# COMBATING TERRORISM: THE 9/11 COMMISSION RECOMMENDATIONS AND THE NATIONAL STRATEGIES

## HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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# COMBATING TERRORISM: THE 9/11 COMMISSION RECOMMENDATIONS AND THE NATIONAL STRATEGIES

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**WEDNESDAY, SEPTEMBER 22, 2004**

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 10 a.m., in room 2247, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Kucinich, Turner, Duncan, Putnam, Lynch, Platts, Ruppersberger, Maloney, Tierney, Watson, and Sanchez.

Staff present: Lawrence Halloran, staff director and counsel; R. Nicholas Palarino, senior policy advisor; Robert A. Briggs, clerk; Richard Butcher and Andrew Su, minority professional staff members; and Jean Gosa, minority assistant clerk.

Mr. SHAYS. A quorum being present, the Subcommittee on National Security, Emerging Threats and International Relations hearing entitled, "Combating Terrorism: The 9/11 Commission Recommendations and the National Strategies," is called to order.

The final report of the National Commission on Terrorist Attacks Upon the United States, referred to as the 9/11 Commission, gave us the first comprehensive, objective analysis of what went so tragically wrong that day 3 years ago. A unanimous commission called for reflection and reevaluation, saying that the United States should consider what to do, the shape and objectives of the strategy. Americans should also consider how to do it, organizing their government in a different way.

Today, we respond to that call for a dialog in the national strategies and tactics required to meet and defeat the threat of radical Islamic terrorism. Prior to September 11, 2001, this subcommittee heard testimony based on the work of the three national commissions on terrorism: the Bremer, Gilmore and Hart Rudman, citing the need for a dynamic threat assessment, and the lack of any overarching counterterrorism strategy.

After September 11th, we were told the 2002 National Strategy for Homeland Security, the 2003 National Strategy to Combat Terrorism, and other high level policy statements addressed the need for a post-cold war security paradigm that replaced containment and mutually assured destruction with detection, prevention, and

at times, preemptive action to protect the national security of the United States.

The commissioners now ask us to consider whether these strategies adequately reflect the harsh realities and hard choices they confronted on our behalf. To a large extent, they do. Current policy and spending guidance mirror many commission recommendations on disruption of terror networks abroad and protection of Americans at home. But the September 11 panel seeks greater strategic clarity in characterizing the threat. Terrorism is a tactic, not an enemy. A war against terror targets an incorporeal emotion.

The commission argues for a strategy based on a realistic assessment of the threat posed by radicals perverting religion, Islamic whose motivations, goals and capabilities can be estimated, analyzed and countered. Additionally the commission looks for a far sharper focus on public diplomacy to supplant the toxic ideology of hatred and death that seeks both global and generation reach. They believe under-utilization of the so-called soft powers of communication and persuasion leave us without an effective long term strategy to address the root causes of Islamic terrorists.

The strategy articulates a goal, a desired end state, a long term objective achieved by artful orchestration of the means and ends of national power. But in the modern context, against a foe insidiously detached from the civilized norms of statecraft, strategy must be as much process as product, more verb than noun. The key to modern security is dynamic strategic thinking, not a static strategic balance. The 9/11 Commission recommendations challenge us to strive for that new level of strategic vigilance.

We are very grateful for the commission's work, profoundly grateful, and for the contribution of the two commission members testifying today. We look forward to their testimony and that of all our witnesses.

At this time, the Chair would recognized the distinguished gentleman from Ohio, Mr. Kucinich.

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

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# Statement of Rep. Christopher Shays
## September 22, 2004

The *Final Report of the National Commission on Terrorist Attacks Upon the United States* ("the 9/11 Commission") gave us the first comprehensive, objective analysis of what went so tragically wrong that day three years ago. A unanimous Commission called for reflection and reevaluation, saying, "The United States should consider *what to do* - the shape and objectives of a strategy. Americans should also consider *how to do it* - organizing their government in a different way."

Today, we respond to that call for a dialogue on the national strategies and tactics required to meet, and defeat, the threat of radical Islamist terrorism.

Prior to September 11th 2001, this Subcommittee heard testimony based on the work of the three national commissions on terrorism – Bremer, Gilmore and Hart-Rudman – citing the need for a dynamic threat assessment and the lack of any overarching counterterrorism strategy. Later, we were told the 2002 *National Strategy for Homeland Security*, the 2003 *National Strategy to Combat Terrorism* and other high-level policy statements addressed the need for a post-Cold War security paradigm that replaced containment and mutually assured destruction with detection, prevention and, at times, preemptive action to protect the national security of the United States.

The Commissioners now ask us to consider whether those strategies adequately reflect the harsh realities and hard choices they confronted on our behalf.

To a large extent, they do. Current policies and spending guidance mirror many Commission recommendations on disruption of terror networks abroad and protection of Americans at home.

But the 9/11 panel seeks greater strategic clarity in characterizing the threat. "Terrorism" is a tactic, not an enemy. A "war against terror" targets an incorporeal emotion. The Commission argues for a strategy based on a realistic assessment of the threat posed by radicals perverting religion, Islamists, whose motivations, goals and capabilities can be estimated, analyzed and countered.

And the Commission looks for a far sharper strategic focus on public diplomacy to supplant the toxic ideology of hatred and death that seeks both global and generational reach. They believe underutilization of the so-called "soft powers" of communication and persuasion leaves us without an effective long-term strategy to address the root causes of Islamist terrorism.

Strategy articulates a goal, a desired end state, a long-term objective achieved by artful orchestration of the means and ends of national power. But in the modern context, against a foe insidiously detached from the civilizing norms of statecraft, strategy must be as much process as product, more verb than noun. The key to modern security is dynamic strategic thinking, not a static strategic balance. The 9/11 Commission recommendations challenge us to strive for that new level of strategic vigilance.

We are grateful for the Commission's work, and for the contribution of the two Commission members testifying today. We look forward to their testimony, and that of all our witnesses.

Mr. KUCINICH. Thank you very much, Mr. Chairman. I want to welcome Senator Gorton and also Richard Ben-Veniste and thank them for their work and for their commitment to our country.

I want to thank the Chair for calling this hearing and say that it's always a welcome opportunity for Congress to hear from members of the 9/11 Commission and to discuss how to implement the recommendations they put forth in their report. To this point, the focus of Congress has been on reforming our intelligence community so that the multiple intelligence agencies are finally held responsible for their work.

I'm pleased that this aspect of the commission's work is being addressed so quickly. The culture of secrecy is far too great in Washington, and if we are to defeat terrorism, then we must learn to share with and trust one another. We simply cannot allow our security to be weakened by internal disputes and turf battles.

As you know, I have grave concerns about the direction of our foreign policy, especially the military decisions made by the current administration. Yet I do fully agree with the documents we are to discuss today in one important area, that the civil liberties of all people should be respected. The national strategy on homeland security states that, "to secure the homeland better, we must link the vast amounts of knowledge residing within each Government agency while ensuring adequate privacy." It goes on to state, "We are a Nation built on the rule of law and we will utilize our laws to win the war on terrorism while always protecting our civil liberties."

The other document we are to discuss today, the National Strategy to Combat Terrorism, concludes by stating in the very last paragraph, "The defeat of terrorism is a worthy and necessary goal in its own right, for ridding the world of terrorism is essential to a broader purpose. We strive to build an international order where more countries and peoples are integrated into a world consistent with the interests and values we share with our partners, values such as human dignity, rule of law, respect for individual liberties, open and free economies and religious tolerance. We understand that a world in which these values are embraced as standards, not exceptions, will be the best antidote to the spread of terrorism. This is the world we must build today."

The 9/11 Commission's report also clearly states on page 349 that the President should "safeguard the privacy of individuals about whom information is shared." On the next page of the report, the commission recommends that there be a board to oversee the commitment the Government makes to defend our civil liberties. That is one part of the commission's report which has not garnered much attention, but which should. Yet unlike the overall of U.S. intelligence which may be enacted by legislation in the near future, I've seen very real little action within the current administration to implement the recommendation in the commission's report.

Instead, I see far too many attempts to curtail our civil liberties at our libraries, our airports, even when we exercise our right to demonstrate. I see, and for that matter terrorists see, the mistreatment of prisoners at Abu Ghraib prison and at Guantanamo Bay. Mr. Chairman,

I would like to submit for the record a lead editorial from Monday's New York Times entitled "In Defense of Civil Liberties." This editorial urges a stronger, more independent, more accountable civil liberties board than that of the President's, and which would truly accomplish what the 9/11 Commission envisioned.

Mr. SHAYS. Without objection.

[The information referred to follows:]

The New York Times

## In Defense of Civil Liberties; [Editorial]

New York Times. (Late Edition (East Coast)). New York, N.Y.: Sep 20, 2004. pg. A.24

The debate over intelligence reform, as important as it is, has been obscuring a vital discussion about another recommendation by the bipartisan commission on the 9/11 attacks. The panel's report noted that no one in the government has the job of safeguarding civil liberties as the government seeks expanded powers to combat terrorism. It proposed assigning that critical task to a special board.

President Bush has already staked out his position by creating, by executive decree, a caricature of the 9/11 commission's proposed board. The Senate is considering a much better, bipartisan measure. The issue needs serious debate before the election.

It ought to have been a shock to hear the commission suggest that we need a new agency to do what the courts, Congress and the attorney general are supposed to do, in theory at least. But the Justice Department has been steadily abandoning its responsibility to protect civil liberties, which now hardly seems to be in Attorney General John Ashcroft's job description at all. A polarized Congress, wary of being portrayed as soft on terrorism, is not an adequate defense for our constitutional rights.

This has become an even more pressing problem since Sept. 11, 2001, when Americans realized that they would have to tolerate tighter security in public places, and federal law enforcement agencies required some expanded powers to effectively root out and destroy terrorist plots. So, pragmatically, it's hard to simply dismiss the idea of Congress creating a special agency to focus on civil liberties -- especially given this administration's record on the issue.

Mr. Bush has tried to sweep aside the Constitution by declaring selected American citizens to be unlawful combatants and jailing them indefinitely; Mr. Ashcroft's Justice Department produced the appalling memo justifying the torture of prisoners. It was also responsible for, among other things, jailing a lawyer from Portland, Ore., on charges of international terrorism based on a misreading of his fingerprints and, apparently, on his religious beliefs. The administration set up a detention camp in Guantanamo Bay where minimal standards of justice have been suspended or eliminated altogether.

But we don't want to trade a situation in which no one gives priority to safeguarding our civil liberties for one in which a Potemkin review board gives reflexive approval to government actions that unreasonably encroach on constitutional liberties. That is the danger with Mr. Bush's approach. His board has no authority to speak of. It cannot initiate investigations but has to wait for a cabinet official to request a review of his or her own actions. Most glaring, its members are currently serving presidential appointees who often run the operations that the board is most likely to review -- including, incredibly, the Central Intelligence Agency, which has no legal domestic law enforcement function but does have a strong interest in smoothing the way for its intelligence gathering. The board -- which has already had its first meeting, behind closed doors -- has no subpoena power, no mission to conduct regular reviews of laws and no mandate to hold public hearings or issue public reports.

A bipartisan bill submitted by Senators John McCain and Joseph Lieberman, by contrast, would create a panel of five people from outside the government, appointed by the president and subject to Senate approval. That's a much better approach, but the partisan balance should be even, as is now required on some regulatory agencies. The McCain-Lieberman board would be empowered to start its own investigations, require federal officials to testify and provide documents, and issue subpoenas. It would review proposed legislation, regulations and policies, as well as their implementation; receive regular reports from government agencies; and report twice yearly to Congress and the president. The bill also requires public hearings and reports.

The panel would advise Congress on whether "to retain or enhance a particular governmental power," like provisions of the Patriot Act, judging whether those powers had actually improved national security and were adequately supervised. Mr. McCain and Mr. Lieberman were too timid here. The review should include the degree to which civil liberties are in fact being breached and whether such breaches are really essential to protect national security and public safety. The law also should include the 9/11 commission's notion that the burden of proof is on the government.

Congress cannot order Mr. Bush to disband his new board. Nor can it responsibly shirk its own duties of oversight. But it can respond to Mr. Bush's pre-emptive move by creating a board with independent members and real authority. We hope that the public pressure would then be great enough for Mr. Bush to reverse field yet again on the 9/11 report and let the members of his review board go back to their day jobs.

Mr. KUCINICH. Thank you, Mr. Chairman. One of the things about this editorial, which I hope every Member gets an opportunity to look at, is a quote that every Member should take note of. It says "A polarized Congress, wary of being portrayed as soft on terrorism, is not adequate defense for our constitutional rights."

On one hand, I would have to take exception to that as a Member of Congress, but on the other hand, we need to be aware that these debates sometimes can cause us to throw overboard the very liberties which we swear to uphold. And I think that the 9/11 Commission's report says, and this is worthy of considering as I conclude, "The choice between security and liberty is a false choice, as nothing is more likely to endanger America's liberties than the success of a terrorist attack at home. Our history has shown us that insecurity threatens liberty. Yet if our liberties are curtailed, we lose the values we are struggling to defend."

Thank you, Mr. Chairman. I look forward to hearing the testimony of the witnesses.

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

Statement of Rep. Dennis J. Kucinich
Ranking Minority Member
House Subcommittee on National Security, Emerging Threats, and International Relations

Hearing on "Combating Terrorism: The 9/11 Commission Recommendations and the National Strategies"

September 22, 2004

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Good morning. Thank you to the Chairman for calling this hearing, and thank you to our witnesses for appearing before the committee today. It is always a welcome opportunity for Congress to hear from the members of the 9/11 Commission, and to discuss how to implement the recommendations they put forth in their report.

To this point, the focus of Congress has been on reforming our intelligence community, so that the multiple intelligence agencies are finally held responsible for their work. I am pleased that this aspect of the Commission's work is being addressed so quickly. The culture of secrecy is far too great in this town, and if we are to defeat terrorism, then we must learn to share with and

trust one another. Our enemies are already too many, and gaining strength and support. We simply cannot allow our security to be weakened by internal disputes and turf battles.

As you know, I have grave concerns about the direction of our foreign policy, especially the military decisions made by the current Administration.

Yet, I do fully agree with the documents we are to discuss today in one important area – that the civil liberties of all people should be respected.

The National Strategy on Homeland Security states that,

> "To secure the homeland better, we must link the vast amounts of knowledge residing within each government agency while ensuring adequate privacy."

It goes on to state,

> "We are a Nation built on the rule of law, and we will utilize our laws to win the war on terrorism wile always protecting our civil liberties."

The other document we are to discuss today, the National Strategy to Combat Terrorism ***concludes*** by stating in the very last paragraph,

> "The defeat of terror is a worthy and necessary goal in its own right. But ridding the world of terrorism is essential to a broader purpose. We strive to build an international order where more countries and peoples are integrated into a world consistent with the interests and values we share with our partners – values such as human dignity, rule of law, respect for individual liberties, open and free economies, and religious intolerance. We understand that a world in which these values are embraced as standards, not exceptions, will be the best antidote to the spread of terrorism. This is the world we must build today."

The 9/11 Commission's report also clearly says, on page 394, that the President should "safeguard the privacy of individuals about whom information is shared." On the next page of the

report, the Commission recommends that there be a board to oversee the commitment the government makes to defend our civil liberties.

That is one part of the Commission's report which has not garnered much attention, but which should. Yet, unlike the overhaul of U.S. intelligence, which will be enacted by legislation in the near future, I have seen little real action within the current Administration to implement this recommendation.

Instead, I see far too many attempts to curtail our civil liberties – at our libraries, at our airports, even when we exercise our right to demonstrate. I see, and the terrorists see, the mistreatment of prisoners at Abu Ghraib prison and at Guantanamo Bay.

Mr. Chairman, I would like to submit the lead editorial from Monday's New York Times titled "In Defense of Civil Liberties," which urges a stronger, more independent, and more accountable

civil liberties board than that of the President's, and which would truly accomplish that which the 9/11 Commission envisioned.

So as we discuss the various national security strategies today, and compare and analyze them, let us remember who and what we are fighting for. Terrorists seek to destroy our way of life, our basic freedoms, and the democratic values that we uphold. We cannot discuss security without also discussing liberty.

I believe the 9/11 Commission's report states this best, so let me conclude my remarks by quoting the report on this point. The report says,

> "The choice between security and liberty is a false choice, as nothing is more likely to endanger America's liberties than the success of a terrorist attack at home. Our history has shows us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend."

Thank you Mr. Chairman, I look forward to hearing the testimony of the witnesses today.

Mr. SHAYS. I thank the gentleman. I don't know if the vice chairman of the subcommittee has a statement. We have Mr. Duncan as well. Do you have a statement you'd like to make?

Mr. DUNCAN. Mr. Chairman, I don't have a formal statement. I just want to commend you for how active you are in leading this subcommittee. I think you're one of the most thoughtful and hard working chairmen of any subcommittee that we have in this Congress and calling this hearing this morning is just an example of that. I want to say how impressed I was with the work of the 9/11 Commission. I was very impressed with the bipartisan nature about which, the way in which they went about their duties.

I think one of the problems that we sometimes face is that, nobody who is a real critic of the intelligence agencies ever gets on the intelligence committees. So no real tough question are ever really asked until after there is a serious problem. And I have never asked to sit on an intelligence committee, and I don't want to, I prefer to serve on other committees. But that's something that I think we need to consider in the future.

But thank you very much for this hearing this morning.

Mr. SHAYS. I thank the gentleman for his nice comments, and also to call on the former vice chairman of this subcommittee, Mr. Putnam.

Mr. PUTNAM. Thank you, Mr. Chairman. I will submit my statement for the record, but I do want to echo Mr. Duncan's comments that I was honored to serve as your vice chairman when you took testimony from the Gilmore Commission, from the Hart Rudman Commission and from the Bremer Commission before Bremer was a household name. And all of those things took place before September 11, and those commission reports by and large gathered dust until September 12, 2001.

It's good to see that this thoughtful commission report is attracting the attention that it deserves and I hope that we will be very thoughtful and deliberative in taking up their hard thought recommendations. Mr. Chairman, in the interest of time, I'll submit the remainder of my statement for the record.

