right way to go.

Mr. SHAYS. Let me ask you this then, maybe, just so we don't get too far off and then find out we don't really disagree. I think there has to be due process, and do I make an assumption that, if they're not under criminal law there wouldn't be due process—is due process and criminal law the same? And I ask that out of ignorance, not out of—Mr. Rivkin.

Mr. RIVKIN. Mr. Chairman, I agree with you.

One of the first sayings you learn in your constitutional law course is the question is not whether due process is needed but what process is due. What process is due very much depends upon the proceedings in issue. You have one level of process in a civil case in our judicial system. You have another level of process in a criminal case. You have a different level of process in the normal courts-martial system. You have a different level of due process in a system designed to try unlawful combatants, and I don't want to convert this into a debate about Guantanamo and Abu Ghraib, and God knows I speak about those issues more than I like to, but I would say this.

It's a little unfair, with all due respect, for our British colleagues to criticize us for using a non-law enforcement paradigm. We're taking into account the fact that the law enforcement paradigm as practiced in Britain and certainly in continental Europe is far more forgiving of a government, far easier for you to get at the terrorist. There's no question in my mind that who I'd want to prosecute would be terrorists. I would take the British surveillance regime, the British profiling regime, the British legal regime, despite the lack of death penalty, over our regime any time, including your point. We have an obligation for a speedy trial here. In a speedy trial in this country, you can't wait for 2 years before you bring somebody to justice. You can't have controllers. You cannot arrest people.

Mr. SHAYS. You've answered more than I needed to know now, but I find your answer very helpful, because I did interrupt the

Baroness. I just wanted to make sure that I wasn't saying there shouldn't be due process.

Ms. FALKNER. Can I give way to Tom Parker for a second?

Mr. SHAYS. Absolutely, and then you can come back.

Mr. PARKER. Actually, I think you framed it exactly right. It is a philosophical issue, this. I think we're going to have a clash of deeply held philosophical issues because for me they are criminals. I've spent my entire professional career basically trying to prosecute mass murderers of one sort or another.

Mr. SHAYS. Right.

Mr. PARKER. I've helped investigate Milosevic in the former Yugoslavia 4 years for the United Nations. I helped set up the Saddam Hussein tribunal in Baghdad, and I was part of the State Department's team in Chad, investigating allegations of genocide in Darfur. These are crimes on a massive scale, but they're crimes, for me. I think of the people who commit them as criminals, far more egregious criminals actually than terrorists. I don't have a lot of time for terrorists, frankly. Most of them are sad and diluted people who are socially disconnected from the people they hurt. I think it cheapens them to treat them as criminals, and I think we gain legitimacy from doing so. So, I mean, for me, this isn't a throwaway sentiment. It is a deeply held belief.

Mr. SHAYS. Right.

Mr. PARKER. I think it is the core of our effective response, and to just respond to David as well, no criticism is intended in this. Simply, let me make the observation that this is how we do it, and I think it works quite well for us. The delay before trial ensures that we have an effective trial process and the right evidence is presented in court.

Mr. SHAYS. The only implication, though, was I was thinking that as—by my suggestion, not criminal, that I wasn't asking for due process, and there is a bit of profiling with the Brits that we don't do in the United States, correct?

Mr. PARKER. Well, there's a lot of safeguards on profiling. Basically, it's a reasonable grounds test. The reasonable grounds test and the Police and Criminal Evidence Act requires intelligence, direct intelligence, before you profile, so it isn't simply that a city police officer says, "Terrorism's a bad thing, and we associate it with Muslims, so we can stop and search people." It has to be event-specific, and it has to be location-specific.

Mr. SHAYS. OK. This is what I'm going to ask you to do, and this is not a quiz in the sense that I would like to—I'll tell you what I want to ask you.

I want to ask you what you believe our strategy is against terrorism, and I'd like you not to change your answer based on what someone else said. Tell us first what you think that it was and if it changes, and I will tell you what our strategy was in the cold war. It was contain, react and mutually assured destruction. I mean that was our basic approach. We wanted to contain the Soviet threat. We were going to react to whatever they did, and if they sought to blow the hell—to blow us off the face of the Earth, we would blow them off the face of the Earth, and they, being rational people, would choose not to, and that was the deterrent.

What I want you to all do is tell me what you think the Western World's strategy is against terrorism. If you think it's different in the U.K. versus the United States, tell me that, and then my point in asking this question is it seems to me this is where we start, and then I want to know how we succeed, and when I ask my own constituents what is our strategy, no one can tell me, which, in my view, is the huge failure of our political system right now. We worry whether someone has earned three Purple Hearts in a Presidential election or has fulfilled their National Guard service requirement instead of educating people about the terrorist threat and what we have to do about it, and I'm going to tell you what I believe the strategy is.

Mr. Rollins, are you ready to tell me what you think the strategy is?

Mr. ROLLINS. Yes, Mr. Chairman.

If I may, I'd like to focus on—since we're speaking of the criminal activity area of the discussion, I'd like to focus on one aspect of this, and that's the investigative piece of that since we're having——

Mr. SHAYS. Is this your strategy on how we deal with the terrorist threat?

Mr. ROLLINS. I was going to draw a distinction between the United States and the United Kingdom.

Mr. SHAYS. OK, on the strategy to deal with the terrorist threat——

Mr. ROLLINS. Yes.

Mr. SHAYS [continuing]. Not the methods, the strategy. What is the overall strategy to deal with it?

Mr. ROLLINS. I think the overall strategy is the United States is far more reactive than proactive than our United Kingdom brothers and sisters. I think we are far more likely to engage and try to thwart a suspected terrorist activity, a terrorist planning effort than allow—the United Kingdom would allow the suspect criminal activity to run a little bit so we could gain further intelligence and further value to see the strategic picture; whereas, we're focused more on the tactical level.

Mr. SHAYS. OK. Mr. Parker.

Mr. PARKER. Mr. Chairman, if I understand your question right, you're asking about a grand strategy.

Mr. SHAYS. You've got it.

Mr. PARKER. My understanding—and bear in mind I'm not appearing here as an expert on American——

Mr. SHAYS. Let me do this. I'm going to agree that we don't know very much about how you do it, and you don't know very much about how we do it, but you're going to express opinions about both, maybe expose your ignorance, but let's not keep apologizing to the other either. So this is just a discussion, and we don't have C–SPAN but we're going to learn a lot, and it's going to be very helpful to us, OK?

Mr. PARKER. My understanding is it's essentially a doctrine of preemption. It's a doctrine of preemption that is built around a coordination of a variety of responses from law enforcement to military action. The United States is in a position to project force overseas that no other Western country is in the way that it does, and

that allows us to pursue a grand strategy of democratizing the Middle East, for example, that, you know, the United Kingdom clearly on its own or the European Union on its own could not do. So I think there's a divergence in what grand strategies both sides of the Atlantic can pursue, but broadly speaking, the idea of preemption to disrupt terrorism before it happens is a shared doctrine at the heart of both approaches.

There's clearly more emphasis in the United States on the use of the military than in the U.K. It's explicit in the Home Office. The counterterrorism document that military force should be used purely as a last resort when all other avenues have been exhausted, I don't think that's quite the same conceptualization here, but I'm willing to be corrected on that.

Mr. SHAYS. OK. Baroness.

Ms. FALKNER. Mr. Chairman, I speak as somebody looking at your strategy from a distance, and there are two or three broad areas that stand out for us when we look at it from Europe, from a European perspective.

We said from the outset that we thought calling it a "war" and seeing it as a war was a mistake after the events of 9/11. I think Representative Kucinich—I'm not sure how——

Mr. SHAYS. Kucinich. Right. You've got it.

Ms. FALKNER [continuing]. Has it right in his opening comments. Once you imply there was a war without an obvious enemy and open-ended, then it was inevitable that it would mount in multilateralism, and we feel very strongly in Europe that there is a move away from multilateralism in other areas as well.

Then we see extremely wide executive powers in operation often employed after the fact. We see an abandonment of the use of judicial instruments in favor of incarceration, preventative detention. We see this policy of what we call, rather politely, "extraordinary rendition"; in other words, the kidnapping of suspects, as one of the tools that is used as part of the grand strategy, and I think Mr. Rollins kind of got it right when he said that we tend to see it in a longer timeframe, and therefore tend to not overreact, with all due respect. Here it seems to be that the strategy evolves as each incident or near incident comes to light, and it therefore becomes just responding to events.

And I would disagree a little bit with Mr. Rivkin when he says that he doesn't see that foreign policy plays any role in it at all, that there is a sentiment that if you employ the level of double standards that you do eventually that you will end up with no standards at all, and we see that as a dangerous development.

Mr. SHAYS. OK. Thank you. Thank you very much.

Dr. Lewis.

Dr. LEWIS. Mr. Chairman, let me beg your indulgence by adding one footnote that I will be brief on and will bring back to your question——

Mr. SHAYS. Sure.

Dr. LEWIS [continuing]. But we've heard an assumption that Iraq has something to do with the conflict we're in, and for me that's very strange because when I entered the Foreign Service in 1984 we were studying how to deal with Islamic terrorism. We were looking at the bombings of embassies.