[The prepared statement of Hon. Adam H. Putnam follows:]

**Statement**
**Rep. Adam H. Putnam**

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

Committee Hearing:
**"Combating Terrorism: The 9/11 Commission**
**Recommendations and the National Strategies"**
*Wednesday, September 22, 2004*

Mr. Chairman, I am pleased that we have convened today in order to examine the 9/11 Commission recommendations as they relate to the goals, objectives and initiatives of the 2002 National Strategy for Homeland Security and the 2003 National Strategy to Combat Terrorism. Thank you, members of the 9/11 Commission, for appearing today to discuss the challenges facing the United States in our Global War on Terrorism. I want to commend you on your work and the work of all those at the 9/11 Commission that is so crucial in protecting American citizens from future acts of terrorism.

The 9/11 Commission has taken an in depth look at Homeland Security, specifically the Intelligence Community. This painstaking work of intelligence gathering and the indispensable role that intelligence plays in our strategic effort to win the war on terrorism unfortunately is still lacking from the general American awareness.

Mr. Chairman, as we convene here today to discuss the 9/11 Commission recommendations and national strategies, there is not a person in this room who is not aware of the importance of reorganizing our government to meet the threats we face today. We are on the eve of the crucial decision on which direction the future of our intelligence will take into the future in the fight against terrorism. I urge all of us to keep in mind that the path we choose in regards to this reorganization will have lasting effects for many years to come.

Proposals for the reorganization of the intelligence community have emerged from several commissions and committees following passage of the National Security Act of 1947. Recommendations have ranged from adjustments in intelligence budgetary responsibilities to the actual dissolution of the CIA and returning its functions to other departments. The goals underlying such proposals have reflected trends in American foreign policy and the international environment as well as domestic concerns about governmental accountability. I cannot stress enough the importance of examining the reorganization of the intelligence community based on meaningful terms, not merely in a reactionary role to the tragedy of the September 2001 attacks on the World Trade Center and the Pentagon.

Finally, Mr. Chairman, I look forward to hearing the testimony of the members of the 9/11 Commission, and I am sure they will provide all of us with a clearer picture of the 9/11 Commission's recommendations and the basis behind those recommendations they feel are necessary to help prevent future attacks upon our great Nation.

Mr. SHAYS. I thank the gentleman.

I just want to say to our two witnesses before I call on them, just to thank them for the work that they did on the 9/11 Commission, but thank them for choosing excellent staff. The staff has been extraordinary. They have written really, I almost think, a sacred report. That's kind of how I feel about it. I want to also say that the bottom line to this hearing for me is, this is one of the most interesting hearings I think we can have. Because if we don't get the strategy right, everything after that is almost useless.

So at this time, let me recognize the Honorable Slade Gorton, member, National Commission on Terrorist Attacks Upon the United States; and Mr. Richard Ben-Veniste, member, National Commission on Terrorist Attacks Upon the United States. As you know, we swear in our witnesses. At this time, I would ask you to rise and swear you in. This is an investigative committee, and all our witnesses have been sworn in except only one, and that was Senator Byrd, because I chickened out. [Laughter.]

[Witnesses sworn.]

Mr. SHAYS. Thank you.

I ask unanimous consent that all members of the subcommittee be permitted to place an opening statement into the record, and that the record remain open for 3 days for that purpose. Without objection, so ordered.

I ask further unanimous consent that all witnesses be permitted to include their written statements in the record. Without objection, so ordered.

At this time, I don't want to choose between a Republican and a Democrat, not with this commission, Senator, you have the floor.

## STATEMENTS OF SLADE GORTON, MEMBER, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES; AND RICHARD BEN-VENISTE, MEMBER, NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Senator GORTON. Chairman Shays, Ranking Member Kucinich, distinguished members of the subcommittee. The Commission is honored to appear here today. We're gratified by your deep and continuing interest in the Commission's work. We appreciate the opportunity to discuss with you again some of the commission's recommendations, particularly some which have not received as much attention as those involving reform of the structures of the executive branch.

The commission's findings and recommendations were strongly endorsed by all commissioners, five Republicans and five Democrats. We share a unity of purpose. We hope that the Congress and the administration will display the same spirit of bipartisanship as we collectively seek to make our country and all Americans safer and more secure.

We begin by reviewing briefly the road we have traveled since July 22nd, the day the commission presented its report. We believe we have made important progress. We're pleased with the overall direction of the debate. From the outset, we have had statements of support from the President and from Senator Kerry. We thank the Congress for the opportunity to explain our work to the Con-

gress and to the American people. Members of the Commission have testified at 18 hearings since July 22nd. We're gratified by the work of Senators McCain, Collins and Lieberman in support of our recommendation.

Chairman Shays, we thank you and Representative Maloney for introducing a bill in the House that speaks to all of the commission's recommendations. We believe, as you do, that we cannot prevail in the struggle against Islamist terrorism unless we adopt a comprehensive approach. We welcome the endorsement of the President and of the House leadership of the idea of a National Intelligence Director and a National Counterterrorism Center. We want to work closely with both the administration and the Congress in the refinement of our proposals, and work for the adoption of as many of our recommendations as we can achieve between now and the adjournment of this Congress.

Mr. Chairman, in response to your letter of invitation, we start with a few comments about the National Strategy for Combating Terrorism and the Homeland Security Strategy put forward by the President. We find them in general terms to be helpful documents.

We make two points about the National Strategy for Combating Terrorism. First, the President's strategy places a heavy emphasis on destroying the terrorist threat. So do we. In our very first recommendation, we state that it must be the policy of the United States to deny terrorists the ability to establish sanctuaries. To deny, disrupt and destroy such sanctuaries, we want to work with friends and allies, if possible, and alone if necessary. We believe strongly that Bin Ladin and his lieutenants must be captured or killed and that the al-Qaeda organization must be destroyed.

Second, the President's strategy speaks of many forms of terrorism. But we concentrate on just one—Islamist terrorism. Moreover, we identify Islamist terrorism as the leading national security threat to the United States.

We believe we cannot succeed against terrorism by Islamist extremist groups unless we use all of the elements of national power: military power, intelligence, covert action, law enforcement, economy policy, foreign aid, homeland defense and diplomacy, both quiet diplomacy and public diplomacy. If we favor one tool while neglecting others, we leave ourselves vulnerable and weaken our national effort. This is not just our view, it is the view of almost all policymakers.

Secretary Rumsfeld told us that he can't get the job done with the military alone. For every terrorist we kill or capture, more rise up to take their place. He told us the cost-benefit ratio is against us. Cofer Black told us the CIA alone can't get the job done either.

For this reason, the Commission made a whole host of recommendations in addition to a recommendation on the use of force. We are engaged in a struggle against a set of ideas with considerable resonance in the Arab and Muslim worlds. There are tens, if not hundreds of millions, of Bin Ladin sympathizers in the Arab and Muslim world. While they may reject violence, they may also be sympathetic to many elements of Bin Ladin's message.

We must find a way to reach this great majority of Muslims, from Morocco to Malaysia. Right now, we are not doing a very good job. Polls taken in the past year show that the bottom has fallen

out of support for America in most of the Muslim world. Negative views of the United States among Muslims, which had been largely limited to countries in the Middle East, have spread. If we do not change this dynamic, young Muslims who expect no improvement in their own lives or societies may well become the wellspring of support for Bin Ladin.

The President's strategy touches on these themes concerning the war of ideas. We believe they need to be given greater emphasis. We cannot defeat Islamist terrorism if we cannot persuade young Arabs and Muslims that there is a better course. We must project a message of hope, a message of support for educational and economic opportunity for them, their children and grandchildren.

The President's Homeland Security Strategy dates from July 2002. Since that date, the Department of Homeland Security has been created and many other steps have been taken. We would concentrate on just two observations about the strategy. They relate in both cases to implementing that strategy.

First, homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Assessment of critical infrastructure vulnerabilities must be completed by the Department of Homeland Security and risk must then be factored in. Now, in 2004, Washington, DC, and New York City are certainly at the top of any such list. We must understand the contention that every State and city needs to have some minimal structure for infrastructure response. But Federal homeland security assistance should not remain a program of general revenue sharing.

Second, the American people understand that in a free society we cannot protect everything, everywhere, all the time. But they do expect their Government to make rational decisions about how to allocate limited resources. Since September 11, we have put 90 percent of our transportation dollars against the threat to aviation security, even as we know that there are threats to maritime, rail and surface transportation.

Despite congressional deadlines, the Transportation Security Administration has developed neither an integrated strategic plan for the transportation sector nor specific plans for the various modes. Without such plans, neither the public nor Congress can be assured we are identifying the highest priority dangers and allocating resources to the most effective security measures. DHS Under Secretary Hutchinson has testified that such plans will be completed by the end of the year. We believe it important that the Congress hold DHS to that commitment.

In making decisions about how to allocate limited resources to defend our vast transportation network, we believe strongly that TSA must use risk management techniques. This requires that the Government evaluate the greatest dangers, not only in terms of terrorist intentions as we understand them, but also taking into consideration the vulnerabilities of the Nation's infrastructure and the consequences of potential attacks.

Mr. Chairman, I'm Richard Ben-Veniste. I want to thank you and your colleagues for the very kind and generous remarks you made about the commission's work, and particularly, with respect to your recognition of the work performed by our incredible staff.

Mr. Chairman, I would like to highlight an important part of our recommendations on the topic of civil liberties. We can report to you that from the very beginning of the commission's work, each commissioner was conscious of the need to make sure that in our struggle against terrorism we do not compromise the very rights and liberties that make our system of government and our society worth defending.

Concern about the civil liberties of American citizens was one of a number of reasons that the commission rejected the idea of moving domestic intelligence and counterintelligence responsibilities of that agency and putting them in a new MI–5 type of agency. We feared that such a new agency, not steeped in the respect for the rule of law and the constitution that reflects the commitment of career professionals at the FBI and the Justice Department would be more likely to trample on individual rights.

The commission made three major recommendations with respect to civil liberties. First, the commission dealt with the critical and complicated privacy issues that are at the heart of the information society, and they are at the center of necessary efforts to increase the amount of information gathered about terrorists. The commission recommends improvements and enhancements in those information gathering abilities and in information sharing. But we also recognize that with the enhanced flow of information comes a need to establish guidelines and oversight, to make sure that the privacy of our citizens and residents is respected and preserved.

We believe, as did the Markle Task Force in its excellent reports, that we have the ability to gather and share information and protect privacy at the same time. But this requires leadership and coordination in the Executive branch. No one agency can deal with this problem alone. Instead, we recommend that the President lead a Government-side effort through OMB and the National Intelligence Director to set common standards for information use throughout the intelligence community. These standards would govern the acquisition, accessing, sharing and use of private data so as to protect individual rights. The same technology that facilitates the gathering and sharing of information can also protect us from the mis-use of that information.

Second, the commission made observations on the provisions of the Patriot Act relating to information sharing. The commission commented on the wall created through judicial rulings and Executive department regulations beginning in the 1890's that had severely constrained the flow of information acquired through surveillance and under the Foreign Intelligence Surveillance ACT, FISA, from the intelligence side of the FBI to the criminal side of that agency and to Federal prosecutors.

We believe the provision of the Patriot Act that eliminated the wall on balance is beneficial. Witnesses were virtually unanimous in telling us that the provision was extremely helpful to law enforcement and intelligence investigations with little if any adverse impact on the rights of potential defendants.

However, we did propose a general test to be applied to the consideration of the renewal of other provisions of the Patriot Act. We believe that principle should also be applied to other legislative and regulatory proposals that are designed to strengthen our security,

but which may impinge on individual rights. The test is simple, but an important one. The burden of proof should be on the proponents of the measure to establish that the power or authority being sought would in fact materially enhance national security and that there will be adequate supervision of the exercise of that power or authority to ensure the protection of civil liberties. If additional powers are granted, there must be adequate guidelines and oversight to properly confine their use.

The third recommendation of the commission on civil liberties flows from the first two. Individual liberties and rights must be protected in the administration of the significant powers that Congress has granted to the Executive branch agencies to protect national security. A central board should have the responsibility to oversee adherence to guidelines that are built into these programs to safeguard those rights and liberties.

We welcome the President's Executive order of August 27th creating a civil liberties board as a positive first step in the direction and recognition of the commission's recommendations. We note, however, that such a board will be strengthened significantly if it is created by statute. In addition, it will be strengthened if certain important refinements in its composition and powers are made.

We do not believe the board should be comprised of administrative officials drawn from the very agencies the board was created to oversee. Instead, we envisioned a bipartisan board with members appointed directly by the President, with the aim of including outstanding individuals from outside Government who can provide a more disinterested perspective on this vital balance. Though the commission did take an explicit position on this issue, we believe those members of the board should be Senate-confirmed.

Such a board will also need explicit authority to obtain access to relevant information, including classified information. Such a board should also have broad authority to look across the Government at the actions we are taking to ensure that liberty concerns are appropriately addressed. Last, and importantly, such a board should be transparent, making regular reports to Congress and the American public.

Mr. Chairman, such a board of the kind we recommend can be found in the Collins-Lieberman bill in the Senate, and in the Shays-Maloney bill introduced in the House. We believe we need a reorganization of Government that will more effectively and efficiently protect us against terrorism. More specifically, we recommend a strong National Intelligence Director and stronger, more intrusive measures for border security and transportation security. But if Government is stronger, so must be the protection for individuals against Government action.

Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.

Finally, we want to point out that our recommendations made to streamline and make more effective the critical role of congressional oversight have received little attention. This is perhaps the area that has also received the least public debate. Yet unless greater authorities provided to the Executive branch are matched by effective oversight by the Congress, the critical balance con-

templated by our constitutional system will fall short of our society's justifiable expectations.

Mr. Chairman, we would be pleased to answer any questions you might have.

[The prepared statement of Senator Gorton and Mr. Ben-Veniste follows:]

**Prepared Statement of**
**Richard Ben-Veniste and Slade Gorton**
**National Commission on Terrorist Attacks Upon the United States**
**before the Subcommittee on National Security,**
**Emerging Threats and International Relations**
**Committee on Government Reform**
**House of Representatives**
**September 22, 2004**

Chairman Shays, Ranking Member Kucinich, distinguished members of the Subcommittee. The Commission is honored to appear before you today. We are gratified by your deep and continuing interest in the Commission's work. We appreciate the opportunity to discuss with you again some of the Commission's recommendations, especially some which have not received as much attention as those involving reform of the structures of the Executive branch.

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

**Reviewing the past several weeks**

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

-- We believe we have made important progress. We are pleased with the overall direction of the debate. From the outset, we have had statements of support from the President, and from Senator Kerry.

-- Members of the Commission have testified at 18 hearings since July 22nd.

-- We thank the Congress for the opportunity to explain our work to the Congress and to the American people.

– We are gratified by the work of Senators McCain, Collins and Lieberman in support of our recommendations.

-- Chairman Shays, we thank you and Representative Maloney for introducing a bill in the House that speaks to *all* of the Commission's recommendations. We believe, as you do, that we cannot prevail in the struggle against Islamist terrorism unless we adopt a comprehensive approach.

-- We welcome the endorsement by the President and by the House leadership of the idea of a National Intelligence Director and a National Counterterrorism Center.

-- We want to work closely with both the Administration and the Congress in the refinement of our proposals, and work for the adoption of as many of our recommendations as we can achieve between now and the adjournment of the Congress.

**The President's National Strategy for Combating Terrorism**

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We make two points about the National Strategy for Combating Terrorism.

First, the President's strategy places a heavy emphasis on destroying the terrorist threat. So do we.

In our very first recommendation, we state that it must be the policy of the United States to deny terrorists the ability to establish sanctuaries. To deny, disrupt and destroy such sanctuaries, we want to work with friends and allies, if possible, and alone, if necessary. We believe strongly that Bin Ladin and his lieutenants must be captured or killed, and the al-Qaeda organization must be destroyed.

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they may reject violence, they may also be sympathetic to many elements of Bin Ladin's message.

We need to find a way to reach this great majority of Muslims, from Morocco to Malaysia. Right now, we are not doing a very good job. Polls taken in the past year show that "the bottom has fallen out of support for America in most of the Muslim world. Negative views of the United States among Muslims, which had been largely limited to countries in the Middle East, have spread. "

If we do not change this dynamic, young Muslims who expect no improvement in their own lives or societies may well become the well-spring of support for Bin Ladin.

The President's strategy touches on these themes, concerning the "war of ideas." We believe they need to be given considerably greater emphasis.

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**Civil Liberties**

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**Congressional Oversight**

Finally, we want to point to our recommendation to streamline and make more effective the critical role of Congressional oversight.

This is perhaps the area that has received the least public debate, yet unless the greater authorities provided to the Executive Branch are matched by effective oversight by the Congress, the critical balance contemplated by our constitutional system will fall short of the public's justifiable expectations.

Mr. Chairman, we would be pleased to respond to your questions.

Mr. SHAYS. I thank you both very much for your comments.

I'm not going to be asking the first questions. I will go to Mr. Turner. But I do want to say this to you. The issue of how the House is organized is probably not going to be settled until January of next year, either with a Democratic Congress or a Republican Congress. But I am going to vote against any rule, be it a Republican or Democratic Congress, that doesn't incorporate the recommendations of the Commission. Now, there may be some slight variations as to how that happens, I mean, there might be two committees that deal with issues of homeland security, because you take FEMA, it sometimes is involved in the threat of the terrorists, but it also can be a natural disaster, and there may be slight variations.

But I just want to go on record, I will vote against any rule put forward by either party that doesn't incorporate the recommendations of the Commission. It's absolutely vital. We're talking about reorganizing Government and the administration, we'd better do the same for Congress.

At this time the Chair would recognize, I think what we're going to do is a 5-minute round. I'll be generous with the 5-minute round, and then we'll come back a second time, because we have so many members. I want either member to feel like they can respond to a question that the other is asked. If that happens, I'll just go a little beyond the 5 minutes to the member. Either of our witnesses can answer the question. Thank you.

Mr. TURNER. Thank you, Mr. Chairman. I want to thank both the commissioners for being here today and for the excellent work of the 9/11 Commission. Certainly the 9/11 Commission's work has been very important for our country. You've delivered a non-partisan report that has a great to-do list that I think will make our country safer.

I also appreciate your time in coming to these hearings and participating. This is the sixth 9/11 Commission recommendation hearing that I've participated, three that our chairman has led in his efforts to continue to make certain that this committee is focused on relevant issues as to how to make America safe in the war on terror.

One of the aspects of the report and the recommendations that I have an interest in is the issue, Senator, that you were talking about, in that beyond intelligence, beyond the issue of military might, but our efforts in winning the war on ideas. Many times the war on terrorism is compared to the war on communism and the cold war. There we had an ideology that claimed to be bringing increased freedom and prosperity to its people. But it fell with the weight of the reality of what democracy was achieving in the world while it was not.

Here, with your report having identified, and I think it's very helpful that your report took the strong stance of identifying Islamic extremism as really the issue and the tough target that we're struggling with, we have ideas that are tied with a religious basis that talks not only about the reality of today but also a reward in the afterlife, and a devaluing of not only the lives of others but even of an individual's own life. I think that makes it much more difficult for us in the war of ideas, communism not having been a

religion, of the reality of its performance and the performance of democracy and capitalism could be felt and compared.

The report talks about the importance of hope and education and economics. Certainly we know that specifically with the September 11 terrorists, they were not economically disadvantaged. But certainly in the war on terror, as we try to battle these ideas, our typical model battling those ideas is to work out with exchanges of information and ideas and to work through processes of education of economics.

I would just like your thoughts as to, who do you think our partners are going to be as we reach out and attempt to do this, how do you see the process working? Focusing on the issue of the war of ideas, I'd like your thoughts, as you went through this process and put this report together, that would be helpful to us.

Mr. SHAYS. Before you respond, let me just say, given that I think this kind of dialog is important, it's going to take more than 5 minutes, we're now going to do 10 minute rounds. I've consulted with Mr. Kucinich, so we'll do a 5-minute clock and then we'll trip it over for another 5 minutes.

Senator GORTON. Mr. Turner, in a very real sense, you incorporated our answer in the question itself, the kind of challenges we face, the parallels and the lack of parallels between these challenges in the war of ideas to that during the course of the cold war. I think you've pointed out quite rightly that in many respects this is a more difficult challenge. Because in large measure, it is a philosophy that is religiously motivated. And particularly among the Bin Ladin organization and its offshoots themselves, there is no distinguishing feature between politics and religion. They end up being exactly the same thing. Obviously we aren't going to attempt to teach religion in any kind of war of ideas.

I think that what we have to do is to encourage those Muslim societies that have been relatively successful. We can see a high degree of success in Turkey, for example, after some 80 years, and a philosophy that at least until recently, and to a certain extent at the present time, separates church and state in a way very much analogous to the situation we have here.

But we see other societies there that have to a certain extent been successful literally from Morocco to Malaysia, and the two countries that we mentioned here, we see progress, as slow as it may be, even in some of the Arab countries, in the Kuwait that we liberated. We point out that one of the real problems in those societies, one of the real reasons for this long, centuries-long decline vis-a-vis the West, is their treatment of women. It is very important for their own progress that women be liberated and be allowed to live up to the maximum of their potential. That's taken place to a greater or lesser extent in some of those countries.

But I think the best thing we can do is to try to share those elements in our society that, outside of religion, have been successful. I think we need to encourage students to come here to the United States, to provide some support for those students to see what the United States is like. That isn't always successful. Khalid Sheik Mohammad, the leader, is a graduate of a college here in the United States. But I think overall we can say that helps.

But just as we have the Voice of America and the Voice of Free Europe, we've got to be willing to engage in that battle of ideas on the ground with people who have television sets, with people who have radios and the like, and to present in their own languages the kind of hope that freedom, both for individuals and in the economy and in elections, how that has made lives better here and can make life better there. There is no one magic formula, there is no one key to overall success. I think if I were to summarize it, we have to be our own best selves and share our own best selves with other people who do not live with the degree of open freedom we have.

Mr. TURNER. Commissioner Ben-Veniste.

Mr. BEN-VENISTE. As usual, my friend Slade Gorton has expressed our views eloquently and fully. One thing I would like to focus on is the issue of education. We make a proposal for an education fund, which would in our view, greatly increase the world view, a system that is not the kind of educational system exported by some of our allies, such as the Saudis, for decades, which teaches intolerance and hatred, but rather providing educational opportunities that teach the value of plurality and hope. Mothers throughout the world will not choose, if given the choice, suicide over hope.

Mr. TURNER. A followup, since we have additional time, on the issue of measuring our success, one of the things that is cited in the report are polls. If you look at polls and the United States standing in the area now, and you compare them to prior to September 11th, we were doing much better than we are now. Yet we were attacked. How would you measure our success in the war of ideas, knowing that the polls don't necessarily reflect that we're winning the war of ideas with potential terrorists?

Mr. BEN-VENISTE. Let me say, Mr. Turner, that the polls prior to September 11 did not reflect any connection between the attack by this murderous group of cowards who would kill women and children to further their ends and the realities of what occurred. However, if you look at the polls and the wellspring of sympathy to this country that immediately followed on the September 11 attack, and you compare them with the current situation, the handwriting is clearly on the wall that we are not winning the hearts and minds——

Mr. TURNER. My time is almost up. Excuse me for a moment. So you would agree that the polls prior to September 11 would not have indicated to us that we were imminently being attacked, so they're not really a good measurement as to whether we're being successful in this war of ideas.

Mr. BEN-VENISTE. The war of ideas was not, in our view, the reason for the attacks of September 11. There is no reasoning with al-Qaeda, with Bin Ladin, with the wannabees which have sprung up, not only over the past years, but that existed prior to September 11. Those are not the people who we will focus upon in winning the war of ideas. We will focus upon people whose minds are open to a discussion of what is best for their families in the present and future generations.

We are not winning that war by any objective standards now. We are killing terrorists, but Bin Ladin and other organizations are recruiting them faster than we can kill them.

Senator GORTON. The ultimate measurement is right here. It's whether or not we prevent attacks on the United States and one hopes in the rest of the world. In the more narrow of those two questions, of course, we have been successful since September 11. Obviously some of the measures we've taken have been important.

But no one can conceivably say to you or to the American people that we're over the hump, that because we've been successful for a couple or 3 years we're going to continue to be successful. That's the reason for our recommendations at every one of these levels. But the measurement the American people are primarily interested in is the measure as to whether or not there's a repeat.

Mr. BEN-VENISTE. Right. We were successful by that measure from 1993 to 2001.

Senator GORTON. In the United States.

Mr. BEN-VENISTE. Yes.

Mr. SHAYS. The challenge we have, though, in the United States, is it's kind of like the sign that says, shark infested waters and someone goes swimming there and then gets out and says, see, there was nothing to be concerned with.

Senator GORTON. That is a good analogy.

Mr. SHAYS. Mr. Kucinich, you have the floor for 10 minutes.

Mr. KUCINICH. Mr. Ben-Veniste, you just made a comment that said that we're killing so many terrorists, but more and more keep coming up. Is that basically what you're saying?

Mr. BEN-VENISTE. We heard testimony, Mr. Kucinich, from a CIA expert in terrorism before the last hearing, I believe it was, where I asked that specific question whether there was any metric by which his agency could measure the level of recruitment following the invasion of Iraq. He indicated that there was a substantial increase in recruitment for al-Qaeda.

Mr. KUCINICH. So has terrorism become more of a problem the more people we kill or the less people we kill?

Mr. BEN-VENISTE. I think the way that we're looking at this war in which we are engaged is one in which the war of ideas is almost equally as important. What are we exporting in this country? What do people throughout the world and particularly in Muslim countries believe about the United States? And as Senator Gorton has said earlier, we are not doing enough, we are not doing what we can to export the heart and soul of what our country is about. People are seeing the export of violence and military might and in some instances gross violations of our dearly held principles in the way we have treated individuals overseas.

That has to stop, that has to change in our view. We can do much better, and we should be able to do much better in exporting the kinds of ideals about which are proud in this country.

Senator GORTON. We want to emphasize the integration of responses, not one alone. I think perhaps we can identify four levels of our defenses against terrorism. One is passive, the kind of procedures you must go through when you get on an airplane. Second is intelligence itself, knowing more or learning more about the threats against us. Clearly our intelligence agencies failed this prior to September 11 in that connection. Many of our important recommendations, including those that have gotten the greatest degree of attention, reflect on that.

Third is the war of ideas, to try to dry up support for this kind of activity. And fourth, of course, is to go after the terrorists where they are, those who cannot be persuaded in any event. We lay out here in the book what Bin Ladin says, the way Bin Ladin says that we can get rid of terrorism is to get out of the Middle East, all convert to Islam and end our civilization. That's not really something you can negotiate.

Mr. KUCINICH. Let me try to tie a few things here together. I mentioned earlier the New York Times editorial where they talked about the polarized Congress. Has anyone ever given any thought on the commission to the effect of the words that we use in our diplomacy and our policies, the semantic construction? For example, let's look at the concept of a "war" on terrorism, or a "war" of ideas. Has anyone on the commission ever given any thought to the exigent circumstances which are created by those words that we actually may be putting ourselves in polarity, creating the very thing that we're seeking to avoid?

Mr. BEN-VENISTE. That's a very reasonable way of looking at this in a generic sense, Mr. Kucinich. We looked at it from the standpoint of the conflict of ideologies, whether you call it a war or a conflict, or a struggle or a competition. It's something that we recognized we could do better at and we should do better at, because we have the better argument.

When we talk about a war on terrorism, as Chairman Shays has said here today, and repeatedly over time, terrorism is a technique. We are not at war with terrorism any more than we are at war with tanks or artillery or hand grenades. But we are in a struggle against a fanatical group of Islamist terrorists, who are organized, better or worse, over time as you take a snapshot of them. But they are a formidable adversary. They are opportunistic, they are smart, they have gamed us, they have studied us. They have been able to use the very freedoms which make us great to their advantage.

So we need to be smarter, more efficient and more effective about how we use our tremendous resources to avoid further bloodshed on our soil, while at the same time, as you and I have said, protecting our civil liberties, which makes us the society we are today.

Senator GORTON. Mr. Kucinich, I think I would divide your question into two and answer the two halves of it differently. I think you make a good point, when we overuse that word war. In connection with ideas, with this struggle, it's a competition and the like. It may be that we can phrase it better.

On the other hand, the struggle of life and death is in fact a war. Osama Bin Ladin declared war on the United States, and the problem is we didn't pay any attention to it, even when it was Americans who were being killed overseas. That is a war. There's no other way to describe it. It is a war with that group. One of our goals has to be to make that group as narrow and small as possible and separate them from the vast majority of people in their own societies. And that's a contest. It's a contest of ideas.

Mr. KUCINICH. Yes. Words matter here, Mr. Chairman, and to the commissioners. We are in a new environment where we're speaking of war against a group as against conflict between nations, which is what we traditionally understood to mean war. When we use the word war, I would suggest that it spawns not

only the kind of dichotomies which can lead to an intensification of conflict but can also create real war. Let me give you an example.

The "war on terrorism" led this Nation to attack Iraq, a nation that did not attack us. There was no symmetry there in terms of the concept of war. And then that further helped to create an environment where a rollback of our civil liberties became something that some in the Government felt was warranted.

So I guess as we move toward this new environment where we speak of creating a civil liberties board, I still would like to see this Congress proceed very slowly about creating any kind of changes that could either institutionalize a diminution of civil liberties, directly or indirectly, advertently or inadvertently, or lock us in to a condition where we're basically trapped in a war. It seems to me that we're almost in a closed loop here. War on terrorism, war of ideas, spawning war, cutting back civil liberties, leaving us more vulnerable to the destruction of our own democracy.

I know the commission is well aware, having looked at the report, of the threat to our liberty that's at stake here. We just saw yesterday, Mr. Chairman, there was a change this week, Transportation Security Agency, they're now frisking people, frisking people going through airport security. That's a whole departure from where we've been. Where does this incursion end?

So I think we need to, I'm glad the commission has done its work, but I see it as a starting point, I might add, not as an end point, in the work we have to do here. I'd be happy to hear your response.

Mr. BEN-VENISTE. I agree with your last point. We have made recommendations, which are in our view, directly responsive to what we have found over a rather intensive investigation of failures. One of the failures was in our aviation and FAA/NORAD security. The recent instances of searches, although I don't have the specifics in mind, may reflect the recommendation that we made that we have to be more alert to questions of smuggling explosives onto airplanes. We cannot ignore what happened in Russia. We cannot ignore the fact that apparently two individuals on separate flights were able to board aircraft with explosives.

So do we learn from that, what do we learn from that, what kinds of steps do we have to take? They should be focused. They should not be generalized, I agree. But we have to be smarter than we were before. We've got to be more efficient. And our recommendations go to that. If we can be, then we can minimize the greater degree of intrusiveness into our lives.

But we also have to be realistic. These things happen and we can't ignore it.

Senator GORTON. Mr. Kucinich, I think our brief answer is, we don't believe we've made any recommendations that would lead to the adverse consequences you fear.

Mr. BEN-VENISTE. There must be balance. As we make recommendations to be smarter and more focused, we also make recommendations that there must be countervailing mechanisms to protect against mission creep, against generalized use of enhanced authorities that would in fact impinge upon civil liberties in a more general way.

Mr. KUCINICH. Thank you, sir.

Mr. SHAYS. I thank the gentleman. And I'm going to take my 10 minutes now. I know we've been joined by Carolyn Maloney and Mr. Ruppersberger, as well as Mr. Lynch. I want to say that I want to get you out, Mr. Ben-Veniste, by 12 o'clock, I think that's your need. I could spend all day with you folks.

I believe, obviously, if this balance, and first off it's going to be interesting to have to relate this balance to the topic at hand, which is strategies. But obviously with more Government power, it requires more Government oversight, that's the bottom line.

Senator GORTON. Absolutely.

Mr. SHAYS. That's the bottom line. I was going to respond to my colleague Mr. Kucinich's point, thank God they're frisking passengers. I'm not riding on planes if they don't start to do that on certain occasions. I'm just not flying. Because the wakeup call we had were two downed planes in Russia. And we can't be certain why they went down, but we believe, and I have seen and all of us have seen, the type of explosive you can put around your body that just simply doesn't show up in any detection.

But I value Mr. Kucinich's points, and yours as well, Mr. Ben-Veniste. I went though to make sure that before this hearing leaves, we also get to talk about the strategies. Because without the strategies, I don't know where we go. Because had we done a proper assessment of the threat, had we done a strategy or strategies before September 11th, had we reorganized our Government to implement those strategies, we wouldn't have had a September 11. I believe that with all my heart and soul. Because the strategies would have pointed out our weaknesses and it would have done a lot of other things.

I am absolutely fascinated by the fact that this Commission said something. I think we called it terrorism because we didn't want to offend anyone. It was this corporeal kind of response. And you all, I know, particularly you Mr. Ben-Veniste, given your focus as a lawyer for so many years, to even mention the word Islamist, you must have said, where are we going and what does this say. But it gives some focus to what we have to protect ourselves from.

So tell me a little of that debate, a little bit more of that debate that took forward in the commission. I want to at least have a little more sense of why in the end you were willing to say, it's Islamist terrorists.

Senator GORTON. We debated considerably over that specific phrase, Mr. Chairman. I think you can see in our report the way in which we attempted to balance it.

It is clearly a form of terrorism motivated by a combination, a marriage of religion and politics that has a long and regrettable history. It didn't begin with Bin Ladin himself. It is totally intolerant of any kind of dissent. Mr. Ben-Veniste mentioned one of its parents in the Wahabi form of Islam and Saudi Arabia itself exported to a number of other parts of the world. And it was like drinking from a fire hydrant to read all the materials we had, not just on the facts of September 11 itself, but to try to learn the motivations, where it came from and the like.

It was in doing that we came up with this distinction and this dual road to dealing with it. The road that the philosophy itself,

the activists themselves are utterly irreconcilable, there's no way to negotiate with them or reach a common ground or an accommodation. And in that case, it is a war. They have declared war against us and they have proved it, they have killed now hundreds and thousands of Americans as an element in that war. And a lack of response didn't slow them down, it simply encouraged them.

But on the other hand, we recognize this is distinct, it's a minority within those societies. And we have to do everything we can in this struggle or contest of ideas to say that a philosophy that promises you nothing but death and destruction is not one a majority of those people want. We want to help them and to help the progressive elements in those societies to build open, free and democratic places in which to live.

Mr. SHAYS. Before you respond, Mr. Ben-Veniste, in your footnote, which is on page 562, it says, "What to Do, A Global Strategy," you say, "Islamist terrorism is an immediate derivative of Islamism. The term distinguishes itself from Islamic by the fact that the latter refers to a religion and a culture in existence over a millennium, whereas the first is a political-religious phenomenon linked to the great events of the 20th century." I guess what I would love is for you to just tell us in response to anything else you want to respond to in the question, how do we make sure that people see the distinction.

Mr. BEN-VENISTE. Well, we have to reemphasize the fact that our struggle is not with one of the great religions of our time. We are not engaged in a struggle or war or competition with the Muslim religion. And we need to make that abundantly clear. We are dealing with, as you have quite correctly read, an outgrowth, a small offshoot which combines religious fanaticism of the most virulent type with a political agenda that is willing to use attacks which seem to fly in the face of the teachings of the Muslim religion in terms of attacks against innocent men, women and children who are non-combatants.

So this use of terror tactics by a virulent political offshoot of a religious fundamentalist belief, we're not in a struggle with fundamentalism by any means. But when people mis-use religion and tie it to a political agenda that directly threatens us, then we must respond.

Senator GORTON. Mr. Chairman, you do a better job with our report than we do ourselves.

Mr. SHAYS. That's good staff work.

Senator GORTON. You're absolutely right, that footnote was the source of the distinctions that we make. Norton has just published a hard back copy of this that finally has an index. I must say, I found it difficult going around the country often to find the places I wanted to find in the original one. This one is a lot better.

Mr. SHAYS. I'll make sure I get that as well, because that will be helpful. Let me just quickly make reference to the fact, we have a National Security Strategy in the United States. We also have it divided into the National Strategy for Combating Terrorism and the National Strategy for Homeland Security. One is offense, the National Strategy for Combating Terrorism, and one appears a little bit more to be defense, the National Strategy for Homeland Security.

Do you feel comfortable that the National Security Strategy of the United States and the National Strategy for Combating Terrorism and the National Strategy for Combating Homeland Security are integrated? Is there a sense that you have that we need to do better? It seemed to me that you kind of reinforced these strategies. It may be we don't have enough time to have you really respond to this in any depth. But do you have any reactions to these three strategies, the overall national strategy and then the one dealing with terrorism and the one dealing with homeland security?