Mr. SHAYS. When was that?

Dr. LEWIS. The 1981 bombing of Gulf embassies, in 1983, Hezbollah, the murder of the Marines in Beirut——

Mr. SHAYS. OK.

Dr. LEWIS. A series of attacks in the 1990's, Khobar Towers, the Cole, the World Trade Center.

Mr. SHAYS. I've got you. I know. I was really wanting to know—I want to know when you went into the Foreign Service so then I could——

Dr. LEWIS. Oh, 1984. So it goes back a long way. So I don't see this as something that started with Iraq or that Iraq contributes to it.

Mr. SHAYS. Right.

Dr. LEWIS. The people who are trying to kill us would be trying to kill us even if we weren't in Iraq.

The second thing to note is we have sort of a strategy. It's a little bit inchoate, and I think there's two parts to it. The first part you've heard about. It's a reactive or defensive strategy. It involves intelligence and law enforcement primarily, not the military, I'd say, and involves disrupting and destroying terrorist organizations, capturing terrorists, imprisoning them and otherwise making it difficult for them to operate. That's important. We've had some successes.

The second part, however, is an ideological struggle, and we've gotten off to a very slow start, and that is this debate. There's all these assumptions about the United States and its foreign policy that we have not adequately challenged, that we have not adequately defended, and we need to, as we did in the cold war in your example, eventually figure out a way to start pointing out, look, the other guy's system doesn't work and if you go down that path you will be unhappy. We need to win the ideological struggle, and that's where we're having trouble.

Now I'd point out—I apologize to my European colleagues, but——

Mr. SHAYS. No, we're not doing that anymore.

Dr. LEWIS. Oh, good.

Mr. SHAYS. Yes, no more apologies.

Dr. LEWIS. I'm apologizing because I'm going to say something different, which is that Europe was confused in the cold war, and I think they're a little confused now. There are things you can criticize about what the United States has done. I feel those criticisms deeply, as I'm sure many do, but on the whole there's a good side, and there's the other side, and we need to figure out which is which, and I don't have any trouble doing that.

Mr. SHAYS. OK. Mr. Rivkin.

Mr. RIVKIN. Thank you, Mr. Chairman.

Just a few basic propositions, not to sound pedantic, but this position comes from territory of——

Mr. SHAYS. Now, you can apologize for being pedantic.

Mr. RIVKIN. I do apologize for something. Being brought up by the Jesuits, I have a lot of guilt in me.

It seems to me that unless you understand correctly what is the phenomenon, what is the strategic framework of what we're fighting, if we're going to win it would be by accident, and I think it's

worth spending time in engaging in discussions about why this is war, and with all due respect, there's not much doubt that this is war, and since we like to talk about international law there are objective standards that go to the question of intensity of violence, the nature of targets being attacked, and reasonable people can differ about many things.

There was a big debate, as a matter of fact, which my British friends may recall, about Norman Island. Britain argued quite precipitously at the time that the level of unpleasantness on Norman Island was not such as to cross the threshold of armed conflict, and you have certain folks that take a different view, but reasonable people can differ about it. But to me, when you have people projecting power, state or nonstate actors attacking the seat of government of this country, attacking our financial center and the killing of 3,000 Americans, if this is not war, then I don't know what "war" is. It is a war.

Now, people like to point out that how can it be war since we're not dealing with state actors. Well, with all due respect, there's a little bit of historical amnesia here, because if you look at the world's history and European history, the notion that you can have war between a nonstate actor and a state is extremely old. I mean I wanted to go back to antiquities, look up The Dawn of Modern Age of the state system. In Italian city states, it was quite common to have private actors, condottieri, an earlier version of unlawful combatants, who fought not only on behalf of city states but on their own account. There's nothing new about that, and the rules recognize that.

So we are in a state of war. It is a long conflict, and the only thing I wanted to add is what is this connection—because it's very important, and I think you alluded to it earlier—what is the connection between the counterterrorism fight here and the fight in the Middle East? And let's leave Iraq because I don't want to be any more controversial than I have to be, but to me there is a clear connection between being on the offensive, and it's not just a simplistic note to people to basically have a look. If we go to a place somewhere in the Middle East and we kill the terrorists there, they don't—they're not going to come here, the ones we kill or arrest. It's true, but it's more than that.

To me, the reason people in Britain and in this country—radicalized, alienated, sick, criminals, whatever you call them—attack us and Brits and people in Madrid and Bali is for two reasons. They have a whole list of grievances, and I agree with my colleague Dr. Lewis the list of grievances is so endless that there's no way we can possibly cure them. It certainly includes Afghanistan. It certainly includes Iraq. It certainly includes Danish cartoons, and I'm sure by now it includes popes, the pope of a 14th century theologian/emperor, but there's not a very powerful factor, and that is a perception of weakness, to call it one or more chummy expressions by Osama bin Laden. It is that first combination of grievances and the perception of weakness that adds as the fuel for both radicalizing and inducing to action those who have been radicalized. To me, it is absolutely axiomatic that any ability by the United States and our partners to do well in any of the overseas spheres of operation, be it Afghanistan, be it Iraq, Israel——

Mr. SHAYS. You have so many parentheticals that I don't know when to interrupt you here.

Mr. RIVKIN. Sorry. I'm almost done.

To me, the connection between that battle and the counterterrorism fight is we have to be strong. We have to demonstrate we can take on the terrorists where they dwell and take them down, and while it may increase the sense of grievance and alienation, it also tempers the powerful perception that we're weak, and therefore, in the long run, is going to produce a great weakening of impetus with terrorism.

Mr. SHAYS. You raise an interesting question, and I know you want to speak, Mr. Parker, and I'm going to go to you, but I am constantly being lectured in a very good way by my friends in the Middle East who say you don't understand the Middle East so that when I wanted to apply my Western mind to say get out of Lebanon, I had Israelis say, if we get out of Lebanon, they will view it as a victory without negotiations, and that's the way exactly I interpret Arafat's basic Intifada. It was, you know, we just can wear them down, and it sent the exact opposite message that I would have wanted to send.

So I just raise that point in the question as to draw an analogy as to how you dealt with Catholics and Protestants in Northern Ireland, but you wanted to make a point. Then I'm going to tell you what I think the strategy is.

Mr. PARKER. I thought David raised an important point, but it was worth developing a little further.

In Northern Ireland, there was a big debate about whether the insurgency was a war, and David referred to some folks who wanted to call it a "war." Well, let's put a label on it. The Provisional IRA wanted to call it a "war," and they wanted to call it a "war" because it gave them legitimacy.

The problem is the terrorists want to be considered a state actor. They want to be considered to act on the same level as governments around the world, and by calling it a "war," you confirm legitimacy of them. It is extraordinary that people here feel that this is somehow pushing the terrorists into a hole. This is what they want. They want to be put on the same level.

One of the big mistakes we made in Northern Ireland was being confused about what it was at the beginning and treating it as operations short of war, to borrow an Israeli euphemism. We gave people special category status, and we backed off that because it was a horrendous mistake.

Mr. SHAYS. That's a very interesting point for me to—and we can respond to that.

My view is the cold war strategy was contain, react and mutually assure destruction, and the war against, as I call it, Islamists—call it a confrontation, whatever, but I call the war against Islamists "terrorism"—is detect, prevent, preempt, and maybe act unilaterally, but if I understand that it's detect, it says, well then what does that make me want to do. I want to break into the cell. I don't want to have to respond to the consequence of a cell having acted.

Now, what I find intriguing about in Great Britain is you have a better way of resurrecting who did it, in my judgment, in urban areas, you have cameras in different places, and you're able to real-

ly track this person here and where they were here and where they came here, and even if they blow themselves to smithereens you can kind of identify, well, what part of Great Britain did they live in or London did they live in, and who was their family, and you can get in. And so the good news I see is that, even though you didn't detect it and prevent it, you have a way to reconstruct it and prevent that cell from doing it again. So that's one plus that I see.

But respond to my sense that our strategy is detect, prevent, preempt—we've all touched on some of that—and maybe act unilaterally. Tell me where you would disagree with that.

Mr. PARKER. Well, the British strategy, the core strategy, is also defined in very similar terms. There are four pillars, according to that—there's a strategy document known as CONTEST that was published in 2003, and it talks about four areas—prevention, pursuit, protection, and preparedness—prevention being social inclusion.

Mr. SHAYS. Prevention. Pursuit. What is the other one?

Mr. PARKER. Prevention, pursuit, protection, and preparedness.

Mr. SHAYS. Now—so what gets under the "detect" part?

Mr. PARKER. Under the "protect" would be——

Mr. SHAYS. I mean the "detect."

Mr. PARKER. On the "prevent?"

Mr. SHAYS. "Detect." In other words, if you do want to break into cells, what are those four that gives you that guidance to break into a cell?