Senator GORTON. I think we testified to that in our formal testimony here, stating that we think these administration initiatives are appropriate and have moved in the right direction. I don't think, we've also said we don't think that they have emphasized sufficiently this outreach of ideas about which we've spoken, and that we don't feel that they are complete yet by any stretch of the imagination, even within their own terms. It's one of the reasons that we asked Congress to pass legislation on restructuring our intelligence agencies and the like.

Mr. SHAYS. Let me ask you this. Do you think, then, we need a new counter-terrorism strategy? That's kind of the bottom line. And we even call it terrorism, which makes me wonder. Do you want to respond to that?

Mr. BEN-VENISTE. We do believe that there needs to be greater integration between offense and defense. That's why we have focused on the shortcomings which, as you have pointed out, may well have prevented September 11, had we realized them sooner and had we taken efforts to correct those shortcomings sooner. That's why we make broad recommendations, with respect to a national intelligence director with authority to coordinate the intelligence agencies, 15 or so, who have information, both offense and defense, and make it a much more seamless and comprehensive effort by one team, the American people team, not credit to one agency, not owning intelligence by one agency or another but an obligation to share for the common good.

We recognize that the events of September 11 have pointed us inexorably to fixing what was wrong. That's what we need to do, and that's why we need to go as far as we have recommended in a comprehensive strategy, Mr. Chairman, to address those needs. I think you're quite right.

Mr. SHAYS. Thank you.

We've been joined by Mr. Tierney and Ms. Watson. We decided we would do 10 minutes when there were four of us and there are more. But I think we can get it done pretty well.

Mr. Platts, I'm just going to say that you can jump in any time, because you haven't asked for the 10-minute time. I intend to go to Mr. Lynch unless you want to jump in.

Mr. PLATTS. I'll defer to Mr. Lynch.

Mr. SHAYS. OK, let's do Mr. Lynch. Thank you.

Mr. LYNCH. Thank you, Mr. Chairman. I appreciate your good work and also of the ranking member. I want to thank the commissioners for helping Congress and this Nation deal with our issue of how to develop a national strategy to deal with terrorism.

I want to ask two questions and try to stay within the time limit. I'm going to deal with one issue that is of a more domestic issue for us, and then I'm going to switch to sort of a global issue. I can't help but notice that prior to September 11th, if you visited any international airport outside of the United States, whether it be Leonardo da Vinci Airport in Rome or Heathrow in London or Ben GUrion Airport in Israel, you already saw that heavy military presence, they were sort of combating terrorism far before we were. Yet when you flew around, domestically in the United States, we had none of that. It was wide open.

I'm concerned about a trend I see globally, and that is, over the last 10 or 12 years we've seen repeated attacks on rail systems around the globe. We've seen the Algerian terrorists in Paris, we've seen the Chechyan rebels for 10 years attacking the subway system in Moscow. We've seen what happened in Madrid, Spain most recently and the transportation systems in Israel are continually subject to attack.

My concern is that, in your September 11 recommendations you talk about focusing on the neglected areas of our transportation systems in this country. We've spent about $8 billion on aviation security. We've spent less than one-tenth of 1 percent of that on rail security, even though we have five times as many people who travel in this country every day by rail than do by air.

My first question is, do you think that the way we're handling this right now is consistent with the recommendations of the 9/11 Commission? Do you think we need to change that, and what would those recommendations for change be? I know you have to keep it general, otherwise we'd have a whole series of these volumes. But if I could get your thoughts on that.

Senator GORTON. The short answer to your question is no. If on all of your transportation security 90 percent of the money and effort is going into one mode, that's not an appropriate balance. You've mentioned rail, there is also of course maritime that is vitally important. And we didn't study or become experts on particular methodologies to make transportation modes safer. That was beyond our charge, it was beyond our staff. What we did do and point out is, there does need to be a greater balance and we need to look at these others and we need to come up with techniques that provide them a greater degree of security.

Mr. BEN-VENISTE. I agree completely with Senator Gorton's observations. Quite clearly, we point out the fact that the greater attention needs to be paid to other areas. We are a target-rich environment. We can have attacks occur on any number of vulnerable targets which would cause great loss of life. Obviously because we have seen the use of airplanes as missiles, we focused on that, and I think not inappropriately. A train has to stay on its tracks, an airplane can fly anywhere and becomes essentially a hijacked weapon of mass destruction. And therefore, it is appropriate that we pay attention to the potential for the hijacking and suicide use of airplanes, now that with terrible consequences this has occurred.

Whether we could have taken steps in advance of September 11 is behind us. We now need to focus on the future. And you are quite right, sir, in focusing on the example of what has occurred in other societies, allies of ours who have suffered attacks to their

rail systems. Senator Gorton is correct that we need greater attention paid to shipping. So we make the recommendation that we not put all eggs in one basket.

Mr. LYNCH. Thank you. My last question, and it's tougher, this morning there was an article in the New York Times. I thought it was illustrative of our problem. It reported of a military parade that occurred in Tehran, Iran last Tuesday. And at the parade, President Mohammad Khatami said that even though Iran was going forward with its nuclear program, that it was devoted to peaceful use, and that Khatami was saying that there was no need for us to fear and that it was for producing energy.

Meanwhile, in the background behind him in the parade there were these Shahab III missiles, capable of reaching Israel. What's especially troubling is on the side of the missiles themselves were banners. One banner said, Crush America, and the next banner said, Wipe Israel Off The Face Of The Map. We're in a tough spot here, the President is, everyone is.

Based on what we hear some leaders saying in the Middle East, but what we see them doing, presents a tremendous dilemma. It's what I'm worrying about this morning, and wondering, you know, I'm very, very grateful, as is everyone on this committee and in Congress for your willingness to devote your energies and your special talents toward helping us with this problem. But I'd like your thoughts on that particular dilemma.

Mr. BEN-VENISTE. Well, let me say, Mr. Lynch, that I share your concerns. The words of our former President Ronald Reagan come to mind with respect to Mr. Khatami's statements, "Trust but verify." With respect to what we can do, we must through our international collaborative alliances make sure that there is proper inspection and that nuclear programs not be mis-used for the purpose of creating weapons grade nuclear materials which can be used against us or our allies. I don't see getting into the weeds here today on anything more specific than to recognize that this is indeed a major issue that reasserts itself in post-cold war politics, geopolitics.

Mr. LYNCH. Thank you.

Senator GORTON. The challenge of Iran is a major challenge. We weren't the Iran Commission, we were the 9/11 Commission. [Laughter.]

We did not become experts on every element of foreign policy. We did, however, make this statement: "The magnitude of the threat demands that preventing the proliferation of these weapons warrants a maximum effort on the part of the U.S. Government. We recommend expanding the membership and resources of the proliferation security initiative and doing all that we can do support the cooperative threat reduction program to secure control over nuclear materials, so that they do not become loose nukes."

That doesn't tell you how to respond specifically to Iran. It's a major challenge you have in the Congress of the United States. To be honest with you, we have had to concentrate on our specific mandate that you gave us here in Congress, and to get back to urging, expressing the strongest possible hope that the Congress this year, in these next 2 or 3 weeks, can take significant action toward adopting those recommendations.

Mr. LYNCH. Thank you, Senator. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman.

Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman. I again appreciate both of our witnesses here today, your participation but especially your work on the commission. As a Nation, we're all indebted to you and your fellow commission members.

I was hoping as we move forward and the consensus about a national intelligence director is evolving and following much of your recommendation if you could expand on your thoughts on the breadth of that authority and the responsibility of the NID and specifically with regard to the current entities under the Secretary of Defense and how the impact could be on the chain of command within the military.

Senator GORTON. Way back in the late 1940's when the Congress created the CIA, it in theory made the CIA director the head of all intelligence activities. But it gave that director no authority over the budget beyond the CIA's immediate budget itself, and no authority over personnel. And as you know, it has turned out that 80 percent or more of the budget for intelligence in a very broad sense is controlled by the Department of Defense through many of its agencies.

We found that one of the principal failures leading up to September 11 was the lack of communication among various intelligence agencies, even with that wall within the FBI, but certainly among the various agencies themselves, and our system failed. We start with the proposition that the system that we had was a miserable failure. And we have twin recommendations in the area that you're speaking to, a national counterterrorism center and a national intelligence director.

We feel very strongly that national intelligence director must have broad authority over budget and at least over senior personnel. If not, if you just create a shell of a national intelligence director, you've just added one more person, one more box in that organizational chart. I think if we've learned anything since 1947, it is that if someone is going to have that title, they had really better have the authority to do it.

Now, at the same time the Department of Defense and our armed services obviously live on intelligence. The way that it has come out I think in the Shays bill and certainly in what Senators Collins and Lieberman are doing is a distinction between the direct day to day military intelligence, which stays there with those armed services and what is defined as strategic intelligence. Nor is the Department of Defense kept totally out of the ladder by any means. But we do think it's important to have one focus for tasking and one focus, one place where the individual in charge has the authority to demand a sharing and then to task where there are empty spots, where we haven't looked.

So we certainly think that progress is being made in the Senate at this point, and that division is the right direction. And I believe the Shays-Maloney bill does the same thing.

Mr. BEN-VENISTE. I agree.

Mr. PLATTS. And that's kind of supporting Chairman Shays' approach, as in the Senate, one in distinguishing between strategic and theater intelligence——

Senator GORTON. And operational help.

Mr. PLATTS. Within that strategic intelligence, that's from the Department of Defense that there be maybe a shared authority between SECDEF and NID over those personnel that it may not be absolutely one or the other, correct?

Senator GORTON. Yes.

Mr. BEN-VENISTE. Within that narrow area, within that specific area.

Mr. PLATTS. Right, on strategic intelligence.

The one other area I'll touch on quickly is the very important message you've conveyed in the commission report and here today is truly winning the big picture and defeating Islamist terrorism, not just al-Qaeda specific. And could you expand on how, in winning the ideological battle, any specifics that we should be looking at, and would that include our relations with nations like Saudi Arabia in pressure for the Saudis to change how they treat their own citizens?

Senator GORTON. That is, of course, if that were an easy question to answer, it would have been answered already. Saudi Arabia has been a nominal ally and at some level a real ally of the United States for an extended period of time. But its views on some of this ideology didn't really change greatly even after September 11.

It changed very dramatically a year ago last May when it turned out that the Saudi regime was a target of the very philosophy that it had created itself. That relationship is better now, but we have still not persuaded the Saudis to stop exporting, to stop subsidizing this very intolerant and extremist form of their religion here in the United States and in many other places in the world. It clearly should be a goal. Obviously it should also be a goal for countries like that to liberalize. Saudi Arabia may be the toughest, the most discriminating against women of all the scales in those societies. It's hard for us to figure that you can have a really successful society and engage in that form of discrimination.

Mr. BEN-VENISTE. We've had some success, particularly with respect to funding of terrorist organizations from the Saudis since they were struck on their own soil by terrorists. This will occur to other countries as time goes on that the threat of this virulent group of terrorists which seeks to overthrow virtually everyone who does not share their beliefs will impel them to be more cooperative. Slade is correct with respect to the export of Wahabism. We would hope over time that will be moderated. We have recommendations with respect to competing in the educational arena with that form of intolerance. But these are longer term efforts that we must pursue, in our view, alongside the more direct and focused attempt to kill those who have launched attacks against us.

Mr. PLATTS. In winning that battle with the individuals, those young citizens in Muslim nations that we are not their enemy, but we are a Nation of good and very humanitarian in nature, we contribute a sizable amount of money to the U.N. to provide humanitarian, whether it be food, health care, education, other forms of assistance in many of these nations. Should we be looking at doing

that more directly so that, the U.N. is not loved, that is for sure, but probably looked more favorably at the aid coming from them than if it was coming from us directly. Should we be looking at more direct intervention in even the humanitarian side?

Mr. BEN-VENISTE. I don't think I am competent to provide an answer to that question. Looking at the simple psychology of human beings, it is often the case that those who directly hand out aid, if it's not done well, will create further resentment. So it is not an easy question to answer.

But quite clearly, we need to do a much better job of communicating what we are about in this country, what our core values are. Because fundamentally, a mother raising children in this country shares much more with a mother in any of the Muslim countries that we're talking about than do those who preach suicide and violence. That's what we need to focus on. It's not going to be something that will occur today or tomorrow or next year. But it is an objective that we must pursue with a determination and recognition that it is essential that we do so and do so more effectively than we have in the past.

Mr. PLATTS. Great. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. I just will quickly, before recognizing Ms. Maloney, point out that we had a hearing on February 3rd regarding effective strategies. We had one of the witnesses, Dr. Lanny Kass, Professor of Military Strategy, National War College. He had various points he was making, talking about the end game and what terrorism is and so on. They were just very helpful comments, why do they hate us and points there. He said in one of them was why we will win, and the answer was, we can't afford to lose, which was an interesting way to put it.

But when he talked about integrated strategy, one of his bullet points was we need to break fundamental asymmetric symmetry wherein we need to succeed 100 percent of the time and they need to be successful only once. It's kind of an interesting concept. They only have to be successful once. We have to succeed 100 percent. Then he said, you don't start developing strategy from point of failure, you seize the initiative and shape it, which is an interesting concept as well.

Ms. Maloney, you have the floor for 10 minutes.

Ms. MALONEY. Thank you so much, Chairman Shays, and welcome to both of our panelists. A very special welcome to Mr. Richard Ben-Veniste. I remember your work on the Nazi War Crimes Disclosure Commission, which oversaw the largest opening of secret government records in the history of our country. You brought a great dedication to bringing these documents to the American public and I congratulate you for that work, too.

You've done an incredible job, and I hope you continue being a supporter of implementing the document that you prepared. Mr. Hamilton and Mr. Kane said that the 41 recommendations were tied to specific acts that if we corrected them would make America safer. So many of us are very dedicated to implementing all of your recommendations, and in that spirit Chris Shays and I introduced H.R. 5040, which is the same as the McCain-Lieberman bill that really supports all 41 recommendations. It has been endorsed by

the September 11 families and by the two chairs of the committee and the commissioners. We thank you for that.

We have now well over 40 some sponsors and a caucus meeting this afternoon with vice chairman Hamilton on how we can work in a bipartisan way to implement it. Yet I read in the paper today that the majority has indicated that they will have a new bill on Friday. No one has seen this bill, but I am told that it's hundreds of pages long and it is rumored, this is according to the press, to have a whole litany of provisions, unrelated provisions that are not part of the 41 recommendations of the 9/11 Commission.

So instead of working off the document that your commission came forward with, and really your document is the one that we have been holding hearings on for the past 2 months, this Congress, I congratulate them for working through August, very diligently, on various hearings and oversight. And you gave us an absolute playbook of what needs to be done.

But now we're told that we'll have a new base bill, not the base bill of your recommendations that is filled with non-related items. So my question is, basically I hope this commission will come forward with common sense and put credibility behind whatever bill finally goes to the Floor. I think everyone supports combating terrorism, making America safer. The question is, how do you do it. I'm troubled by the reports that I'm reading, that it is filled with unrelated items that are not specifically related to the purpose and recommendations of the commission.

Senator GORTON. Ms. Maloney, we worked hard——

Ms. MALONEY. I know you did.

Senator GORTON [continuing]. For 20 months. When Richard and I met, I'm not at all sure we knew then that we'd be joined at the hip, both in the work of the commission and in working on it afterward. But we have, as you know, created a non-profit to keep a small staff together, and to keep us informed of what's taking place here. We have provided comments and what we think is constructive criticism of all of the proposals, including your own, and including the proposal that's very similar to it that's now, I think, being marked up as we speak in the Senate, which seems so far to be going very much in the direction that the Commission has recommended.

So you may be assured that we will comment on any new proposal that comes out, long or short. Because it is our goal, it is our goal and our strong recommendation that the Congress follow the recommendations of the commission and put into statute those that are appropriate between now and your adjournment, which is relatively soon. We think it would be a terrible mistake to get through two different bills in the House and Senate and be unable to reconcile them, and leave until some time in January, leaving us in the situation in which we find ourselves today. We really want action, we want consistent action. We will examine every proposal that comes out with that in mind.

Ms. MALONEY. Thank you so much, Senator. In fact, we have put in a bill to extend the commission. I am so glad you have worked with a non-profit to support your work.

In line of commenting on various proposals, the commission recommended that the high threat formula be specifically for high

threat and not used as pork, that it should be directed to where the threat is. As a representative of September 11, of New York City, which in every terrorist report is target No. 1, I think that's appropriate and important. I understand you spoke about that today.

So I'd like to ask you about the Cox bill, which is now before us that is very well intentioned, yet it continues with a system of funding all States at a certain amount regardless of whether or not they have threat at .25. Then it goes up to .45 for States with international borders. And there are some restrictions in it that seem to me difficult for areas of large populations. For example, it caps construction projects at $1 million. I would say every construction project in New York, to either fortify the Port Authority or the rail or the airports, has been over $1 million. And it seems to be possibly leaner pork, but still pork. Your comments?

Mr. BEN-VENISTE. Well, first of all, let me thank you for your generous remarks and personal remarks, and commend you for your leadership with respect to the legislation that made the Nazi War Crimes Disclosure Act a reality, and for your guidance and oversight over the many years in which we have labored. We're still not finished.

With respect to the Cox bill, I confess that I'm not familiar with the specifics. It is our understanding that it is again a step in the right direction, but your characterization of leaner pork may well be an appropriate one, in that our recommendation is that these funds be not considered as a general appropriation for each and every jurisdiction to get some sort of share, but rather be directed and focused at communities which pose the greatest level of threat.

Ms. MALONEY. Thank you. Any comment, Senator Gorton?

Senator GORTON. I agree with Richard, as usual.

Ms. MALONEY. That's great. I also would like to place in the record an editorial on defense of civil liberties.

Mr. SHAYS. That has already been put into the record.

Ms. MALONEY. Oh, it has. OK. But the commission's report recommended that a board be set up to oversee the Government's defense of our civil liberties. Although they were good intentions, a board was appointed by the President that appears not to reflect the intent of the 9/11 Commission in that it has no subpoena authority, cannot initiate investigations, can conduct meetings behind closed doors, and unlike strategies we're discussing today, this board has no stated mandate, has no obligation to issue any type of reports and absolutely no independence at all.

I would like to ask both of you to comment on the steps that have been taken so far and whether you think they're adequate or whether they need to be strengthened in this particularly important area of civil liberties.

Mr. BEN-VENISTE. Congresswoman Maloney, I wrote an editorial myself along with Lance Cole, Professor at Dickinson Law School, on this very subject, which was published in the New York Times on the 7th of September. I share your concerns, the commission shares the concerns that while it is I think helpful that the President has recognized the need for such a civil liberties board, the proposal from the Whit House does not meet the objectives that led the commission to make its recommendation.

First, with respect to personnel, we believe that the recommendation or the board proposed by the President in his Executive order of 20 individuals from the very agencies that require oversight does not solve the problem. We recommend that there be an independent board of persons drawn from the outside community who will likely be more objective and disinterested in performing the task.

We suggest that it's a good idea to have ombudsmen in the various agencies who are able to receive complaints and monitor the way their various agencies are performing, and to bring to the attention of this bipartisan, independent board whose members should be confirmed by Congress, we believe by the Senate, which will enhance focus and the importance of such oversight responsibilities. And these ombudsmen will have authorities and the individuals who may come to them will have the protections necessary for candid revelations that will make such a board effective and useful.

And finally, if I may say, that board should be transparent. It should report regularly to Congress and to the American people.

Senator GORTON. Basically we support the board that you have in Shays-Maloney and that exists in Collins-Lieberman.

Ms. MALONEY. Well, thank you very much, and I request the chairman to place your article of September 7th into the record.

[The information referred to follows:]

The New York Times

## How to Watch The Watchers; [Op-Ed]

Richard Ben-Veniste and Lance Cole. New York Times. (Late Edition (East Coast)). New York, N.Y.: Sep 7, 2004. pg. A.23

**[Author Affiliation]**
Richard Ben-Veniste, a lawyer, is a former member of the 9/11 commission. Lance Cole, a professor at Penn State Dickinson School of Law, is a former consultant to the commission.

Last week President Bush issued four executive orders addressing matters that were subjects of recommendations by the 9/11 commission. One of the four orders created a President's Board on Safeguarding Americans' Civil Liberties. While it is laudable that a civil liberties board was included in the first set of presidential actions in response to the commission's recommendations, the new board falls short of addressing the concerns that led the commission to recommend the creation of a meaningful oversight board in the first place.

Since the attacks on the World Trade Center and the Pentagon, the government has acquired powerful new legal tools, including those provided by the Patriot Act, to collect intelligence on Americans. Government agencies are using "data mining" and other techniques to identify potential terrorists and cut off sources of terrorist financing. As the commission's report noted, the shift of power and authority to government must be tempered by an enhanced system of checks and balances to protect the personal liberties that define our way of life.

One of the ways the commission sought to balance these competing objectives was to recommend the creation of a board within the executive branch to protect civil liberties and privacy rights. Unfortunately, the board created by the president has neither the right makeup nor the right powers to accomplish this objective.

For starters, the large size of the president's board is a problem. With 20 or more people, individual members won't feel personally accountable or responsible, a fatal flaw for an effective civil liberties oversight body.

But a more fundamental problem with the president's panel is the people who will serve on it. All its members are from within government and almost all are from the very agencies and departments whose actions are likely to be the subject of civil liberties challenges and complaints. The 9/11 commission demonstrated the value of a review of government actions by disinterested individuals from outside government. Only outsiders can supply both the independence and the skepticism that are essential to evaluate the merits of governmental assertions of power that intrude on personal privacy.

In fact, the president's board seems especially unlikely to prevent one of the most serious potential problems brought on by the government's new powers -- the possibility of applying them in areas that have nothing to do with terrorism. Already, the Patriot Act has been used to investigate official corruption, money-laundering and computer hacking.

A properly functioning civil liberties oversight board should also be nonpartisan, and the way to achieve that is through a balanced appointments process. The president's panel is made up almost entirely of presidential appointees and senior staff members who serve presidential appointees. But the public must have confidence that the board transcends the partisan interests of whatever administration is in power.

A far better model would be a board that is chosen through an appointments process that provides not only balance along party lines, but also participation by both the executive and legislative branches. For example, a nine-member board could be created with a requirement that no more than five of its members be from the same political party. The chairman and vice chairman could be required to come from different parties. What's more, the president's nominees would be subject to Senate confirmation. This is similar to the model that has been shown to work well for independent regulatory agencies.

There's another problem. While the commission recommended a board that would provide oversight, the president's board is only an advisory board, which means that it will simply provide advice and information. It has no obligation to disclose its findings to the public. That's a mistake. For such a board to be effective, it must be transparent. To that end, any panel should be required to provide quarterly reports of its findings to Congress and the public. As the 9/11 commission showed with its report, it is possible to remove references to sources and methods of intelligence collection and still provide an informative public accounting.

In addition to the specifics set out in the commission report, there's another step that should be considered: departments and agencies that have responsibility for domestic intelligence collection and homeland security should put in place a kind of "civil liberties ombudsman" who would be responsible for bringing complaints and challenges before the board. The individuals in those positions must have full access to the surveillance techniques and domestic intelligence collection practices their departments and agencies employ. There must also be confidentiality and whistleblower protections to ensure that complaints are reported without fear of reprisal.

While the president's proposal is a welcome acknowledgment of the need for civil liberties protections, it seems that it will now be up to Congress to carry out the commission's recommendation for a genuine, effective oversight board. Only a truly independent board with real powers can help strike the right balance between enhanced powers to combat terrorism and adequate protection of our cherished civil liberties.

Ms. MALONEY. My time is up. Actually there is a conflict, there is a meeting right now in the Financial Services Committee on which I serve on September 11 recommendations, which is the story of the day. We're holding a great deal of meetings and oversight. Thank you both for your work and your dedication.

Senator GORTON. Godspeed. Thank you.

Mr. SHAYS. At this time I would recognize Mr. Tierney and thank him for being here, and for all the meetings he's been here as well.

Mr. TIERNEY. Thank you, Mr. Chairman. Thank you for your continued work on this. I think that the members of the panel might agree that Mr. Shays has used his position in the way the oversight committee ought to be used, and it drops into what I'm going to talk about next.

I want to thank both of you gentlemen for your service to the country. I know it's been a sacrifice of your own personal time and effort and your expertise has been invaluable to all of us. But I also want to thank your staff, who sits quietly behind you there, but I know was very instrumental, like staff here are. I think sometimes we neglect to put in a good word for them.

Senator GORTON. Squirming at times at our answers.

Mr. TIERNEY. Because they couldn't hook up a direct line in your ear. [Laughter.]

Let me segway from what Congressman Maloney just talked about in terms of the fact that she is leaving now to go to another committee, essentially going to deal with another aspect of the 9/11 Commission report and homeland security and intelligence. You make recommendations in the report about the need for strong congressional oversight. And I think you're right on the money there. I'm very concerned that while we're moving ahead a little bit on trying to implement some of your recommendations, we have a number of bills that are out there and hopefully going to be considered, and I agree with you, Senator Gorton, considered soon, sooner rather than later.

I'm very concerned that Congress, particularly the House, hasn't yet started down the path of what we're going to do for oversight. The recommendations that were made by the committee were that we should either have one joint committee of the Senate and the House or one designated committee in the House and one designated committee in the Senate. Would each of you tell me what your personal preference was?

Senator GORTON. Chairman Shays, earlier during the course of this hearing, said what I expect is obvious, that in all probability, this issue wasn't going to be dealt with definitively this year. We do feel it very important that it be dealt with definitively at some point or another. Unlike our recommendations for a national counterterrorism center and a national intelligence director, we didn't say, here's one way in which to accomplish this goal.

We looked back, we heard a number of people speak to us about the old Joint Committee on Atomic Energy, which seemed to a very powerful and influential committee in its day. And we found that an attractive alternative, but not the only alternative.

We did find one of the shortcomings being this total separation, which certainly I do a lot in the Senate, of oversight authority from money. And any people on the intelligence committees have ex-

pressed frustration in the fact that they worked very hard on these issues to come up with specific recommendations and can effectively be ignored because they have no power of the purse. That is done by a committee that doesn't have nearly the expertise in this field that, say, the intelligence committees do themselves. Most dramatically, we looked at the huge number of committees and subcommittees to which the Department of Homeland Security reports, I think often, derogating from its ability to do the job that it was set up by statute to do.

My own view is that you can pick one of several courses of action that concentrates this authority more and that includes people who are genuinely interested in the oversight function and greatly improve the way in which Congress operates. In this particular case, we aren't wedded to a single solution.

Mr. TIERNEY. You don't have a preference, you're saying?

Senator GORTON. Pardon?

Mr. TIERNEY. Other members of the commission I've asked this question to had a preference. You personally don't have a preference?

Senator GORTON. I didn't serve long enough or go to have remembered that joint committee. I think I personally, I found it fairly an attractive alternative.

Mr. TIERNEY. Mr. Ben-Veniste.

Mr. BEN-VENISTE. I agree with everything that Slade Gorton has said. I think some of the things we talked about were an integrated professional staff, no term limits on membership, the necessity of developing expertise in this area, being able to ask the right questions, being able to keep one's eye on the ball is critical to effective oversight. I too have no specific preference to getting it done right. But it's quite clear that there needs to be a consolidation and a reduction in the number of different entities looking at oversight.

But we also take the position that oversight needs to be more effective. The more authorities granted to the executive, the more important oversight becomes and the more critical effective oversight is to the constitutional balance of powers that we rely upon. It is absolutely critical that this be done.

Now, we are not naive. We know that this is among the most difficult recommendations we made. And I will tell you candidly that talking to Members of Congress, present and former, over time, during our deliberations and inquiries, we learned from them that they would be unable to do it on their own. It's not something that anyone thought could be the product of self-starters in the Congress.

But now, having from this extraneous to the Congress body of individuals who are operating in a bipartisan way, we saw the dramatic need to make these changes. And hopefully, they will be accomplished. Our recommendations are of a piece. They are interdependent and interrelated. If we have greater authorities focusing on our making the executive more powerful, then we must have more effective oversight by the Congress.

Mr. TIERNEY. I absolutely agree, and I think many of us do on that, but that brings me to the next level of this question. I think it's almost dangerous to give that kind of authority to the execu-

tive, whoever's in office, without concomitantly doing something about oversight at the congressional level.

So Senator, starting with you, because you served here, how do you see that being done, given the personalities, given the jurisdictions, given the turf that people are going to try to protect? Is this something we're going to have to move statutorily and try to get the larger body to impose it as opposed to going into the rules of the House or the Senate, or if it's going to be the rules of the respective bodies, how do you think we get over that hurdle?

Senator GORTON. Oh, boy, that is a real challenge. I hesitate to advise the House on that. But that is going to be the reform that will be the most difficult for you. It's easier for Members of Congress, when I was a member, equally so, to say here are reforms that ought to be made in the Executive. When you say here are reforms that ought to be made here, you're always goring someone's ox. To concentrate authority in fewer people means to take some authority away from others. And no human being likes that very much.

But this is, it was an unprecedented catastrophe that happened to the United States, and there is no way of looking at it other than to say that all of our institutions from top to bottom failed and that we need to do things differently and better. And one simply has to hope that generous feelings of statesmanship will triumph and we will do them better in the future.

Mr. TIERNEY. I assume Mr. Ben-Veniste has the same——

Mr. BEN-VENISTE. I'm just a country lawyer. [Laughter.]

I don't presume to have answers to this question, except to say it's got to be done.

Mr. TIERNEY. Let me move on, then. In your report, you talk about the fact that we need to confront the U.S.-Saudi relationship. Do you think, the report is a little bit quiet, I think, on Saudi Arabia, it doesn't deal with the classified pages that were in Congress' larger report, it doesn't talk too much about the fact of a number of Saudis being allowed to leave this country almost immediately after the event without thorough FBI examination.

Senator GORTON. Oh, it does deal with that. No, Mr. Tierney, it very definitely deals with that.

Mr. TIERNEY. You think it does, in detail, Senator?

Senator GORTON. Absolutely, yes.

Mr. TIERNEY. Well, I might respectfully disagree with that in terms of the depth of it. I was going to ask you, without disrespect to your work, and I always want to make that clear, do you think that the committee did an exhaustive job in reviewing the Saudi-U.S. relationship, and what do you recommend as ways that the U.S.-Saudi relationship should be confronted as we move forward?

Senator GORTON. Well, I suppose to one person it is exhaustive and to another person it is not. This was central to the work of the 9/11 Commission, 15 of the 19 hijackers were Saudi citizens. Some of the philosophy, Bin Ladin is a Saudi, most of his financing that we could determine came from Saudi sources. We found no governmental sources in that, but simply the way that society operates through its religiously oriented charities is the way in which this entire operation was financed. It's very, very important.

We did look as carefully as possible into the Saudis who left afterwards. And we found nothing out of the ordinary there. The FBI has told us they looked into every single person that they felt it was appropriate to look into. There was really nothing more to be done. We do not, generally speaking, restrict people from leaving the United States when they are citizens of other countries.

We have found, as I answered, I think, over here——

Mr. SHAYS. Could I just interrupt the gentleman a second?

I just want to make sure that Ms. Watson gets to respond to questions, and we're getting to a deadline. Mr. Ben-Veniste, do you have time to stay? If you could just shorten your answer.

Senator GORTON. The answers is that one of the three countries we write about in here with respect to our relationships is Saudi Arabia, because it is important. Cooperation exists in a very good fashion at some levels, and at not a very good fashion at other levels. It's a tremendous challenge for us here in the United States to try to move Saudi Arabia in an appropriate direction. It is certainly one of the most, if not the most important of all the relationships in the Middle East.

Mr. SHAYS. I thank the gentleman. Ambassador Watson.

Ms. WATSON. Thank you so much. I want to commend you two gentlemen for the role you have played in gathering all the information and recommending to us a direction. I find it very fine and profound work. Thank you from a grateful Nation.

I notice that with in your report, you said that you focused on Islamist terrorism, because it's the leading national security threat to the United States. And I support your recommendations 100 percent. My concern is, we talk about the failure of our intelligence sector. And what we really are talking about are the people within intelligence, the human capital which is our most valuable asset. We didn't see a whole lot of concentration on how these people are empowered, how they are managed, and what would be the key to reform.

If we are going to focus on Islamic terrorism, are we not advancing a war against the Islamic world? And should we not get people who are familiar with the mind set of that particular world and how they think and how they function and what processes they go through? How are we going to meet that need if we're going to focus on the extreme Islamic terrorists? How do we work with our human capital? Can you respond?

Mr. BEN-VENISTE. You've raised many important and interesting questions. With respect to the distinction between the Islamist terrorists and the religion of Islam, we make the distinction very carefully and clearly that this country is not at war nor do we oppose any religions in the world and certainly not the great Muslim religion. We do identify——

Ms. WATSON. May I interrupt you to say that hearing the President, he says we're at war, and then reading this report and you say we cannot defeat Islamist terrorism if we cannot persuade young Arabs and Muslims that there is a better course.

Mr. BEN-VENISTE. Yes.

Ms. WATSON. And really my question is, how do we train, how do we select the people who work in intelligence so that they can meet what you have concluded is the path to go?

Mr. BEN-VENISTE. Quite clearly there are two elements to this. One element is the people who are working in intelligence on various different levels and the others who are working in connection with our foreign policy. In both areas, we must obviously have people who have studied and are familiar with the Muslim world. We make recommendations with respect to increasing human intelligence, this is an area that we found had been neglected over time at CIA in favor of spending money on hardware. It's essentially continuing cold war appropriations or cold war related priorities as compared with human intelligence. So in our intelligence community we make recommendations both foreign and domestic in connection with our intelligence gathering that we have a greater emphasis on language skills and familiarity with local cultures.

With respect to our foreign policy, we lay out recommendations where we must do better in convincing Muslims throughout the world that the way of these fringe groups of terrorists is not the way that they ought to follow, it doesn't benefit them. We have talked here today rather extensively about what will appeal to families throughout the world and find that Muslim mothers throughout the world will have far more in common with American mothers than they will have in common with terrorists who seek only death, suicide and destruction for their children. So we must make that case in a better way, and in doing so, we must understand our target audience better. You're quit right about that.

Senator GORTON. You may have asked us the most difficult question of all. But first, I do want to make the distinction that the chairman actually pointed out. We use a term, Islamist terrorism, that is defined best in that footnote at page 562 that the chairman laid out, and that makes the distinction between the actual violent contest in which we find ourselves engaged today and these other ideas. Clearly, intelligence, human intelligence failed and clearly we want more sophisticated and knowledgeable people there.

I'm told, I can't swear to this, that during the entire cold war, the United States never placed an operative in the Kremlin, for all the contest and all of the money we spent on it. We had sources there from time to time, but they were always, they were brave Russians who were disaffected with it, and most of them paid for it with their lives. But we never trained someone over in Langley as an American and got them into the inner sanctum of the Kremlin. It would be wonderful if we could train someone and have them as the No. 2 assistant of Osama Bin Ladin, but I don't think we should hold our breath until that takes place. We've got to do that in other ways.

And Richard described that. Some of it is training and the like of our people here in the United States. The FBI, we've found, in doing a very good job, I think a better job than the CIA, with respect to terrorism, because it's saying to its recruits, you've got to learn both law enforcement and terrorism, you've got to have assignments in both, you've got to learn how to work together. We want to give you a very productive career in counterintelligence and in counterterrorism. So we just say, institutionalize what the FBI has done. The CIA has a longer way to go in that connection, but it's got to do a much better and broader job of recruiting than it's done in the past.

Ms. WATSON. If I might finish up, Mr. Chairman, it will take me just a minute. I think that Lou Stokes, when he was here back in the 1980's, initiated a program where they went to the historically black colleges and they recruited young people and they brought them into the State Department and they trained them in languages. What occurs to me is that people who look like them ought to be speaking to them. I think where we really miss the boat is not identifying people who might have an Arab background or ancestry or something and bringing them in and helping others who are already with the intelligence, the Department, really understand how people think.

Right now I feel, and what I'm hearing and what's been said on the TV today, that this is a Jihad. They feel we are at war against their religion. And how we change that is going to be very important. We're going to be fighting this battle for decades to come. I don't see an end to it. So I think we have to be real smart and clever. I thank you because you started the thinking. I'm not holding you responsible for implementing it.

Mr. BEN-VENISTE. Thank you. [Laughter.]