Mr. PARKER. Well, actually, prevent, but all have aspects that help you. You know, it's a continuum. There's not a single event. Each post-incident investigation will probably produce leads for future investigations, not only from the point of view of the contacts of the members of the cell, their movements, the places they've traveled overseas, their finances that you've tracked, but also in terms of the MO that's used, the type of explosives they've used. There's loads of clues, loads of leads to pursue from an intelligence perspective, but then also, as I talked about a little earlier, social inclusion efforts, having local community offices working with the presidents of the mosques, with local imams. Every level of our response is designed to engage different aspects of the threat.

Mr. SHAYS. Could you respond to where there's a weakness or a strength in what I believe is our U.S. policy, which is to detect, prevent, preempt, and maybe act unilaterally? Is there any part of that detect, prevent, preempt, and act unilaterally if we have to?

Mr. PARKER. I mean act unilaterally comes with a price.

Mr. SHAYS. It does, but maybe not preempt—acting unilaterally. We had testimony in this subcommittee from someone from a major medical magazine, and he said his biggest fear was that a small group of dedicated scientists could create an altered biological agent that could wipe out humanity as we know it. If that were the case and they were doing whatever they were doing, wherever they were doing it, do you think that any leader would wait a moment not to act, and would they get permission from the country that—would they get permission in the country that they were in to act if they literally believed that biological agent could wipe out humanity as we know it? And that may seem like an extreme, but an altered biological agent could possibly do that. So I look at—I'm

looking at your strategy, and I'm trying—well, let me just ask you this.

Well, maybe you want to respond, and then I'd like to ask Mr. Lewis and Mr. Rivkin and you, Mr. Rollins, to jump in.

Mr. PARKER. The bottom line clearly is there's always a reasonableness defense. You know, in extraordinary situations you could always advance the fact that it was a necessity. You had to do something extraordinary because the threat was so great. So, I mean that exists in British law just as it exists in U.S. law.

So, the ticking bomb thing, actually, I would argue is a little bit of a red herring. The problem with unilateralism—let me give you——

Mr. SHAYS. Let me ask you. Why do you say that?

Mr. PARKER. Well, it doesn't happen very often, and terrorist actions are fairly commonplace, so I'd focus on the commonplace, not the extraordinary and unlikely, to be honest, and I'm not for a moment suggesting that WMD won't be used in a terrorist attack. I think that's quite possible, but it hasn't happened yet, and you need to focus on what we're really facing primarily, which is small groups of cells coming out——

Mr. SHAYS. When I was with your new Scotland Yard this year they told me that they were shocked by what happened in July of last year. They told me they were shocked and very surprised. They did not anticipate it. They didn't know how it had broken into cells, and that surprised me that they said it, but they said that.

Mr. PARKER. Well——

Ms. FALKNER. I think, Mr. Chairman—I mean we certainly know that two of the bombers of July 7th of last year had been in the peripheral vision of the Security Services. Security Services had to take a judgment over another investigation that they weren't really relevant or—and had stopped surveillance of them. So these people weren't absolutely off the radar, I would argue, but also a couple of things here.

Yes. I mean I think everybody in Britain was shocked, dismayed, surprised. Attacks on mass transit systems evoke a particular kind of horror because they affect so many of us. It could be me. It could be you. We all know that feeling. I don't think the Security Services and Scotland Yard has said this to you. I'm surprised because certainly the measures that Security Services were taking in the leadup—not in the leadup—over several years in the years since 9/11 where all designed strategies were developed in order to forestall a major terrorist incident. We had an incident at Heathrow Airport sometime before then where measures were put into place, so there certainly has been a strategy to prevent.

I think where I would argue that perhaps our strategy of prevention is different from yours is that we, I think, walk closer to the abyss than you do a little bit.

Mr. SHAYS. Closer to the what?

Ms. FALKNER. To the abyss than you do in the sense that where human intelligence, where infiltration, where evidence is coming to light that something is being plotted, we tend to allow it to continue as far down the line as possible in order to be able to prosecute and bring to trial. It seems to me, here, that the slightest whiff of any wrongdoing, implied wrongdoing, suspected wrong-

doing results in people being incarcerated, so it's a different and perhaps more dangerous approach.

If I could go back briefly, earlier on, you said that we should talk about where we perhaps disagreed with each other's comments. I think that——

Mr. SHAYS. Before we do, I want to do the strategy, and then—so could I come back, and——

Ms. FALKNER. Can I just come to Mr. Rivkin because he's put a lot of very big things on the table, and I would ask him that since he—you know, and it's—what I find quite extraordinary about the U.S. situation is that somehow assertions become facts, so if we say something often enough, it's got to become true.

Mr. SHAYS. Like what?

Ms. FALKNER. Well, like the fact of the war. So I'd like to go back to him and ask him who the war is against. Is it against all Muslims? Is it against all 1.5 billion of us?

Mr. SHAYS. No. No. That would be silly.

Ms. FALKNER. You know——

Mr. SHAYS. No. That would be silly, and I can answer that question.

Ms. FALKNER. Yes.

Mr. SHAYS. The 9/11 Commission, comprised of Republicans and Democrats, liberals and conservatives, 10 men and women, they all said the following: They said we are not confronting terrorism as if it's some ethereal being; we're confronting Islamist terrorists, and I make an assumption we don't find them in Iceland. It is, I thought, frankly, and it says to me Islamist terrorists are not just Al Qaeda. It's the Jihad, the Brotherhood, Hamas, Hezbollah, and a whole host of others. That's what it says to me.

Ms. FALKNER. And people we do not know of and people who may never become terrorists, so it's——

Mr. SHAYS. No. Islamist terrorists, I'm missing your point. What do you mean people that may never become terrorists? We're saying these are folks that have basically taken their faith to an extraordinary extreme and basically found comfort in a very large Islamic world that is not willing to condemn it.

Ms. FALKNER. I would——

Mr. SHAYS. Let me let you speak. Let me go to Mr. Rollins, and then I'll go to Mr. Rivkin.

Mr. RIVKIN. If I may just say——

Mr. SHAYS. No. No, not yet. Let me just——

Mr. RIVKIN. Sorry.

Mr. SHAYS. Were you going to speak on this issue? I want to first let the Baroness make her point then.

Mr. ROLLINS. I was going to speak to——

Mr. SHAYS. First, let the Baroness go and then Mr. Rollins.

Ms. FALKNER. Mr. Chairman, I refute the point that the Islamic world doesn't condemn it. We condemn it until we're blue in the face. We've been condemning it from the outset, long before 9/11, because it was mainly Islamic countries that suffered the brunt of terrorism, bombs going off in Lebanon, bombs going off in Egypt, in Pakistan on a regular basis. The Muslims have been killed by more acts of terrorism, I would argue, than the 3,000 here in 9/11.

But to come back to what you said, I would argue that this is not the faith. It is an ideology. It is an ideology that is explicit, that calls for foreign powers to leave the countries, particularly the countries of the holy places, and so on. There is no secrecy about this. We know what Al Qaeda demands. It comes up and calls for those demands on a regular basis. It reiterates them on a regular basis. The fact that it becomes so extremist it's wacky doesn't mean that there isn't an ideological underpinning beneath it, so it's—you know, you cannot really have a war against an ideology. It's very hard to do.

Mr. SHAYS. That's an interesting concept. Did you have something else you wanted to say before I go to Mr. Rollins? I mean you made a number of points. OK. Mr. Rollins.

Mr. ROLLINS. To that point, Mr. Chairman, I'd like to make two observations. The new White House counterterrorism strategy that was just released 2 weeks ago for the first time, from my understanding, attempts to address this ideological piece that we haven't addressed since 9/11, so I would offer that.

The second, in returning to your distinguishing between the United States, the United Kingdom, the four pillars of attempting to address counterterrorism, I would offer that 5 years post-9/11 we are still—the United States is still working the detection piece of that. We are still too reliant on technical, technology, and far less reliant on human intelligence, far less reliant on outreach into the communities, far less reliant, and until we get that piece addressed, I believe we're not going to be able to successfully speak to the issue you brought up earlier, the example about a group of scientists trying to unleash a mankind ending type virus.

Mr. SHAYS. OK.

Mr. ROLLINS. Generally, technical means are not going to pick that up. It's going to be somebody in the community or some human operator.

Mr. SHAYS. And, Mr. Rollins—the rest of you, you're going to just go on in a second—what I wrestle with as a policymaker and as someone who has spent—has chaired this subcommittee since 1998 and has focused on this well before September 11th is that I want our strategy to be complete enough to have us do everything we need to do to succeed whether we call it war or not, and I do agree that part of our strategy can't be using military forces or criminal forces. It's got to be diplomacy. It's got to be humanitarian. It's got to be economic. It's got to be all of those. So, you know, the strategy that I've outlined may be weak there in covering that, but what I am stunned by as I think about it, this is a debate no one's having in the United States, and to my knowledge—Mr. Rivkin and Dr. Lewis, that you could maybe speak to if you disagree—but I don't hear this on the talk shows. I don't hear this debated on the House and Senate floor. I don't hear the administration talking about what our strategy is to combat what we think is Islamist terrorism.

I don't want to get you off the subject you wanted to say, but maybe you could comment on that as well, Mr. Rivkin.

Dr. LEWIS. Well, let me—oh, sorry.

Mr. RIVKIN. You can go first.

Dr. LEWIS. Let me try two points, and then I'll be quick.