Ms. WATSON. But I just want to raise these issues in the context of the hearing. You know, we've got to start thinking differently, non-traditionally if we're ever going to succeed. We can paint a beautiful picture, and you know, the administration will continue to say we're winning. We are not winning, the thing is getting worse. And have on TV, the yell, the agony of somebody getting their head sawed off, shows that we're not nearly finished. I don't care how long you talk about it. We've got to take action, we've got to train people better to use that human capital if we're going to succeed as a Central Intelligence Agency.

Thank you so much for your input, and I just wanted to raise it as an area that I thought wasn't given enough attention. Thank you.

Mr. SHAYS. We're going to dismiss this panel. I'm going to make a comment, I'm not asking for the last word, I'm happy to have a response back. When I saw the yell of the head being cutoff, I wanted to hear the yell of people in the Islamic world that would say, this is not Islam. We're starting to hear it.

But I also want to say, there was a statement made earlier that I just want to comment on. We are seeing more terrorists today than before. But we saw more terrorists before September 11th by inaction as well. So I think that needs to be put in the mix. I would like to just ask this one last question, I don't think it requires a long answer.

One question is, why don't we allow the GAO to assist with oversight of the intel community and for instance, our committee technically had jurisdiction, technically has jurisdiction of the intelligence community. But when we wanted to have hearings, the CIA would always, for instance, get a permission slip from the Committee on Intelligence that they did not need to attend. They also, the GAO continually has resistance when they look at things relating to the intelligence community.

My question is, did your commission look at this and did you come up with any recommendation as it relates to GAO?

Senator GORTON. No, I don't think we did. I suspect the reason for that is that they aren't cleared.

Mr. SHAYS. Well, there are lots of reasons. But they are clear.

Mr. BEN-VENISTE. While we don't talk directly to GAO, an organization about which I have the utmost respect and confidence, but we do talk about greater transparency, we talk about the over-classification of materials and we could go on for hours on that subject alone. But we think Government wide, there has to be a much greater respect for the fact that we're all on the same team and that we need to bring our resources to bear in the most efficient and effective way possible.

Senator GORTON. And the declassification of at least the top lines on the intelligence budget we think is long overdue.

Mr. SHAYS. I think that one change would be huge. Because then our budget becomes a lot more honest. We don't have to hide things in a budget. We just have a line for it, and we don't have to stick them in other places and give people the impression that we're spending more in an area where we may not be spending money.

But I also would say, we had a hearing on this whole issue of over-classification. The hearing started by saying, we have a 10 to 90 percent over-classification. When we asked the DOD Governmental witness how much over-classification, she said approximately 50 percent, which we appreciated. That was an honesty that we appreciated. But it's a huge, huge mistake to over-classify. We can talk about so many things.

Any last words? OK. Gentlemen, we praise you and we thank you and we'll get to our next panel.

We want to welcome our second panel, which consists of Mr. Norman Rabkin, Managing Director of the Homeland Security and Justice Team, U.S. Government Accountability Office; Mr. Raphael Perl, Senior Policy Analyst, Congressional Research Service; and Mr. John V. Parachini, Senior Policy Analyst with the RAND Corp.

Gentlemen, why don't you stand and I'll swear you in.

[Witnesses sworn.]

Mr. SHAYS. Thank you.

We evidently have two votes. So what I think we'll do is just start, then we'll go and come back. I really am looking forward to this panel, thank you very much.

We'll start with you, Mr. Rabkin.

**STATEMENTS OF NORMAN RABKIN, MANAGING DIRECTOR, HOMELAND SECURITY AND JUSTICE TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; RAPHAEL PERL, SENIOR POLICY ANALYST, CONGRESSIONAL RESEARCH SERVICE; AND JOHN V. PARACHINI, SENIOR POLICY ANALYST, RAND CORP.**

Mr. RABKIN. Thank you, Mr. Chairman, members of the subcommittee. I appreciate the opportunity to appear before the subcommittee today to address three issues of interest: the extent to which elements of the National Homeland Security and Combating Terrorism Strategies are aligned with recommendations issued by the 9/11 Commission; second, the Departments that have key responsibilities for implementing the Homeland Security Strategy; and third, the challenges that are faced by these key departments

in assessing their progress toward achieving homeland security objectives.

First I will talk about the connections between the strategies and the 9/11 Commission recommendations. The Homeland Security Strategy with a domestic focus sets out a plan to organize Federal, State and local governments as well as private sector organizations to accomplish six critical missions. It also identifies 43 major initiatives to be addressed within each of these 6 mission areas. The Combating Terrorism Strategy with an overseas focus emphasizes identifying and defusing threats before they reach the borders of the United States. This strategy seeks to accomplish its goal of reducing the scope of terrorism through 4 strategic goals and 15 subordinate objectives.

The 9/11 Commission report contained 41 recommendations. Our analysis shows that eight of the recommendations are not aligned with any of the specific initiatives in the Homeland Security Strategy or with the objectives of the Combating Terrorism Strategy. These eight recommendations generally pertain to reforming the intelligence community and congressional oversight of both homeland security and intelligence matters. Because the National Strategies are expected to evolve over time, they can be updated to reflect these recommendations.

The remaining 33 commission recommendations are aligned with the specific initiatives of the Homeland Security Strategy and the objectives of the Combating Terrorism Strategy. For example, the commission recommended that DHS quickly implement a biometric entry-exit system as part of the screening process for people passing through U.S. ports of entry. It also recommended that DHS design a comprehensive border screening system that could be extended to other countries. These recommendations align with the Homeland Security Strategies initiative to create smart borders.

As another example, the commission recommended that emergency response agencies nationwide adopt the incident command system. The Homeland Security Strategy calls for the creation of a national incident management system.

The second issue is regarding key departments responsible for implementing the Homeland Security Strategy. Our preliminary analysis identified six departments as having key roles in implementing the strategy: DHS, DOD, HHS, the Justice Department, the Energy Department and the State Department. These six departments represent 94 percent of the proposed $47 billion budget for Homeland Security in fiscal year 2005.

DHS is designated as lead agency for 37 of the 43 initiatives in that strategy. But many of these initiatives have multiple lead agencies. For example, DHS, State and Justice each have been designated as a lead agency to create smart borders. In situations like this, effective coordination among the involved agencies is very important to achieve the expected results. In the forthcoming report for the subcommittee, we'll provide much more detailed information on these departments' efforts to plan and implement the strategies.

Third, as these departments continue to implement the Homeland Security Strategy, the development of performance standards and measures will help them assess their progress in implementing homeland security goals. Once they are established, performance

measures can be used to determine cost effectiveness of specific initiatives. Development of standards will also provide a means to measure preparedness and guide resource investments.

We have reported on difficulties the agencies are having in developing a comprehensive set of preparedness standards for assessing first responder capacities, for identifying gaps in those capacities and measuring progress in achieving performance goals. We have also reported similar challenges in developing standards and measures for bioterrorism preparedness in interoperable communications for first responders.

Mr. Chairman, this concludes my formal statement. We look forward to providing you with a more detailed report on the plans, activities and challenges regarding those departments involved in the Homeland Security Strategy. I'll be pleased to answer questions.

[The prepared statement of Mr. Rabkin follows:]

United States Government Accountability Office

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# HOMELAND SECURITY

# Observations on the National Strategies Related to Terrorism

Statement of Norman J. Rabkin,
Managing Director, Homeland Security and Justice Issues

GAO-04-1075T

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before this committee to address national strategies related to homeland security.

We at GAO applaud the efforts of the 9/11 Commission and the dedicated family members of the victims of that tragic day whose combined efforts have resulted in a definitive account of the past events and 41 recommendations for the future. As the Commission notes, we are safer today but we are not safe, and much work remains. We concur with the Commission's conclusion that the American people should expect their government to do its very best. We also acknowledge the efforts of earlier congressionally chartered commissions—the Bremer, Gilmore, and Hart-Rudman Commissions—that also analyzed terrorist incidents and government programs and made recommendations to improve homeland security.

In an effort to increase homeland security following the September 11, 2001, terrorist attacks in the United States, the executive branch issued seven national strategies related to combating terrorism and homeland security. Per your request, this testimony will focus primarily on the *National Strategy for Homeland Security* but also include relevant aspects of the *National Strategy for Combating Terrorism*. Together, these two national strategies address preventing terrorist attacks within the United States, reducing America's vulnerability to terrorism, and minimizing the damage and assisting in the recovery from future attacks, if they occur.

In my testimony today, I will cover three topics.

- To what extent are elements of the *Homeland Security and Combating Terrorism* strategies aligned with recommendations issued by the 9/11 Commission?
- What key departments have responsibilities for implementing the *Homeland Security* strategy, and what actions have they taken to implement the strategy?
- What challenges are faced by key departments in assessing their progress towards achieving homeland security objectives?

This testimony continues GAO's efforts to establish baseline assessments related to homeland security. In February, we testified on the desired

characteristics of national strategies, and whether various strategies—including the *Homeland Security* and *Combating Terrorism* strategies—contained those desired characteristics.[1] In March, we summarized strategic homeland security recommendations by GAO and congressionally chartered commissions that preceded the 9/11 Commission in issuing their reports.[2] We organized this March analysis by critical mission area, as defined in the *Homeland Security* strategy. In July, we reported on GAO recommendations to the Department of Homeland Security (DHS) and the department's progress in implementing such recommendations.[3] We organized this July analysis by DHS directorate or division. Together, these baseline efforts are intended to aid congressional oversight in assessing the effectiveness of federal homeland security activities.

## Summary

The 9/11 Commission issued 8 recommendations that were not addressed in the specific initiatives for the critical mission areas of the *Homeland Security* strategy or the goals and objectives of the *Combating Terrorism* strategy. These recommendations pertain to enhancing analytical capabilities of the Central Intelligence Agency, reorganizing the intelligence community, improving accountability of intelligence operations, leadership of the Department of Defense in paramilitary operations, continuity of national security policymaking, and modifying congressional oversight. As the national strategies are expected to evolve over time, they could reflect some of these recommendations. The remaining 33 Commission recommendations are aligned with the specific initiatives of the *Homeland Security* strategy or the objectives of the *Combating Terrorism* strategy. For example, in the area of Defending Against Catastrophic Threats, the Commission recommended that the United States prevent the proliferation of weapons of mass destruction by expanding and supporting existing counterproliferation initiatives. Similarly, the *Homeland Security* strategy includes an initiative to prevent terrorist use of nuclear weapons. The 9/11 Commission also recommended that the United States engage with other nations in developing a strategy

[1] GAO, *Combating Terrorism: Evaluation of Selected Characteristics in National Strategies Related to Terrorism*, GAO-04-408T (Washington, D.C.: Feb. 3, 2004).

[2] GAO, *Homeland Security: Selected Recommendations from Congressionally Chartered Commissions and GAO*, GAO-04-591 (Washington, D.C.: Mar. 31, 2004).

[3] GAO, *Status of Key Recommendations GAO Has Made to DHS and Its Legacy Agencies*, GAO-04-865R (Washington, D.C.: July 2, 2004).

against terrorism and an approach toward detention and humane treatment of captured terrorists. Likewise, the *Combating Terrorism* strategy includes an objective to establish and maintain an international standard and accountability with regard to combating terrorism.

Our preliminary analysis identifies six departments—the Departments of Defense, Energy, Health and Human Services, Homeland Security, Justice, and State—as having key roles in implementing the *Homeland Security* strategy. These six departments represent 94 percent of the proposed $47 billion budget for homeland security in fiscal year 2005. In addition, our preliminary analysis shows that these six departments have lead agency roles in implementing the *Homeland Security* strategy. For example, DHS was designated as the lead agency for 37 of the 43 initiatives in that strategy. According to information received from agency officials, at least one of these six departments has demonstrated planning and/or implementation activities in each of the 43 initiatives. While our preliminary analysis indicates that planning or implementation activities were occurring, it was not within the scope of the analysis to assess the status or quality of the various departments' activities on each initiative. In a forthcoming report for this committee, we will provide more detailed information on these departments' efforts, including an analysis of lead agencies' current implementation activities.

As key departments continue to implement the *Homeland Security* strategy, the development of performance goals and measures will help them assess their progress in implementing homeland security efforts. Once they are established, performance measures, such as cost-effectiveness and net benefits, can be used to link costs to outcomes. Development of standards, particularly systems and service standards, will also provide an important means to measure preparedness and guide resource investments.

## Background

Terrorism is generally defined as politically motivated violence to coerce a government or civilian population. The term "combating terrorism" generally refers to the full range of policies, strategies, programs, and activities to counter terrorism both at home and abroad. The distinction between "homeland security" and "combating terrorism overseas" is that

federal efforts on homeland security have a domestic focus whereas combating terrorism overseas efforts have an international focus.[4]

After the terrorist attacks of September 11, 2001, President Bush issued several national strategies related to homeland security and combating terrorism. These included the *National Strategy for Homeland Security (July 2002)*, the *National Money Laundering Strategy (July 2002)*, the *National Security Strategy (September 2002)*, the *National Strategy to Combat Weapons of Mass Destruction (December 2002)*, the *National Strategy for Combating Terrorism (February 2003)*, the *National Strategy for the Physical Protection of Critical Infrastructure and Key Assets (February 2003)*, and the *National Strategy to Secure Cyberspace (February 2003)*.[5] This testimony focuses on the *Homeland Security* and *Combating Terrorism* strategies.

## The National Strategy for Homeland Security

The *Homeland Security* strategy, with a domestic focus, sets out a plan to organize federal, state, local, and private sector organizations, on an array of functions. The strategy organizes these functions into six critical "mission areas":[6]

- Intelligence and Warning (which involves the collection, analysis, and distribution of information appropriate for preempting or preventing a terrorist attack).
- Border and Transportation Security (which emphasizes the efficient and reliable flow of people, goods, and services across borders, while deterring terrorist activity).

[4] For a more detailed discussion of the definition of terrorism and related terms, see GAO, *Combating Terrorism: Interagency Framework and Agency Programs to Address the Overseas Threat*, GAO-03-165 (Washington, D.C.: May 2003), pp. 12-15.

[5] For our detailed analysis of all of these strategies, see GAO, *Combating Terrorism, Evaluation of Selected Characteristics in National Strategies Related to Terrorism*, GAO-04-408T (Washington, D.C.: Feb. 3, 2004).

[6] The strategy also includes a discussion of "foundations" which we did not identify separately in our analysis. The strategy describes these foundations as unique American strengths that cut across all sectors of society, such as law, science and technology, information sharing and systems, and international cooperation. The discussion of these foundations overlaps with the six mission areas. For example, improving international shipping security is covered by the mission area of border and transportation security as well as the foundation area of international cooperation.

- Domestic Counterterrorism (which focuses on law enforcement efforts to identify, halt, prevent, and prosecute terrorists in the United States.).
- Protecting Critical Infrastructure and Key Assets (which stresses securing the nation's individual pieces and interconnecting systems that, if disrupted, may cause significant damage to the nation).
- Defending Against Catastrophic Threats (which emphasizes the detection, deterrence, and mitigation of terrorist use of weapons of mass destruction).
- Emergency Preparedness and Response (which focuses on damage minimization and recovery from terrorist attacks).

The *Homeland Security* strategy also identifies "major initiatives" to be addressed within each of these six mission areas. For example, within the Intelligence and Warning critical mission area, five major initiatives are indicated: (1) enhancing the analytic capabilities of the FBI; (2) building new capabilities through the Information Analysis and Infrastructure Protection Division of the proposed DHS; (3) implementing the Homeland Security Advisory System; (4) utilizing dual-use analysis to prevent attacks; and (5) employing "red team" techniques.[7] In all, the strategy cites 43 major initiatives across the 6 critical mission areas.

Since the *Homeland Security* strategy was issued in July 2002, the President has also released 12 Homeland Security Presidential Directives (HSPDs) that provide additional guidance related to these mission areas. For example, HSPD-4 focuses on defending against catastrophic threats, and HSPD-7 focuses on protecting critical infrastructure.

## The National Strategy for Combating Terrorism

The *Combating Terrorism* strategy, with an overseas focus, emphasizes identifying and defusing threats before they reach the borders of the United States. This strategy calls for fighting terrorist organizations of global reach and reducing their scope and capabilities to the regional and then local levels. The goal is to reduce the scope of terrorism to make it more localized, unorganized, and relegated to the criminal domain. The strategy seeks to accomplish this through four goals and 15 subordinate objectives. Together, these goals comprise the "4D Strategy:"

[7] Red-team techniques are those where the U.S. government would create a team that plays the role of terrorists in terms of identifying vulnerabilities and planning attacks.

- *Defeat* terrorist organizations of global reach by attacking their sanctuaries; leadership command, control, and communications; material support; and finances.
- *Deny* further sponsorship, support, and sanctuary to terrorist by ensuring that other states accept their responsibilities to take actions against these international threats within their sovereign territory.
- *Diminish* the underlying conditions that terrorists seek to exploit by enlisting the international community to focus its efforts and resources on the areas most at risk.
- *Defend* the United States, its citizens, and its interests at home and abroad by both proactively protecting the homeland and extending defenses to identify and neutralize the threat as early as possible.

## Congressionally Chartered Commissions

Congress, because of concerns about terrorism in recent years, chartered four commissions to examine terrorist threats and the government's response to such threats, as well as to make recommendations to federal, state, local, and private organizations. These commissions included:

- The Bremer Commission (the National Commission on Terrorism, chaired by Ambassador Paul Bremer), which issued its report in June 2000.
- The Gilmore Commission (the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, chaired by Governor James S. Gilmore, III), which issued its final report in December 2003.
- The Hart-Rudman Commission (the U.S. Commission on National Security/21st Century, chaired by Senators Gary Hart and Warren B. Rudman), which issued its final report in February 2001.
- The 9/11 Commission (the National Commission on Terrorist Attacks Upon the United States, chaired by Governor Thomas H. Kean), which issued its final report in July 2004.

The 9/11 Commission was established by Congress on November 27, 2002, to (1) investigate the relevant facts and circumstances relating to the terrorist attacks of September 11, 2001; (2) identify, review, and evaluate lessons learned from these attacks; and (3) report to the President and Congress on findings, conclusions, and recommendations that generate from the investigation and review. The Commission's investigations were

to focus on intelligence agencies; law enforcement agencies; diplomacy; immigration, nonimmigrant visas, and border control; the flow of assets to terrorist organizations; commercial aviation; the role of congressional oversight and resource allocation; and other areas of the public and private sectors determined to be relevant by the Commission for its inquiry. As a result of its work, the 9/11 Commission issued a report on July 22, 2004, which included 41 primary recommendations[8] for improvements in the United States' approach to securing the homeland and combating terrorism.

Of the 41 recommendations made by the 9/11 Commission, 30 are strategic in the sense that they are broad in focus and implementation would require coordination across multiple departments, levels of government, and sectors. Examples of such recommendations are tracking terrorist financing and preventing the proliferation of weapons of mass destruction. In contrast, 8 recommendations made by the 9/11 Commission are agency-specific and could be addressed in a single agency's implementation plan. The departments and agencies targeted by these recommendations are DHS, the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), the Department of Defense (DOD), and the Transportation Security Administration (TSA). For example, the Commission recommended that DOD and its oversight committees regularly assess the adequacy of Northern Command's strategies and planning and that the FBI should establish a specialized and integrated national security workforce. The remaining 3 recommendations are foreign-country-specific. For example, the 9/11 Commission recommended that the U.S. support Pakistan's government in its struggle against extremists, with a comprehensive effort that extends from military aid to support for better education. While some of the 9/11 Commission's recommendations are specific to an individual agency, department, or foreign country, the national strategies guide agencies in their implementation of homeland security efforts, whether these efforts are collaborative or individual, broad or specific. Therefore, we have included all of the Commission's recommendations in our comparative analysis with the national strategies.

[8] We define "primary recommendations" as those recommendations that were highlighted in bold and specifically identified as a recommendation in the 9/11 Commission report.

## Scope and Methodology

To determine the extent to which the 9/11 Commission recommendations are aligned with the national strategies, we took a number of steps. We looked at each of the primary 9/11 Commission recommendations in the context of one or more of the six mission areas of the *Homeland Security* strategy. Then, to the extent appropriate, we matched each recommendation with one or more of the major initiatives for each mission area. For those recommendations that were not associated with any of the mission areas, we determined the extent to which these recommendations were covered in the objectives of the *Combating Terrorism* strategy. Our detailed analysis first focused on the *Homeland Security* strategy because it is more comprehensive in describing its purpose, scope, and objectives than the *Combating Terrorism* strategy.

To determine what key departments have implementation responsibilities for the *Homeland Security* strategy, we examined the latest available homeland security funding data for federal agencies. We then selected the six departments with the largest proposed homeland security budgets—DHS, DOD, the Department of Energy (Energy), the Department of Justice (DOJ), the Department of Health and Human Services (HHS), and the Department of State (State)—which together account for 94 percent of the President's proposed $47 billion budget for homeland security in fiscal year 2005. Additionally, we reviewed the language in the *Homeland Security* strategy and HSPDs to determine whether these departments had been designated as "lead agencies" in implementing the initiatives. We then determined whether the six key federal departments addressed these 43 strategy initiatives in their planning and implementation activity by conducting a review of each department's high-level strategic planning documents related to homeland security. As part of this analysis, we determined whether each department was specifically engaged in conducting planning and implementation activities related to each of the 43 initiatives. We provided the results of our analyses to officials from the various departments for their verification. Departments provided the data during fiscal year 2004; however, we did not conduct our own audit to verify the accuracy of the data or the progress of particular activities. Nor did we assess the status, extent or quality of the work being planned or implemented, as it was not in the scope of our engagement. We further recognize that the departments may continue to plan and implement at least some of their strategies and programs through the remainder of fiscal year 2004, resulting in a change in findings over time.

To determine the challenges faced by key departments in measuring progress in implementing homeland security efforts, we reviewed and

summarized our products related to strategic planning and performance measurement.

We conducted our work between February and September 2004 in accordance with generally accepted government auditing standards.

## The National Strategies Are Generally Aligned with the 9/11 Commission Recommendations

While we would not expect to see a direct correlation between the national strategies' objectives and the 9/11 Commission recommendations, it is nevertheless helpful to examine them side-by-side, to ascertain whether there is some alignment.

Although the Commission's recommendations are broadly aligned with the two strategies, 8 of the 41 recommendations are not addressed in the specific initiatives of the critical mission areas of the *Homeland Security* strategy or the objectives of the *Combating Terrorism* strategy. For example, the 9/11 Commission recommendations suggest enhancing the analytical capabilities of the CIA and reorganizing the intelligence community— initiatives that are not identified in either strategy.[9] Table 1 lists these 8 recommendations.

[9] In August 2004, the President issued a series of executive orders related to the management of the intelligence community and sharing terrorist information. We have not evaluated the extent to which these orders address the 9/11 Commission recommendations.

**Table 1: 9/11 Commission Recommendations that are Not Addressed in the Mission Area Initiatives of the National Strategy for Homeland Security or the Objectives of the National Strategy for Combating Terrorism**

| |
|---|
| "The CIA Director should emphasize (a) rebuilding the CIA's analytic capabilities; (b) transforming the clandestine service by building its human intelligence capabilities; (c) developing a stronger language program, with high standards and sufficient financial incentives; (d) renewing emphasis on recruiting diversity among operations officers so they can blend more easily in foreign cities; (e) ensuring a seamless relationship between human source collection and signals collection at the operational level; and (f) stressing a better balance between unilateral and liaison operations." |
| "We recommend the establishment of a National Counterterrorism Center (NCTC), built on the foundation of the existing Terrorist Threat Integration Center (TTIC). Breaking the older mold of national government organization, this NCTC should be a center for joint operational planning and joint intelligence, staffed by personnel from the various agencies. The head of the NCTC should have authority to evaluate the performance of the people assigned to the Center." |
| "The current position of Director of Central Intelligence should be replaced by a National Intelligence Director with two main areas of responsibility: (1) to oversee national intelligence centers on specific subjects of interest across the U.S. government and (2) to manage the national intelligence program and oversee the agencies that contribute to it." |
| "Finally, to combat the secrecy and complexity we have described, the overall amounts of money being appropriated for national intelligence and to its component agencies should no longer be kept secret. Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work." |
| "Lead responsibility for directing and executing paramilitary operations, whether clandestine or covert, should shift to the Defense Department. There it should be consolidated with the capabilities for training, direction, and execution of such operations already being developed in the Special Operations Command." |
| "Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administrations by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow new officials to assume their new responsibilities as quickly as possible." |
| "Congress should create a single principal point of oversight and review for homeland security. Congressional leaders are best able to judge what committee should have jurisdiction over this department and its duties. But we believe that Congress does have the obligation to choose one in the House and one in the Senate, and that this committee should be a permanent standing committee with nonpartisan staff." |
| "Congressional oversight for intelligence – and counterterrorism – is now dysfunctional. Congress should address this problem. We have considered various alternatives: A joint committee on the old model of the Joint Committee on Atomic Energy is one. A single committee in each house of Congress, combining authorization and appropriating authorities, is another." |

Source: GAO analysis of the 9/11 Commission recommendations.

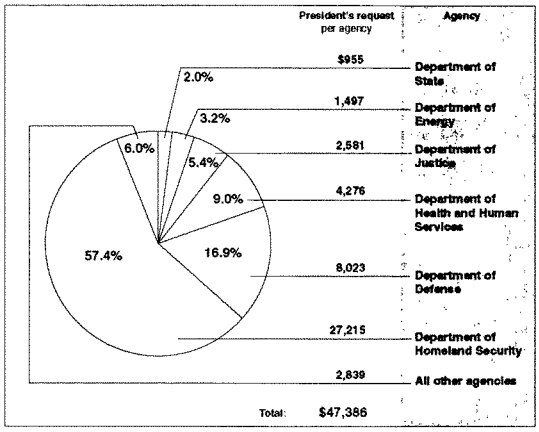
Of the remaining 33 initiatives, 22 are aligned with at least one initiative related to the critical mission areas of the *Homeland Security* strategy and 11 were aligned with at least one of the objectives of the *Combating Terrorism* strategy. For example, the 9/11 Commission recommended that a specialized and integrated national security workforce be established at the FBI in order to enhance the agency's expertise in intelligence and national security. Similarly, the *Homeland Security* strategy includes initiatives regarding the restructuring and enhanced capabilities of the FBI. The 9/11 Commission also recommended that the United States provide economic and development support to Muslim nations to help prevent the use of these nations as terrorist sanctuaries. Likewise, one of the objectives of the *Combating Terrorism* strategy is to strengthen weak states and prevent the emergence or reemergence of terrorism.

While the *Homeland Security* and *Combating Terrorism* strategies are aligned with the vast majority of recommendations made by the 9/11 Commission, the additional recommendations may be considered in future updates of the national strategies.

## Preliminary Results Indicate Key Federal Departments Have Initiated Planning and Implementation of Homeland Security Strategy Initiatives

We identified six departments—DOD, Energy, HHS, DHS, DOJ, and State—as having key roles in implementing the *Homeland Security* strategy. As shown in figure 1, these six departments have the highest level of funding and together comprise 94 percent of the proposed $47 billion budget for homeland security in fiscal year 2005. While not shown in figure 1, these departments also dominate funding for most of the individual homeland security mission areas. For example, DHS features prominently across all critical mission areas, representing the majority of funding requested in intelligence and warning, border and transportation security, and emergency preparedness and response, as well as substantial portions of the budget submissions for domestic counterterrorism, critical infrastructure protection, and catastrophic threat defense. Similarly, three of these departments comprise the majority of funding requested in three mission areas, respectively – DOJ in domestic counterterrorism, DOD in critical infrastructure protection, and HHS in catastrophic threat defense.

**Figure 1. Proposed Fiscal Year 2005 Homeland Security Funding by Federal Department (budget authority in millions of dollars)**




Source: GAO, based on OMB, Analytical Perspectives, Budget of the United States Government, Fiscal Year 2005

Note: Other agencies includes the Departments of Agriculture ($651 million), Veterans Affairs ($297 million), Transportation ($243 million), Commerce ($150 million), and Treasury ($87 million), as well as the National Science Foundation ($344 million), National Aeronautics and Space Administration ($207 million), Social Security Administration ($155 million), Environmental Protection Agency ($97 million), U.S. Army Corps of Engineers ($84 million), General Services Administration ($80 million), and several smaller agencies.

Our preliminary analysis of these six departments reinforced their position as key players because they have lead agency roles in implementing the *Homeland Security* strategy. Specifically, the strategy and HSPDs designate the six departments as lead agencies for particular initiatives (or functions within the initiatives). DHS was clearly the most important department for implementation because it was designated as a lead agency for 37 of the 43 initiatives in the *Homeland Security* strategy. The other 5 departments were also designated as a lead as follows—DOJ (a lead on 9

initiatives); HHS and State (each a lead on 5 initiatives); DOD (a lead on 4 initiatives); and Energy (a lead on 3 initiatives).

While we consider the designation of lead agencies as a positive step in establishing accountability, 14 of the 43 initiatives have multiple lead agencies. This indicates that interagency coordination of roles and activities will be important, particularly on those initiatives involving multiple leads (e.g., domestic counterterrorism and critical infrastructure protection).

Based on our preliminary analysis, it appears that the six key departments have incorporated the *Homeland Security* strategy's initiatives in their strategic planning and implementation activities. Our initial analysis shows that all 43 of the strategy's initiatives were included in some of the activities implemented by the six departments; however, we have not assessed the status, extent, or quality of the various departments' activities on each initiative, as it was not in the scope of our review. All five Intelligence and Warning initiatives have been covered by at least one department in each of the initiatives. There are six initiatives under the Border and Transportation Security mission area, each addressed by at least two departments' planning or implementation activities. Domestic Counterterrorism has six initiatives, each of which are covered by at least one department's planning or implementation activities. The strategy identifies eight initiatives under the Protecting Critical Infrastructures and Key Assets mission area, in which each of the initiatives are addressed by at least four departments. There are six initiatives under the Defending Against Catastrophic Threats mission area; all of the initiatives feature planning or implementation activities by at least two departments. For the Emergency Preparedness and Response mission area, the strategy identifies 12 initiatives with coverage of each initiative by at least one department's activities. In a forthcoming report for this committee, we will provide more detailed information on these departments' efforts, including an analysis of current implementation activities.

## Development of Performance Goals and Measures May Assist Key Agencies in Assessing Progress Towards Implementing Homeland Security Efforts

Developing clear performance measures and standards for implementing the *Homeland Security* strategy is important for agencies to assess their progress in achieving their mission-related goals and objectives. However, as we stated in an earlier testimony, the strategy's initiatives often do not provide a baseline set of performance goals and measures upon which to assess and improve preparedness.[10] Thus, is it a challenge for the nation to ensure both a successful and a fiscally responsible preparedness effort.

The Government Performance and Results Act of 1993 (GPRA) required federal agencies to develop strategic plans with long-term, outcome-oriented goals and objectives, annual goals linked to achieving the long-term goals, and annual reports on the results achieved.

We identified strategic planning as one of the critical success factors for new organizations.[11] For example, as part of its implementation phase, we noted that DHS should engage in strategic planning through the involvement of stakeholders, assessment of internal and external environments, and an alignment of activities, core processes, and resources to support mission-related outcomes. We are currently reviewing DHS's first strategic plan to, among other things, assess the extent to which it reflects GPRA requirements and supports the *Homeland Security* strategy.

Additionally, we have reported that expanding agency use of performance measures that link costs to outcomes is important. However, we have found that agencies are generally weak on linking costs to performance, whether through measures such as cost-effectiveness, net benefits, or others. Such measures are broadly required for planning regulatory and investment decisions but are seldom used to evaluate actual performance, even though the planning documents can sometimes provide a basis to compare forecasts and actual outcomes.[12] The Congressional Committee report on the establishment of GPRA devoted considerable attention on links between performance and cost.

[10] GAO, *Homeland Security: Effective Intergovernmental Coordination is Key to Success*, GAO-02-1011T (Washington, D.C.: Aug. 2002).

[11] GAO, *Homeland Security: Critical Design and Implementation Issues*, GAO-02-957T (Washington, D.C.: July 17, 2002).

[12] For example, OMB Circulars A-11 and A-94.

To find an example of the need for baseline performance goals and measures we need look no further than the nation's efforts at emergency preparedness and response. We have reported that there is not yet a comprehensive set of preparedness standards for measuring first responder capacities, identifying gaps in those capacities, and measuring progress in achieving performance goals. Additionally, in our past work on bioterrorism preparedness,[13] we reported that state and local officials were concerned about the lack of specific standards for measuring preparedness, and these officials noted that specific benchmarks would help them determine whether they were adequately prepared to respond to a bioterrorism incident. Moreover, in our past work on interoperable communications,[14] we discussed the need to establish national interoperability performance goals and standards. Finally, we have reported on the lack of reliable information on existing federal, state, and local capabilities for combating terrorism and the need to develop a comprehensive inventory of existing capabilities. Without standards linked to such capabilities, it will be a challenge to assess preparedness gaps and efforts to address the gaps.[15]

Since homeland security relies upon the coordinated actions of federal, state, local governments, and the private sector—and, in many cases, upon "layers" of defenses—a challenge exists in measuring progress across numerous dimensions. Systems and services standards—which focus on the performance, design, and overall management of processes and activities—hold great potential to both improve coordination across such dimensions and enhance measurement of continued preparedness. Such standards could assist in overcoming challenges in identifying interdependencies, defining roles and relationships, assigning responsibilities, and linking federal, state, and local governments, and the private sector in a measurable, dependable, and reliable manner. The private sector already sets standards within various business chains, such

[13] GAO, *Bioterrorism: Preparedness Varied across State and Local Jurisdictions*, GAO-03-373 (Washington, D.C.: Apr. 7, 2003).

[14] GAO, *Homeland Security: Federal Leadership and Intergovernmental Cooperation Required to Achieve First Responder Interoperable Communications*, GAO-04-963T (Washington, D.C.: July 20, 2004) and *Homeland Security: Challenges in Achieving Interoperable Communications for First Responders*, GAO-04-231T (Washington, D.C.: Nov. 6, 2003).

[15] GAO, *Homeland Security: Coordinated Planning and Standards Needed to Better Manage First Responder Grants in the National Capital Region*, GAO-04-904T (Washington, D.C.: June 24, 2004).

as in the design, raw materials, supply, manufacture, sales, delivery, and customer support chain. Within homeland security process chains, standards will be essential to overcome the challenge of assuring the stability and reliability of all links in the interdependent business chains of all involved parties responsible for homeland security.

Standards can also aid in identifying and fixing fragile links that could lead to particularly catastrophic cascading events, such as widespread power outages or domino effect impacts on food supply or product distribution systems. Systems, services, and management standards can also help clarify the important roles each organization, level of government, and public or private sector plays in improving homeland security. Standards will factor in costs, legal, jurisdictional and other constraints, and identify ways to imbed homeland security principles into business and government systems in ways compatible with other important social and economic goals. Standards will also enable more effective oversight by providing means to measure preparedness and guide resource investments.[16]

Mr. Chairman, this concludes my prepared statement. We look forward to providing you with a more detailed report on department plans, activities and challenges regarding the implementation of the *Homeland Security* strategy. I will now be pleased to respond to any questions that you or other members of the committee have.

## GAO Contacts and Staff Acknowledgements

For further information about this testimony, please contact Norman J. Rabkin at 202-512-8777. Other key contributors to this statement were Stephen L. Caldwell, Kristy N. Brown, Jared Hermalin, Wayne A. Ekblad, Ricardo Marquez, and Amy Bernstein.

[16] GAO, *Homeland Security: The Need for National Standards*, Statement of Randall Yim, Managing Director, National Preparedness, Homeland Security and Justice, before The National Commission on Terrorist Attacks upon the United States. (Washington, D.C.: November 19, 2003).

## GAO's Mission

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Mr. SHAYS. Thank you. It's going to be an interesting panel.

Mr. Perl, let's see if we can get some of what you need to say. Don't try to speed it up, if we have to interrupt you in between, we will. Just do your statement.

Mr. PERL. Thank you, Mr. Chairman. I also have a chart here.

I'd like to state at the onset that the 9/11 Commission report incorporates many of the central elements of the National Strategy for Homeland Security and the National Strategy for Combating Terrorism. The commission report additionally contains recommendations for changes in the roles and responsibilities of agencies and Congress. Today I'd like to summarize areas of agreement and overlap in the two strategies in the 9/11 Commission report and I'll conclude with some observations.