I do think people are beginning to realize that you do see that this public diplomacy effort is not very good, but there is a conception now. In some of the conferences you saw on the fifth anniversary of September 11th, you did have discussion of,you know, there's this notion of somehow of a return to the Caliphate and use of Sharia law is a good thing and that we need to start fighting that. So I think you're starting to see the debate, and in some ways your parallel with the cold war is very interesting. I mean, in the 1940's, you had a lot of Americans who, you know, had some sympathy with the Soviet Union initially, certainly in the 1930's, and by the 1960's or 1970's no one had any sympathy left. Hopefully, it won't take us that long, but I do think you're beginning to see the ideological conflict emerge, and it's something we have to do.

Related to that is the issue of unilateralism. I would take exception with you on this point because I don't think we're acting unilaterally. Let me give you a classic example.

Mr. SHAYS. But should we be allowed to in our strategy is the question.

Dr. LEWIS. I think we should be allowed to, but we've chosen in most cases not to act unilaterally. We've chosen——

Mr. SHAYS. So you're saying that our strategy is not that, and I think it's a part of it.

Dr. LEWIS. I think a part of our strategy that is not reflected in your four points is that we have worked very hard to develop strong cooperative relationships with security services around the world. One of the best examples is France. Another example would be Italy, although when the Italians cooperated, their judicial system threw their chief of intelligence in jail.

The perception is that we're acting unilaterally. It's a false perception. Whether we can sustain this level of cooperation is another matter given the hostility that the United States now engenders, but we are not acting unilaterally and people who think that just need to reassess how we work in other countries.

Mr. SHAYS. You know, I thought of "unilateral" in the sense that we may have to act unilaterally if no one else is willing to take action. I did not mean it in the sense that we are not cooperating with, and—but the mere fact that comes up tells me that what I describe as our strategy still isn't—it's not a complete strategy. I mean I got this strategy from all our hearings, the many of our hearings that we had even before September 11th, and yet it's got its weaknesses.

Mr. Rivkin, what do you want to say?

Mr. RIVKIN. Yes. Mr. Chairman, I agree that we need a comprehensive strategy. I also agree that not just this administration—maybe you're not making that point—but any administration is not particularly good, or any government, in articulating in a crisp, strategic, compelling manner what the strategy is. God knows we issue reports every couple of years, and you know, they read as ex poste facto the rationalization of what's going on, but that's an endemic problem. Academicians and scholars write best strategy usually on a retrospective basis, but one thing that I don't think we get enough credit for is the notion that the way to carry out the ideological struggle and the way to do it and what you have to do,

whether you call it a "war" or a "conflict," is to engage the strong beliefs held by the enemy.

The strong beliefs held by the enemy is that the alternative to Western democratic regimes—and let's strip away opposition to specific policies. They really do appear—if you look at the Al Qaeda documents and documents on various other radical Web sites, they really do—and look at the statements by Ahmadinejad. He really does believe, seriously I think, sincerely, that democracy is a bad way of organizing society, that it's not a good way of organizing a society that promotes virtue, that enables people to escape the temptation of sin, etc. Actually, that view is not unique. There are many theologians in centuries prior to that who also did not like democracy for that reason. The best thing we can—and the enemy also points out that's the only alternative we have helped impose on theories they made sound on the Middle East efforts and regimes. That's why I sort of shudder, frankly, when I hear people talking about the pursuit for democracy in the Middle East as my epic quest as decoupled from this war.

The best thing we can do to demonstrate that there's an alternative way of organizing good society that delivers the benefits to its citizens and allows people to practice their Islamic faith is to have a democracy, a democracy where Christians, Jews and Muslims all have similar and political rights, which is not the case under Sharia and certainly not the case under Caliphate where Christians and Jews were at best well-tolerated minorities with zero political power. You have to try to come up with a way of demonstrating that there's an alternative, and frankly, Mr. Chairman, I think that the bad guys understand it far better than the good guys, and one of the reasons it's so hard in Iraq is because they know what the stakes are far transcending that country. If there's ever even an imperfect democratic regime where Shiites, Kurds, Sunnis, Jews, Christians, and Syrians, etc., are actually cooperating and sharing power and where Islamic law is important but not the dominant source of authority, that women have political power instead of being treated as second class citizens and living under a general apartheid, that would blow sky high all the ideological pretense, all the ideological hubris that these guys espouse.

Mr. SHAYS. The whole reason why I was getting into the whole idea of strategy was that I thought that would be a nice mechanism for us to then get into what guides Great Britain and what guides the United States, and I am finding myself intrigued by the fact that—do you think in Great Britain there is a general recognition of what the strategy is and, two, do you think there's an agreement, because I conclude in the United States there is no understanding of what the strategy is and no sense of agreement and no dialog, and we had that dialog confronting the Communist threat in the late 1940's, but we didn't really start to nail it down until the 1950's, but at least we had some dialog.

So, Baroness, I'm asking do you believe—and Mr. Parker—do you believe that in Great Britain you all are pretty, pretty certain about, as a people, what your strategy is and how you're going to deal with the threat, however you describe the threat?

Ms. FALKNER. Mr. Chairman, in terms of our own strategy in the United Kingdom, we have the strategy to deal with the

counterterrorism strategy, as Tom has illustrated, and I think that is fairly open, transparent, and there is quite a lot of trust in the security services in the U.K.——

Mr. SHAYS. Right.

Ms. FALKNER [continuing]. Still. So that is, I think, if not understood, it's certainly understood by those who are interested in understanding it.

Mr. SHAYS. Would you in Great Britain have done what the 9/11 Commission did and say that——

Ms. FALKNER. No. Alas, I have called publicly many, many times for us to have had a public inquiry after 7/7. We didn't do that. We didn't have a 9/11 Commission come——

Mr. SHAYS. No. No. No. You didn't hear my question, though. You didn't hear my question the way I meant it.

Would you in Great Britain agree that the threat is Islamist terrorism like our 9/11 Commission did? They didn't say "al Qaeda." They didn't say anything other than—and they didn't say "terrorism." They said Islamist terrorism, terrorists.

Ms. FALKNER. I, myself, am not wary of using the word "Islamic terrorism." I use it myself. I don't think there's a great deal of contemplation of that particularly. We're not—the word I prefer to use and I think is more widely used is "international terrorism" rather than to put—to align it with a religion, and I will tell you why aligning it with religion is a bad idea, and it is partly a bad idea because it gives the impression—whether you're right or wrong, it gives the impression that you're lumping together all believers in that religion into this view that it is from their faith that terrorism derives, and I've already said to you a few minutes ago what my view on that is, but—so, if you describe it as international terrorism, then you can—it's much more easily aggregated as an ideology.

Coming back to your question about whether in Britain there is consensus, I think in Britain there is consensus that whatever strategy we have has to be reflected in the conduct of our foreign policy, and there has been a disjuncture between the conduct of our foreign policy and whatever policy we might have.

As a consequence of the government, particularly the Prime Minister, on the 1-day telling us that he knows that Islam is a religion of peace and he has complete confidence that there is no such thing as Islamic terrorism, the following day he will say something completely to the contrary. So there is confusion in the public mind about the conduct of foreign policy and where the government draws—Mr. Blair said, to me, that he didn't think there was a link between foreign policy and the bombs, and then 6 weeks later in a Muslim gathering he said there probably was. So it is very—you get so many conflicting signals.

Overall, there is a consensus that foreign policy has to be—is an essential part of that strategy and has to reflect a national consensus of where we ought to go and that it's not currently doing so, which is why I think you find that Mr. Blair is opting for early retirement.

Mr. SHAYS. OK. Well, I'm going to just throw something on the table, and then I would like to hear any comments where you may want to move this discussion, any of you that you think are some

big points that we need to move on to. But I have seen basically 20 years of what I call "Islamist terrorism," and I've seen it directed primarily at the West and primarily at the United States, and I have seen no reaction to it, so I sometimes bristle with the thought that somehow we are making it worse when I just see it continue to grow and grow and grow and grow. I want to someday have a conversation with Mr. Kissinger or get my staff to do some research, but I have this memory of 30 years ago Kissinger saying, you know, the conflict is not going to be against the Communists and Soviet Union and the United States, but it's going to be a confrontation with the Islamic world, and I just may have totally lost it but I have this memory that's kind of what he said, and when I meet with folks in Saudi Arabia and others in the Middle East, I feel like they have one foot in the modern age and one foot in the dark ages, and I feel like they have been given a pass. Saudi Arabians can come to the United States and live just as we choose to, and we go there and we have to conform to something that is so confining that it just—it makes me just wonder what we do about it. I look at what we see happen in former Yugoslavia, and we ask the Saudis to help, and what they do is they build mosques promoting Wahhabism, and I then trigger this to—I've been to Iraq 14 times, and I was talking to a woman who was in the only shelter for battered women in all of Iraq, and she said her husband had become a terrorist, and she described what he did, and then she said he's a Wahhabi, and it was—you know, that was—it's a very aggressive form of the Muslim faith, and I don't know how we confront this threat if we—I feel like we're being asked to close our eyes because it's religion, and therefore, we don't want to get the religious world unhappy with us. That's kind of what I feel you're saying to us—to me, Baroness. I feel like first we've just got to say the emperor has no clothes and then think, my God, what does that mean, but that's kind of where I'm coming from.

Mr. Parker, I'd like you to respond to what I just said.

Ms. FALKNER. Mr. Chairman, could I come back just briefly?

Mr. SHAYS. Yes.

Ms. FALKNER. Mr. Chairman, I myself have lived in Saudi Arabia, and I have lived in other parts of the Middle East, including Lebanon, and by way of background my mother was educated at the American University of Beirut, so——

Mr. SHAYS. May I ask you are you a practicing Muslim or are you——

Ms. FALKNER. I will come to that.

Mr. SHAYS. OK.

Ms. FALKNER. You see me before you. I'd like to know what you think I am.

Mr. SHAYS. I don't know.

Ms. FALKNER. Yes.

Mr. SHAYS. I didn't——

Ms. FALKNER. Exactly. So I think, you know, I know exactly what you talk about in terms of Saudi Arabia. I did not choose to remain there for the very reasons——

Mr. SHAYS. Right.

Ms. FALKNER [continuing]. That you talk about, and I think there is a real problem of modernity in the wide Muslim world.

I don't want to sound morally relativist. In fact, I have quite a lot of contempt for moral relativism, so I don't want to contextualize and make excuses for things. I think—let me put it thus, that there are conservative traits, reactionary—I would say reactionary traits in all religions, there's fundamentalism across religions, and I think Wahhabism is a particularly unfortunate expression of Islam. I certainly don't come from that perspective. I come from Pakistan where we have mainly Sunnis and Shiites, but you have the spread of religious practice and adherence across the country, you know, 150 million people. I come from, as I've just indicated to you, a rather middle class and educated and liberal—and that's not a swear word where I come from—a liberal background, and therefore, I tend to think that my faith and my conviction is a matter for me and a matter between me and God, and I don't wear it on my sleeve as many people do.

So, leaving that aside, coming——

Mr. SHAYS. Let me just tell you. The relevance of your faith, to me, is not how you practice it but your understanding of those who do, and therefore, when you speak, if you spoke as a practicing Muslim that would mean something different to me than if you spoke as a practicing Christian. It's not—it's in terms of your knowledge of the faith. That's——

Ms. FALKNER. I'm not a theological scholar that I understand faith well. I grew up in it. I didn't grow up in the West. I grew up in the faith——

Mr. SHAYS. OK.

Ms. FALKNER [continuing]. And as I've said, I've lived in the Middle East, and just to speak to something you said earlier on that, you see when you go and speak to these people and you've been experiencing Islamic terrorism for, you said, a very long time, indeed, and you find no reaction to it, I wonder what you mean by that.

Mr. SHAYS. I can be so plain what I mean.

I have watched the media. This has been my study. There is no outrage that I see by the people that matter, and with all due respect, you could be outraged by it but you don't really matter. I want the leaders, the clerics, the people who can make a difference. They are totally and completely silent. I have as much conviction about that as anything I have, and whether you get outraged by it is, to me, not all that important. I want to know what the people who can change it in their own faith do. That's the statement.

Ms. FALKNER. Mr. Chairman, the only thing I will say—and of course I respect what you're saying. The only thing I will say is that the people who do express that outrage are often people who say something that isn't what—newsworthy. I'll give you an example.

Shaikh Zaki Badawi, who was the head of the Muslim College in Britain—he was a knight. He was awarded knighthood except that it wasn't applicable because he was Egyptian as a citizen and so one. He was one of the most eminent Muslim theologians in Europe, not just in Britain. He recently passed away.

Eminent scholar. He was denied entry to the United States only a few months ago when he was wishing to come and give a major lecture at I think it was New York University because he was mis-

takenly on a U.S. watch list. So the plane was landed inside Bangor, and he was sent——

Mr. SHAYS. I really don't know how that relates.

Ms. FALKNER. But those people don't make it into the media. People who are outraged, who are important——

Mr. SHAYS. You are making my point, and this is a small point, but you are making my point. The people who need to say it are not saying it and—but you raised—there are a lot of points here, and we could probably go on for days, and I don't want to do that. I would like one of the panelists here to tell me where we need to go if, failing that—I would like my professional staff to just make sure that we cover a few questions that we need to ask. Should I go there first and then add——

Mr. RIVKIN. Can I make one brief point, Mr. Chairman?

Put it this way. I am in full accord with you. Reasonable people can disagree about the precise parameters balanced between ideology and other forms of motivation. But unless we understand that we are not—and I think we are talking about unless we understand that this is not a series of random acts, not a series of random acts by random people for random causes or diverse causes, that there is some unifying factor here——

With all due respect, it is not that it is international. There may be unifying factors, but the important factor here is there are people, unfortunately, who engage in horrific violence motivated by religion as a form of ideology. We have dealt with people who are engaged in horrific violence motivated by national socialism, by communism. We did not have any qualms talking about it, at least not as much about religion. But one thing——

And there is such a thing as demonizing too much, and we have to be careful about it, but there is a problem of not acknowledging enough. I actually think that our record, not just this country's records but British records, has been very good about not overgeneralizing and demonizing it.

Look at the experience in World War I or World War II, at the cartoons, at the political discourse about the Germans, the Japanese, nothing comparable to that, exceptional degree of discretion and carefulness on the part of Blair and the President and all the other leaders.

So it is very difficult for me to imagine we are painting with too broad of a brush, but we have to paint—Mr. Chairman, I think you have to agree with that—with some kind of a brush. Because if we don't connect, if we don't see what is a common issue, how can we win an ideological battle if we don't understand the ideology of the enemy? If we are going to win, it would be some kind of an accident.

Dr. LEWIS. You know, in my written testimony I started out by noting that someone I know had wrote some time ago about the end of history, that we wouldn't see any more conflicts because there was a global consensus on liberal democracy. Well, he was wrong; and this comes, I think, to your point about, you know, the international nature of the struggle.

You don't have to look at the United States. You can look at India. They have similar problems. You can look at Russia. They have similar problems. They haven't done as well as we have, but

they have the same problems. You can look at Israel. You can look at Thailand or the Philippines. You can even look at China. All of them face a similar threat.

So there is a possibility here to build a consensus, and I think that we need to get that kind of international voice raised up to say there is something we would all rather do, and the people who are advocating against us, the people who bomb in all of our cities, are not doing the right thing.

It will take time, as you have said, for that to emerge; and I just hope it can emerge quickly.

One part of that, and we have trouble with this in the United States, we don't really understand all the dynamics within the Muslim world. So to think of it as one, you know, monolithic entity, we want to avoid that just as we needed to avoid it in the cold war. So there are Muslim voices who support the kind of consensus that we could live with. We want to encourage them. If we could get that started, I think eventually we will win.

Mr. SHAYS. What I have taken from this hearing, aside from trying to wrestle with this issue of what is a crime and so on, is the strategy I outlined that I have believed in for umpteen number of years, somehow I have to figure out how that outreach fits into this strategy. But a strategy can help guide you to do—it should be a complete strategy that helps you do all the elements.

So, did you want to something, Mr. Rollins; and then I will go to the professional staff.

Mr. ROLLINS. Yes, very briefly, Mr. Chairman, very brief point trying to tie the two issues together, strategy and the message. As we all know, the U.S. State Department does have an Under Secretary for Public Diplomacy in charge of outreach. Karen Hughes has been in this position for 15 months, and that might be one vehicle that we could provide additional focus as we were talking about to try to get an international discussion on this issue going. To date, I don't think that effort has been very successful.

Mr. SHAYS. Thank you for reminding me about that.

Mr. Parker, do you want to say something?

Mr. PARKER. I am enormously struck as a foreigner and not a particularly religious person of all the countries in the Western World that should understand the complexity of religion in the Muslim world, America is easily at the forefront. You have a plethora of different religious groups in this country actively engaged in politics, enormous shadings between different religions. It is an incredibly broad patchwork——

Mr. SHAYS. I will tell you the answer to why that is. We don't have to work at it. When I taught at a university during the Iranian-Iraqi war, we had students, Iranians and Iraqis, who sat next to each other and talked to each other, Palestinians and Jews—Israelis not Jews—Israelis in the same classroom, and somehow when they are in the environment here, it wasn't the kind of issue. So because it wasn't kind of the issue, there was such a sense of normalcy that what you just said——

Mr. PARKER. There is always that expatriate phenomenon, that we say about Northern Ireland the only person who really understands a Northern Ireland Catholic is a Northern Ireland Protes-

tant. Because, frankly, nobody else really understands what is going on in that little piece of territory.

Having worked at the ICTY and The Hague, there is no problem between the Croatians and Serbian and Muslim translators, because they all live in Holland, they want to go to the same restaurants and speak the same language.

It is actually kind of nice to bump into somebody who comes from your part of the world. I have noticed that. I have taught classes in terrorism with Israeli military and Arab American students and people from the Middle East in the classes; and, to be honest, they tend to moderate discussions of sensitive issues, rather than actually be the cause of dissension in the classroom.

Mr. SHAYS. But if they were back in their own countries they would have a different view of that whole issue.

Mr. PARKER. We hope the educational experience they have gone through will mitigate that.

The other thing I remember being told by a relatively senior former counterterrorism official in the United States, we were having a meal one evening, and he turned to me, and he said, do you know what I think the biggest threat to Western civilization is? And I said, no, what do you think it is? And he said, European secularism. And that was about the dumbest thing I ever heard. I said I had never heard anything quite like it. You would never hear a statement like that out of anybody in Western Europe.

It is interesting. Religion is very much a part of public life here as it is in the Middle East, and I find it odd that people react to it as though there is something strange about the involvement of religion in politics. As a foreigner outsider, I see my American colleagues shaking their heads here. It seems very present in American political life. It may be a misconception, but you turn on the talk shows or just as I drove up from North Carolina I heard six on seven religious stations as I was trying to find a radio station with news on it. You couldn't find—there isn't a religious station in England, period, of any denomination.

Mr. SHAYS. You point out one of my—I have come to this conclusion over a number of years, that the United States should have diplomatic relations with every country, however fearsome it is—North Korea, Iran, Cuba. Because our biggest failure in Iraq was not believing that he had weapons of mass destruction. If we had been there, we might have found out he didn't. But it was not knowing how poor the infrastructure was. And almost anybody who had been there just traveling to work, you know, not having air conditioning for, you know, half the day, would have said, you know, I think this country has some challenges, like basic challenges that we didn't know.

Plus the fact that half of our embassy employees would not be from the State Department, which would be another factor. Just the mere fact that you would have said to me about the religious stations, I wouldn't think twice about it, but you would, given it is different in your society.

If you would tolerate some questions that we just want to get on the record from the professional staff.

Ms. DANIEL. I am going to string together a couple of questions relating back, actually, to Baroness Falkner's testimony in which

she suggested that the British concentrate on increasing counterterrorism action at this point after several recent legal reviews while the Americans are mired in continued increase of counterterrorism legislation at this point.

So as the first part of the question, I am interested in the group's reaction to that; and part of it is circumstantial, of course, but your reactions to that.

Following that, you suggested the United States establish the position of the independent reviewer of terrorism legislation—just to recap—creating a forum where interested parties have the ability to feed into a nonpartisan process of assessment on the provisions of the act, increasing public confidence and providing a measure of how provisions are bedding down in practice so they can be one source to go to. I wonder, in the American counterterrorism apparatus, where that would fit?

And in a broader sense there, how does the consolidation of reviewing power into one office here affect the balance of powers among different counterterrorism agency components?

So as each of you wishes to respond, I guess, to those three questions, please. Mr. Rollins.

Mr. ROLLINS. I will take a shot.

The first part, with regards to the legislation, I think I would be in agreement, if I understand the question correctly, that there is a focus on increased additional enhanced legislation in the United States.

We have had the Homeland Security Act, we have had the Intelligence Reform Act, had the PATRIOT Act and a number of other acts that support our counterterrorism effort. But the focus, quite often, when it comes to a current threat stream or Hurricane Katrina or any type of incident is legislative, rather than let's see what we have on the books, and allowing it to mature, rather than to continually revise or come up with new legislation.

If that answers your first question.

The intelligence community specifically, each intelligence community organization has an Inspector General, the Director of National Intelligence has an Inspector General and an ombudsman office as well, but there is not a wholistic office where the public, much like the United Kingdom, can come into and to the Director of National Intelligence office or any other office and say, I think that I am being persecuted by the intelligence community or by the law enforcement community; I think I am being surveilled without warrant. That does not exist in the United States today.

And, forgive me, the third question?

Ms. DANIEL. The third point was how the consolidation of reviewing power in such a structure would affect the balance of powers that now exist among counterterrorism agency components here.

Mr. ROLLINS. I think any organization that gives the populace a voice and the effort and an ability to be heard about concerns is good. We certainly have the FOIA capability where U.S. citizens can write into a department or agency, intelligence community or law enforcement and request information. Quite often, the information is law enforcement sensitive or it is classified. But certainly I think that an independent entity where citizens can have a voice in trying to ascertain their concerns is always a good idea.

Mr. PARKER. The U.K. has a whole series of different commissioners and different acts and different institutions, but they are appointed by government, and we have a mixed record of using these government-appointed tribunals successfully to address public concerns.

During the Northern Ireland conflict, two reports in particular spring to mind. The Widgery Tribunal that looked into Bloody Sunday and officially found no wrongdoing by the Royal Parachute Regiment provoked such outrage that the British Embassy in Dublin was burned down. The Compton report, in coercive interrogation, found that there was nothing inappropriate, but, as to techniques that were being used, the European Commission on Human Rights described it as a modern system of torture, suggesting that there was some distance between the two committees.

So it is not a panacea. It has worked well in some circumstances, but in very highly charged circumstances it has worked poorly. The Security Service Commissioner has received, at least up until 1997, has received 275 complaints and upheld none of them. That may be because there was no substance to any of them, but, equally, that is hard to sell to somebody who is suspicious of the Security Service. But that was a genuinely independent oversight process.

In Britain, we kind of rely on the fact that the people trust governmental organizations and we trust the great and good to do a decent job. I suspect that wouldn't fly over here. People would much prefer to have someone elected, an elected official perhaps oversee this sort of thing.

Actually, there is a little bit of a weakness. People appointed tend to be senior judges or tend to be parliamentarians from either the House of Lords or the House of Commons; and that perhaps doesn't recognize the concerns of a minority group, for example, that might be complaining. They are not complaining to somebody who will necessarily have natural sympathy for their point of view, if the commissioner happens to be the former head of the Home Civil Service or somebody from the House of Lords.

We do have independent watchdogs as well, and they are very effective. Some are patchy. Liberty I wouldn't say is particularly effective, but there have been other groups that have been very good at raising individual concerns as charities or charitable foundations. But it is a bit of a patchwork, and it is an odd system and I think fairly unique to the United Kingdom. So I don't think it transplants very well, to be honest, in my personal opinion.

I think that is really all I would offer.

Ms. FALKNER. By way of clarification, I should say that the reviewer's role is not only for the public to have access to him in the operation of the acts, but, by being the overall reviewer of all the legislation, he has detailed inquiries of people who use the act, are affected by it and, as I said, can see material.

He makes a point in his latest report of June 2006, if it were my view that a particular section or part of an act is odious, redundant, unnecessary or counterproductive, I would make recommendations for it to be repealed. He says some repeals have occurred as a consequence of this.

So it is slightly different from commissioners or the offices of inspector generals in that they are part of the executive bodies that

implement the act. His role is to look at the overall workings of the act. For example, he finds that if staff of the Customs Service and port services don't have sufficient accommodation to carry out their jobs effectively—it is a very practical thing—he makes a practical suggestion to the relevant department to provide them with increased funding in order that they may do their job better, and it is a very pragmatic and practical course of action.

When it comes to scrutiny, the home secretary, is obliged to lay his report before Parliament; and I think were the report to be sufficiently contentious that time would be made to have a debate. He is also cross-questioned and escorted on evidence on the various parliamentary select committees that have an interest in his area of work.

Dr. LEWIS. A couple of points that I think hit your questions, and if they don't please let me know.

One of the things that a number of us have argued is that it would be easier to deal with some of the increased requirements we have for communication surveillance or domestic intelligence if they were balanced by additional emphasis on civil liberties protection, and there has been some effort in the United States that hasn't been sufficient. So if I was thinking of new legislation which we need, you know, I would put a little more emphasis on how do you protect civil liberties.

The key there is really congressional oversight. You need all three branches involved.

You need the judicial branch. We have them, of course, with FISA. I don't know if I like the secret court protecting me. Maybe they do; maybe they don't. Who knows?

You have executive branch committees, organizations. The PATRIOT Act set up one. Homeland security has a privacy board. There is a number of boards that look at these things, but they are mainly invisible.

Perhaps a more dynamic executive branch role would help, but, you know, you have the issues with confidence with the executive branch and the appointment; and it doesn't seem to be working. God forbid that I would ever recommend that an IG do anything.

Mr. SHAYS. Why is that?

Dr. LEWIS. Just a joke, Mr. Congressman.

Mr. SHAYS. I take it personally.

Dr. LEWIS. No, no. Former fed—can't touch IGs—very bad.

And that brings you back to Congress, and I think that one of the things that United States has that is an advantage is the idea of congressional oversight, congressional hearings. The oversight function, although when I did work for the government, I disliked it. It was like being chased around by Congress. It turns out it is crucial.

So I would look at ways to strengthen that, and this is putting the ball kind of back in your court, Mr. Chairman, but——

Mr. SHAYS. I am going to quickly respond to, if we are talking about giving the government more power, it strikes me that—and the executive branch in our divided system, then you have to have Congress be more energetic in congressional oversight, not less; and we do a disservice to the presidency when we aren't that way. You need a whistle-blower statute that actually works in the intel-

ligence community, and I don't think it does. And we have a civil liberties board that is weak, that we are creating without Senate approval, without fixed terms in our subpoena power; and it seems to me that Senate civil liberties board could be the board to which you would turn to if you feel that you are being unfairly dealt with.

So as I am listening to you I am thinking of how it would fit in our own system.

Mr. Rivkin, I am sorry. You have the floor, so keep going.

Mr. RIVKIN. A couple of points, not to repeat what has already been said.

I think we have a peculiar need in our system for new legislation, in part because the preexisting, the pre-September 11th baseline is quite constraining. We don't have a huge surplus of law enforcement powers in peacetime, at least in my opinion; and, you know, unfortunately, I don't need to remind a sitting Congressman how difficult it is to do comprehensive legislation spanning across multiple committees.

In some sense, it would have been magnificent post-September 11th to have comprehensive legislation revisions to FISA, revisions to the PATRIOT Act and, while you are at it, something similar to military commissions legislation. Let's move it along. But that is not realistic. So the fact that there is this perception that there is a flurry of legislation to me is unavoidable.

On the civil liberties protection, I agree with the question, Mr. Chairman, it is actually very—my experience, at least, in the government is it is very confining and very straining, but it is not very effective. There are clearly better ways of doing that.

In part, I think what is regrettable—and this hasn't happened under several administrations—we don't have a comprehensive whistle-blower protection system for reasons that are quite inexplicable. I frequently get challenged on NPR as a designated conservative why there is no whistle-blower protection; and my response is, why didn't one get enacted in the previous administration? It is amazing. It could be done.

But, in some sense, I think the level of protections, civil liberties in this country is quite unprecedented if looked at in toto. If you don't just look at commissions and whistle-blowers but if you look at the absolute unprecedented media freedom, the fact—how do we blow a whistle in this country? Technically, it is not whistle-blowing. It is called a leak. I like to reassure people, if the Government is doing anything naughty, there is no doubt it is going to end up on the front page of the New York Times, Washington Post very quickly; and to me that is a source of great solace kind of.

Mr. SHAYS. But that shows the failure of not having a proper whistle-blower statute. Because if you had a system that really worked and could protect whistle-blowers you could deal with it.

Mr. RIVKIN. Through the channels, I fully agree, but in terms of a bottom-line impact——

Mr. SHAYS. That is the safety valve.

Mr. RIVKIN. It is a safety valve; and, therefore, it is not nearly as onerous. But I wish we could reform the system. But I really don't think there is a huge deficit of civil liberties in this country.

My only point, which is one I feel as passionately as some of the points you mentioned, I think that powerful congressional oversight

is a necessary component of our system of liberty. What is regrettable is a tendency to push more and more things onto the judiciary and failure to exercise oversight and direct insistence, that we don't want to exercise oversight. Because the great thing about oversight, it not only checks the executive, it does it in politically accountable fashion. Given a bunch of radical free judges is the antithesis of accountability, because then you can wash your hands of it no matter what they decide. And that, unfortunately, is a tendency on the part of many folks where executive is constrained more and more by judiciary and less and less by Congress.

Mr. SHAYS. Do you all have time to do just one more main question line of questioning? Let's do it.

Ms. DANIEL. As I've been listening to the discussion today, one thing that struck me is that when we talk about what Britain does right, for example, locally based counterterrorism and a more effective—I don't know if I should say streamlined but a more effective overall communications system, the conversation comes to a halt when we say, but Britain is much smaller. Britain has 60, I believe was the number, versus United States 13,000, I think is what you said, different——

Mr. PARKER. Eighteen.

Ms. DANIEL. 18,000 precincts.

And this is also related to oversight, because it was mentioned in the written testimony the utility of locally based oversight; and certainly in this particular disruption of the alleged terror plot it was local information and local work again that contributed to the help—excuse me—to the success. So I guess my question is, in these different contexts, what is it about the British system that cannot be replicated on a much larger scale in the United States? Or, alternatively, if we are approaching the question for Americans, what is it that the United States would need to change about its local law enforcement and intelligence services' oversight and communication in order to make that work?

Mr. SHAYS. Why don't we start this way? Mr. Rivkin, we will start with you.

Mr. RIVKIN. Yes. I am afraid that this is one area that would be very difficult to change, and the chairman alluded to it earlier, that federalism presents some serious problems. Because you do have local police chiefs that work essentially for mayors, and State police forces work for Governors, and they march—and they have to be accountable. Far be it from me to say they should not be accountable to the head of a sovereign to which—political sovereign to which they belong. But it is very difficult to do that.

And even in less politicized areas you have sort of ideologically driven refusal to enforce things. You have people who refuse to enforce the PATRIOT Act; and you have people who, during the earlier debates going back to the Reagan administration, refusing to participate in other policies. There is a big thing with some police departments that don't want to participate in apprehending illegal immigrants.

So it is very difficult to really force down. You can give money. You can give grants. But it is very difficult to impose a particular agenda.

I don't think it is a problem nearly as much in Britain. Again, maybe I am somewhat pessimistic about the utility of bureaucratic refinements in organizations, but I think it is not very likely that we have much more effective local Federal and State cooperation—more effective in a sense of yielding appreciably better results, without changing things that cannot be changed.

Dr. LEWIS. I think you can tell from my testimony that I admire many aspects of the British system. But this is what I don't admire. I don't want a national police force. I don't want a Federal police. When I am in Chicago, I want a Chicago cop to report to the mayor. I don't want the Secretary for Homeland Security to have anything to do with him. So I wouldn't want to see a replication of the influence that the home office has.

We have a Federal system, and I like it better. And that means that you have to focus on joint task forces, you have to focus on getting cleared personnel, you have to focus on finding ways to share information. There has been some work in that with the FBI and with DHS.

A couple of things would help. What I hear from the local police is they could use more clearances, that they are unable to receive information. So finding a way to provide those clearances to the local cops.

The second thing that I hear is that it would be useful to have a more coordinated Federal approach, you know, that you have—I don't know how many Federal agencies, is it 12 or is it 17, all of them trying to coordinate with local or State officials, figuring out who actually is in charge, is it justice, is it homeland security and figuring out a way you can relay information to them.

I think all those things would be useful.

But, you know, to echo the remarks of my colleague, we have a Federal system. We chose that a long time ago, and that is going to limit our ability to mimic some of the things the U.K. does.

Ms. FALKNER. I am not really going to say very much on this area, because I am not an expert, but just to correct the impression given that Britain has a centralized national police force. It doesn't. It has autonomous, regionally based, independent police forces based on counties or regions.

There have been proposals recently to amalgamate them into a lesser number. There are about 60 at the moment, and the proposal would bring them down to about 15. That met with such fierce local opposition that the government has announced that it won't take that legislation forward. It will review it again.

Mr. PARKER. There are a couple of areas in which there is an effective national reach within policing Scotland Yard, and certain specialist areas have a counterfeit currency squad that will operate throughout the country with the—in support of local police forces. Because it doesn't pay local police forces to develop that specialism, but basically it is a diffuse regional system. The Security Service acts as the glue, therefore, in counterterrorism to hold all those things together. I don't know it is as hopeless as perhaps portrayed. It takes initiative.

What the Security Service did is establish secure communications systems for all the regional special branches so they could talk to each other, which they hadn't previously been able to do

from their desks. It put regional offices out in all the force areas to go and spend a lot of time briefing people, desk officers tour the country to raise awareness on their subject areas. You have to get out from behind your desk and build the networks, you know.

Regional FBI offices could do that. Clearly, there would have to be a great deal more clarity on who is in charge; and that, obviously, is easier said than done. But the bottom line is initiative and a little bit of money. You go out there, and you build the networks. It can be done, and there are—what—six or seven task forces now around the country that are relatively effective, and that is a good model.

Somebody runs the task force. At least somebody is head of the task force. If you could replicate that everywhere, you have a system. And you just have to get the task forces to talk to each other.

It isn't insurmountable. It takes hard work. But what it really takes is initiative from people who push it forward. And somebody has to ride it, because people will slide back immediately. But bombs concentrate the mind wonderfully, and nobody wants to be responsible for the failed investigation of the bomb that went off.

You know, the Security Service stops, I would guess, it is, obviously, difficult to reach figures—but probably two-thirds of all the attacks mounted in the U.K., if not a higher figure. But, you know, when the one that goes off is Bishopsgate or Canary Wharf or the Baltic Exchange and over a million pounds worth of property damage is done and people are killed, nobody really cares how good your success rate is. You have to get better. That is the bottom line.

If people know they are going to be held accountable for failures, which God knows hasn't really happened in this country since 9/11, then somebody might actually start pushing things forward. But heads have to roll, people have to be held accountable, and people to be grabbed by the scruff of the neck and push it through. You have to find the right person to do that.

But it will be kind of a sad comment if it couldn't be done, to be honest; and it is about getting serious on the offense. And if we are opposed to abrogating judicial civil liberties to prosecute the war on terror, then, good God, can't we talk a little more effectively? That seems to be something we would do before we give up essential civil liberties.

But it does take will, and somebody has to push it through. And it takes leadership, executive leadership.

Mr. ROLLINS. This is tying many of these pieces together. David said the constitutional authorities make federalism unattainable, so I don't think that is an area that should be the focus of our energy. And I agree as well that we do not, I think, want one central Federal entity setting requirements and focusing issues for the State and local law enforcement or homeland security advisers. The 18,000 police offices out there, they know their operating environment better than us here in Washington, DC. They know their communities.

I think the piece that we are trying to figure out of what is missing is, yes, there is now 110 FBI joint terrorism task forces, there is now 42 State and local fusion centers located around the country, but back to the comment a number of us have made, who has

the Federal Government roles and responsibilities for interacting with State and local communities for counterterrorism? Is it the FBI? Is it DHS?

A National Governors Association report came out a few months ago. It is still not happy with the level of information they are receiving, still not happy with the type of intelligence and still cannot point to one point of contact to put in information requirements or, in turn, receive taskings from the Federal Government, just a dearth of responsibility.

Mr. SHAYS. So I am clear on this, when we talk about the home department, when we were talking about—years ago, before September 11th, we had three commissions, the Hart-Rudman Commission, the Gilmore Commission and the Bremer Commission; and they all said there is a terrorist threat out there, we need to have a strategy to deal with it, and we need to reorganize our government to implement the strategy. And the most radical was the Hart-Rudman Commission that said we needed a Department of Homeland Security. And I had constituents who had said this before September 11th: What are we? Great Britain?

So I have always like felt like the Department of Homeland Security was a pretty close parallel. But, as I heard your opening testimony, it is nothing close is it?

Mr. PARKER. No.

Mr. SHAYS. I am going to ask the Brits first—Mr. Parker, what are some of the obvious differences, the Department of Homeland Security here versus the homeland?

Mr. PARKER. They can do it better, American.

Ms. FALKNER. Well, our home office, as it is called, rather innocuously I think in other European countries they call it interior ministries, which is far more sinister sounding, our home office is responsible for an extraordinary broad range of issues to do with law and order, which includes the running of the prisons, the management of offenders, the probation service, the police services, to some extent the customs and port authorities, airports authorities to some extent, judicial systems, judges, magistrates.

The debate we are having in Britain at the moment is whether it is just too cumbersome a ministry to be able to do the important tasks as well as it should. There is some concern in the U.K. that it is not operating—the home—the current home secretary, giving evidence 2 months ago, described it as being not fit for purpose.

Mr. SHAYS. That is a very British way of saying that.

Ms. FALKNER. So, sir, I would feel extremely reluctant in defending it when its representative, its own God on earth, is not able to do so.

I think where it is considerably different is, apart from its reach, is the fact that it has a culture—because it is also responsible for the law offices and the judiciary, it has a different culture in its approach to civil liberties than your Homeland Security Department appears to do.

Mr. SHAYS. Thank you.

Do you want to say something, Dr. Lewis.

Dr. LEWIS. Sure. If you wanted that, you would have to really think about combining the functions that the Attorney General has at the Department of Justice with the Department of Homeland Se-

curity and at least—you know, just perhaps my British colleague sees the United States as more religious. I see the home office as more nationally controlling perhaps, and it has a degree of involvement in local matters that would prompt outrage here. I don't think we can do it. But DHS is a halfway step there.

You would have to think about what more would you want to take from the Attorney General or perhaps give back.

Mr. SHAYS. I am going to just ask all of you to make a closing comment on any issue you want.

On August 10th, I spoke with some folks at the Department of Homeland Security, and they were pretty happy about what had taken place. Someone in my family was very unhappy with the day; and I said, how are you doing? She said, this is a pretty difficult day. I said, why? She said, because of what has happened in Great Britain. I said, no, sweetie, that is a hugely wonderful day, and that is a success story.

Because we know all of these—well, we tend to realize that there are these threats, and isn't it good that we succeeded. And when I say "we," even our Department of Homeland Security, in my conversation with them, took some pride in their work.

What is interesting was when I was speaking to someone that knew Scotland Yard they said homeland security didn't really have been much to do with that. I said, OK, there is our people asking for—then when I met one of the advisers to your Prime Minister, he said absolutely homeland security was involved, and we were in close contact.

What I thought was encouraging about that was the people who needed to know knew in the United States and Great Britain, and other people didn't know that others even within their own departments knew because they didn't need to know. And I thought that was a good sign. There was this interaction where it needed to happen, and that was I think a very positive thing.

And, you know, I do think Americans are safer and Brits and others than they were before. It is just that people didn't realize how unsafe they were before. Unless, Baroness, your general view is that things have gotten worse because of how we have dealt with terrorists. At least that is kind of what I hear in terms of the fact that we are—I don't want to put words in your mouth—but the concern—it is not attributed to you, but some would feel that because we are, you know, confronting this Islamic threat in the way we are that we are heightening it rather than reducing it.

But my general view is that at least our departments and our Government entities are starting to have that kind of interaction that we hope they would have.

Ms. FALKNER. Yes, Mr. Chairman, I think you are absolutely right there. I think we are more, all of us, in Europe and the United States, particularly in Britain and the United States, are aware that we need to work together and that work is certainly happening.

Certainly in terms of dealing with the metropolitan police within my house there is some interaction, and they were good enough to brief me immediately after the August 10th events. We get the impression that there is considerable cross-border cooperation, and indeed it needs to be like that. We discovered that in the European

Union context in the 1990's and set up a third pillar in the EU for cross-border cooperation.

So, yes, I agree with you. I think we are safer because of that.

On the other hand, of course—and I won't dwell on that because I think my views are clear—we are somewhat less safe. But that is overall in the world. I think everyone is less safe. Our lives are less secure than they were in the past, than certainly we expected them to be in the early 1990's when the Berlin wall came down. The peace dividend hasn't proved to be what we thought it was.

Mr. SHAYS. I describe it this way. The cold war is over, and the world is a more dangerous place.

Mr. Rivkin, any closing comments?

Mr. RIVKIN. Yes, just one, to summarize. We are clearly better off. We clearly have moved a long way. I think there we can and should do better, and I think we can absorb some of the British experiences with due regard to differences in our system.

I am repeating myself when I say what is most important are not new bureaucratic organizations and not even new statutes but a serious dialog, not a caricature one, multiple dialogs certainly in this country about balancing liberty and public safety that allows the people to make the right choice.

I am a big believer in the wisdom of the American people. If a debate is raised properly and not a caricature, not finger pointing, I think they will come to the right answer on all sorts of issues ranging from privacy to profiling to procedures for interrogating detainees.

Mr. SHAYS. Thank you, very much.

Yes, Dr. Lewis.

Dr. LEWIS. Just quickly, I think we have covered a lot of ground in this hearing, and my view is there are useful things we can learn from the British. We can't necessarily duplicate them because of our Federal system, but they have some interesting precedents for how we might want to reshape our counterterrorism.

I think you have made the point that we need to think of not only defensive strategy which we can learn from the British on but also a longer-term strategy that wins the ideological battle. So I hope anything we come up with will combine both of those.

Mr. SHAYS. Thank you. I will let you go, Mr. Rollins, and let Mr. Parker have the last word.

Mr. ROLLINS. Mr. Chairman, once again, thank you for allowing me to be here. I think there are definite points of success to point to at the U.S. interagency Federal Government level and at the U.S. United Kingdom international level.

My question and concern is, would we have had the same level of success had the potential terrorist incident, planned-for attack occurred here in the United States and focused at a less secure sector other than the aviation sector? And my concern is both domestically and internationally we continue to rely on technological solutions rather than human-based outreach solutions.

As my written testimony offered as well, I think the notion of homeland security as we matured in the past 5 years as well needs to take a refined look on more involvement with the State and local communities, rather than a Federal-based approach.

Mr. SHAYS. Thank you, Mr. Rollins.

Mr. Parker.

Mr. PARKER. I think the big message that comes across from the British experience is that coordination pays dividends. But it comes with the proviso that it takes time to achieve, and the success that you saw or what appears to be a success, because we haven't had the court case yet, foiling the airplanes plot, is the combination of 15 years of developing a particular system, from the beginning of the 1990's. There aren't any quick fixes, and you have to invest in a way of pulling people together, and you have to spend an awful lot of time building on it. Last thing you really want to do is keep chopping and changing your approach.

So I find myself in the odd position of drifting toward "stay the course," actually, and, you know, build stronger links along the lines that you have at the moment. It is those relationships that is the investment in institutional and individual personal relationships that will ultimately pay real dividends.

Mr. SHAYS. I thank you all very, very much. And I say to you, Baroness, not only did we have two of your colleagues from the Parliament come one time and testify, we invited them to then sit on the panel with us and question other witnesses. But it is probably the last time I will do it because they were so witty, so intelligent, so much fun that they made us common Members of Congress feel very common; and the expectation from those who heard the hearing was, why can't we have more Brits join your committee?

So, at any rate, I was thinking, wouldn't it be interesting to get a group of members and allow us to come to Great Britain and participate in a hearing and invite some of you all to do the same and start to share these ideas. I think it would be kind of—very helpful. I have learned a lot today, and I do appreciate it. Thank you so very much.

With that, the hearing is adjourned.

[Whereupon, at 3:55 p.m., the subcommittee was adjourned.]