Thirteen themes are central to both strategies in the 9/11 Commission report. They are: one, a need for both protective and preemptive action; two, a need to help foreign nations fight terrorism; three, a need for timely and actionable intelligence and warning; four, a need for integration of information sharing among governments, across the Federal Government and at State and local levels; five, a need for effective law enforcement cooperation and coordination; six, a need for law enforcement and intelligence coordination, both domestic and foreign; seven, a need to remove barriers to cooperation between governmental agencies, both domestic and foreign; eight, a need for an informed citizenry at home and abroad, this also includes winning hearts and minds; nine, a need to target, monitor and attack terrorist financing; ten, a need to track and apprehend terrorists; eleven, a need to combat fraudulent travel documents; twelve, a need to better secure borders, including ports; and thirteen, a need for risk analysis to help assess threats and prioritize use of resources.

Mr. SHAYS. You know what I think we'll do? I think we'll stop right there, because you've gone through that. We have 5 minutes before we vote. I'm going to suggest that, mine says two votes, others say we have five or six. What we'll do is I'll have a staff member here to tell you how many votes we have to take, if you have 20 minutes or whether you have a half hour or 15 minutes or so. We're going to recess.

[Recess.]

Mr. SHAYS. The subcommittee will come to order.

Mr. Perl, you still have the floor, and take your time.

Mr. PERL. Thank you, Mr. Chairman.

So we were talking about these common themes, Mr. Chairman, and how meeting the objectives of these common themes would likely benefit our efforts to combat terrorism. But important, however, is not only to state our options to achieve these ends, but also to ensure that these objectives are feasible, cost effective and achievable in an acceptable timeframe.

Moreover, I would suggest it is vital to include strategies and policies to mitigate the conditions that contribute to terrorism in societies that are incredibly different from our own. We might also want to consider to what degree our strategies and the Commission's recommendations focus on the last war and not the ongoing war of tomorrow. For example, the Commission in its first recommendation stresses the need for identifying and prioritizing ter-

rorist sanctuaries, with a focus on failed states. However, terrorists are also using politically stable home countries for sanctuary, including western democracies, where they blend into local communities, where their training camps are in civilian housing complexes, and where their bomb factories are in private residences.

Also, although a number of the Commission recommendations fall within the category of preventing the growth of Islamic extremism, none addresses directly the issue of confronting incitement to terrorism when promoted, countenanced or facilitated by the action or inaction of nation states. The President talked yesterday in his U.N. talk about this issue of incitement.

Terrorists clearly demonstrate flexibility to be successful. So arguably, to be successful in combating terrorism, the challenge may not so much be in creating new organizational relationships, but in establishing policies and institutional arrangements that can adapt to change. For just as old organizational structures may be outdated today, new organizational structures and arrangements may be outdated tomorrow.

And Mr. Chairman, some question whether the push to reform organizations and implement new polices and programs is a runaway train, gathering momentum but not under control, with increasing impact on civil liberties.

The escalating economic costs of homeland defense has limits. No sizable nation can afford the costs of fortifying and securing every square inch of its territory. So as the 9/11 Commission has recommended, both strategy and implementation must wisely prioritize allocation of resources. And this is the issue of risk analysis, to a certain degree, the last point that I made here.

A point that one of the members of your committee brought up was the issue of the human factor. While strategies and reform of governmental structures can accelerate success against global terrorism, many experts see human resource factors as equally critical, including strong national leadership and high quality rank and file personnel and technology. In this context, the question arises, to what extent were the failures surrounding September 11 human rather than organizational failures.

There is concern today that in today's critical times, full individual and organizational efforts should be focused on combating terrorism and not diverted by a need to adapt to new organizational structures, responsibilities and roles. But if not now, when? Many argue that not enough has been accomplished since September 11 to keep pace with the rising threat of terrorism. And many argue that given the gravity of the threat, changes in organizational structure, strategy and tactics long overdue must be implemented without delay.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Perl follows:]

# Combating Terrorism: The 9/11 Commission Recommendations and The National Strategies

**Statement of**

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**Specialist in International Relations**
**Congressional Research Service**

**before**
**The Subcommittee on**
**National Security, Emerging Threats, and International Relations**
**of the House Committee on Government Reform**

**Christopher Shays, Chairman**

**September 22, 2004**

# Combating Terrorism: The 9/11 Commission Recommendations and The National Strategies*

Mr. Chairman and distinguished Members of the Committee, thank you for the opportunity to represent the Congressional Research Service at today's hearing. We were requested to examine the 9/11 Commission recommendations as they relate to the goals, objectives, and initiatives of the 2002 *National Strategy for Homeland Security* and the 2003 *National Strategy for Combating Terrorism.*

It is important to stress that the 9/11 Commission report incorporates many of the central elements of the *National Strategy for Homeland Security* and the *National Strategy for Combat Terrorism.* The Commission report additionally recommends changes in roles and responsibilities of executive agencies and Congress.

I will begin my testimony by summarizing areas of agreement and overlap in the three documents, with some caveats concerning their shared assumptions, strategies, and goals. After providing highlights of the reports to permit comparison, I will discuss certain terrorism issues and their potential impact on strategic decisions. After my prepared comments, I would be pleased to answer questions or provide further information.

Thirteen consistent central themes common to both strategies and the 9/11 Commission Report include:

- A need for both protective and preemptive action;
- A need to help foreign nations fight terrorism;
- A need for timely and actionable intelligence and warning;
- A need for integration of information sharing among governments, across the federal government, and state and local levels;
- A need for effective law enforcement activity to support policy;

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* Statement of Raphael Perl, Specialist in International Affairs, Congressional Research Service, before the Subcommittee on National Security, Emerging Threats, and International Relations of the House Committee on Government Reform, September 22, 2004.

- A need for law enforcement and intelligence coordination --domestic and foreign;
- A need to remove barriers to cooperation between governmental agencies--domestic and foreign;
- A need for an informed citizenry–at home and abroad;
- A need to target, monitor, and attack terrorist financing;
- A need to track and apprehend terrorists;
- A need to combat fraudulent travel documents;
- A need to better secure borders, including ports;
- A need for risk analysis to assess threats and help prioritize use of resources.

Meeting these objectives would likely benefit our efforts to combat terrorism and other criminal activities. However, a major issue facing our country concerns not only what our options are to achieve these ends, which these three reports have identified very well, but also whether the objectives are feasible, cost-effective, and achievable in an acceptable time frame.

Also of importance is whether our strategies will mitigate the root causes of terrorism: the indoctrination of young people in religious schools and mosques towards militancy and fanaticism; desperate social and political conditions where parents are willing to sacrifice their own children for financial gains for the family and where young people have no opportunities; the lack of cross-cultural sensitivity and mutual respect among diverse nations; and the perception in much of the Islamic world that the West is their enemy. We must ask ourselves whether our international anti-terror policies are effective in societies incredibly different from our own: societies where loss of face may be perceived as worse than death, or where religious doctrine governs all aspects of life, or where signed agreements are viewed not as contracts, but rather merely as a basis for negotiations.

We might also consider to what degree our national strategies and the 9/11 Commission's recommendations focus on the "the last war" and not the war of today –or the war of tomorrow. For example, the Commission, as its first recommendation, stresses the need for identifying and prioritizing terrorist sanctuaries with a focus on failed states. Some assert, however, that terrorists are increasingly using politically stable home countries-- including western democracies-- for sanctuary where they blend into local communities, where their training camps are in civilian housing complexes, and where their bomb factories are in private residences. Although a number of the Commission's recommendations fall within the category of preventing the growth of Islamic extremism, none addresses directly the issue of confronting incitement to terrorism when promoted, countenanced, or facilitated by the action – or inaction – of nation states.

Terrorists are quick to change, and the world in which both *we* and *they* operate is rapidly changing as well – spurred by an unprecedented growth in technology and an expanding globally interdependent economy. We have all too vividly seen how terrorists demonstrate flexibility in strategy, organizational structures, recruitment of personnel, and tactics – especially in use of technology, and funds utilization and sources. To be successful in combating terrorism, the major challenge may not be in creating new organizational arrangements, for just as old structures may be outdated today, new organizational structures and arrangements may be outdated tomorrow. The challenge may be to establish policies and institutional arrangements that can similarly adapt to change rapidly. Some also question whether the push to reform organizations and implement new policies and programs is a runaway train, gathering momentum but not under control, with increasing impact on civil liberties.

## National Strategies for Combating Terrorism and for Homeland Defense

On July 16, 2002, the White House released the *National Strategy for Homeland Security* and on February 14, 2003, the White House released the *National Strategy for Combating Terrorism*. Both the *National Strategy for Homeland Security* and the *National Strategy for Combating Terrorism* are designed to complement other elements of the National Security Strategy, including sub-strategies for controlling weapons of mass destruction, cyberspace and critical infrastructure protection, and drug control.

Common to both strategies is the overarching concept of "defense in depth" which projects a series of concentric perimeters within and outside the land mass of the United States. The outermost circle consists of diplomatic, military, intelligence, and law enforcement organizations, operating mostly overseas. A primary goal of these organizations is to help preempt attacks on the U.S. homeland. In the both strategies, organizations such as the Customs Service, Immigration and Naturalization Service, and the Coast Guard – all of which are now incorporated into the Department of Homeland Security – constitute the next ring, which focuses on U.S. borders and the goods and people that cross them. The next ring includes federal, state, and local law enforcement, as well as first responders and the National Guard. These operate for the most part within U.S. borders and are responsible for protecting towns and cities. Private citizens, who are being asked to report suspicious activity and take preventive action to reduce vulnerability to perilous situations, are part of this ring also. The final ring includes the private sector and federal agencies that play a key role in safeguarding the facilities that comprise critical physical infrastructures (e.g., transportation, financial, telecommunications, and energy systems among others).

Within this context of defense in depth, the *National Strategy for Homeland Security* focuses inwards – on threats beginning at our borders – or slightly beyond. The *National Strategy for Combating Terrorism* focuses outwards – from our borders and beyond.

The strategic objectives of the *National Strategy for Homeland Security* in order of priority are:

- Prevent terrorist attacks within the United States;
- Reduce America's vulnerability to terrorism; and
- Minimize the damage and recover from attacks that do occur.

The strategic objectives of the *National Strategy for Combating Terrorism* are:

- Stop terrorist attacks against the United States, its citizens, its interests, and U.S. friends and allies around the world;
- Create an international environment inhospitable to terrorists and their supporters.

The *National Strategy for Combating Terrorism* is founded on four pillars – defeating, denying, diminishing, and defending:

- Defeat terrorists (with help from allies) by attacking their sanctuaries; leadership; command, control, and communications; material support; and finances.
- Deny terrorists state sponsorship, support, and sanctuary/safehavens.
- Diminish underlying conditions that terrorists exploit, by fostering economic, social, and political development, market-based economies, good governance, and the rule of law.
- Defend U.S. citizens and interests at home and abroad to include protection of physical and cyber infrastructures

In today's technologically connected and economically interwoven world, traditional divisions between what is domestic activity and what is international activity are eroding. As the lines between international and national terrorism groups and activities increasingly dovetail and overlap, effective anti-terror strategies will arguably need to do the same. For example, effective law enforcement, information sharing, increased use of science and technology, and international cooperation are important components of both the *National Strategy for Combating Terrorism* and the *National Strategy for Homeland Security*.

Involvement of the public is an important component of both strategies as well. Abroad, winning the public's hearts and minds is an important *National Strategy for Combating Terrorism* goal. At home, the focus is on the public as a force multiplier for effective emergency response efforts and on the public as a watchdog for terrorist activity. A major difference between the *National Strategy for Combating Terrorism* and the *National Strategy for Homeland Security* is the push for involvement of the private sector in enhancing national security – a central

*domestic* homeland security strategy component, but one that is arguably downplayed or overlooked in our *international* strategy.

Comprehensive national anti-terror strategic plans will need to address many issues. Included at the *international level* are the appropriate roles for military force, law enforcement, intelligence, diplomacy, economic development, education, promotion of social and political equality, and nation and institution building. *Tactically*, in the short term, how does one employ the wide portfolio of tools available to policymakers to reduce pressing and immediate threats? *Strategically*, in the long term, how does one win "hearts and minds"? In addition, most experts agree that we need the cooperation of other countries to succeed. How does one both maximize international "buy-in" and national effectiveness?

On the *domestic level*, the primary focus of strategy is to thwart, or minimize the impact, of terrorist attacks within the United States. This includes reducing America's vulnerability – especially the vulnerability of America's critical infrastructure to terrorist attack. Included as well is development of a robust system to respond to, recover from, and generally minimize the damage from terrorist attacks. These elements are addressed in the *National Strategy for Homeland Security*.

As currently implemented, our domestic strategy also involves a substantial role for the collection, analysis, and exploitation of intelligence on domestic terrorist groups as well as transnational terrorist groups operating within the United States. The FBI is reportedly in the midst of a substantial re-invention of its intelligence program – to move it from a law enforcement approach to an intelligence approach that is more proactive and preventative. Moreover, since 9/11, other government entities are increasingly seeking to bridge potential gaps between intelligence on domestic and transnational terrorist groups and activities. For example, the Department of Homeland Security (DHS) Directorate of Information Analysis and Infrastructure Protection (DHS-IAIP) is responsible for mapping the foreign terrorist threat onto its assessment of vulnerabilities of U.S. critical national infrastructure. In addition, the Terrorist Threat Integration Center (TTIC) and the National Counterterrorism Center (NCTC) are integrating foreign and domestic intelligence as well.

## The 9/11 Commission Report

On July 22, 2004, the National Commission on Terrorist Attacks Upon the United States ["9/11 Commission"] issued its final report. Included are forty-one recommendations for changing the way the government is organized to combat terrorism and for prioritizing its efforts. Many of the Commission's recommendations are consistent with elements of the Administration's *National Strategy for Combating Terrorism* and *National Strategy for Homeland Defense* such as diplomacy and counter-proliferation efforts, preemption, intelligence and information fusion, winning hearts and minds – including not only public diplomacy, but also policies that encourage development and more open societies, law enforcement cooperation, and defending the homeland by protecting borders and

critical infrastructures, tracking terrorists and their financing, and helping foreign nations combat terrorism.

The 9/11 Commission in its report stated the belief that the 9/11 attacks revealed four kinds of failures: "in imagination, policy, capabilities, and management". The Commission's recommendations generally fall into six categories: (1) preemption (attacking terrorists and combating the growth of Islamic terrorism and radical Islamist ideologies that support terrorism); (2) protecting against and preparing for attacks; (3) coordination and unity of operational planning, intelligence and sharing of information; (4) enhancing, through centralization, congressional effectiveness of intelligence and counter-terrorism oversight, authorization, and appropriations; (5) centralizing congressional oversight and review of homeland security activities; and (6) increasing FBI, DOD, and DHS capacity to assess terrorist threats and improving their concomitant response strategies and capabilities. The report specifically recommends confronting openly problems in the U.S.- Saudi relationship, read by some to include such issues as terrorist financing and the issue of ideological indoctrination and incitement. The report also recommends sustaining aid to Pakistan and Afghanistan, which are perceived to be vital geo-strategic allies in the global war on terror.

Prominent in the report are specific recommendations calling for (1) creation of a more unified congressional committee structure for oversight, authorization, and appropriations involving intelligence and counterterrorism (e.g., a joint committee or separate committees in each chamber – possibly combining authorizing and appropriating authorities); (2) creation of a single principal point of congressional oversight and review for homeland security; (3) creation of a position of National Intelligence Director (NID) in the Executive Office of the President; and (4) creation of a National Counterterrorism Center as proposed by the Commission. The National Intelligence Director would exercise some degree of control of intelligence agencies across the federal government, propose and execute a unified intelligence budget, and serve as principal intelligence adviser to the President. The National Counterterrorism Center, in the view of the Commission, would be the central office for intelligence analysis, and coordination, yet not execution of overall counterterrorism operations.

Mirroring Commission recommendations, on August 2, 2004, President Bush urged Congress to create the position of a National Intelligence Director – a position separate from that of CIA Director – to be appointed by the President with the advice and consent of the Senate, and to serve at the pleasure of the President. The Director would serve as the President's principal intelligence advisor, overseeing and coordinating the foreign and domestic activities of the intelligence community. The President also established a National Counterterrorism Center – a move envisioned as building on the analytical work of the Terrorist Threat Integration Center. The new center is envisioned as serving as a central knowledge bank for information about known and suspected terrorists and would be charged with coordinating and monitoring counter-terrorism plans and activities of all government agencies, and preparing the daily terrorism threat report for the President and senior officials. On August 27, 2004, President Bush signed four Executive Orders (EOs) and a Directive, designed to strengthen and reorganize intelligence, counterterrorism, and civil liberties functions in the government along the lines recommended by the 9/11

Commission. The orders, among other things, grant powers to the Director of Central Intelligence commensurate with a role envisioned for a future national intelligence director and establish a national counterterrorism center.

Some, however, are concerned that a newly created National Intelligence Director (NID), as an integral part of the President's team, might be more vulnerable to political pressure. Central to this debate is a desire to maintain the independence of objective intelligence from administration policy goals. As the proposed National Intelligence Director would have access to both domestic and foreign intelligence, another concern voiced is the overall power wielded by the proposed position and its potential for abuse.

## Issues Regarding the National Terrorism and Homeland Security Strategies and the 9/11 Commission Report

Given the potential access by terrorists to weapons of mass destruction, designing effective responses to terrorism may well be the greatest challenge facing governments today. Bedeviling policymakers is how to combat effectively this growing global phenomenon with sufficient intelligence support and at a sustainable level of economic, social, and political cost. Inherent in this policy debate are two overarching issues: (1) how to ensure protection of civil liberties while enhancing security, and (2) how to deal with the seemingly unending costs of enhancing security. Critical to both these issues is the development of a methodology to measure the adequacy of antiterrorism efforts, an issue addressed in the *National Strategy for Homeland Security*, which would have agencies create benchmarks by which to evaluate progress and allocate future resources.

In this regard, some raise concern that creation of positions or structures in government where domestic and foreign intelligence are coordinated or fused – such as the 9/11 Commission's proposed National Intelligence Director and National Counter-Terrorism Center – will result in encroachments on civil liberties. Clearly as a nation, they say, the United States does not seek to defend freedom abroad and ignore it at home. On the other hand, others counter that providing security in today's increasingly borderless world is a basic responsibility of governments to their citizenry. Without intelligence gathering and analysis that can adequately detect an increasingly intertwined continuum of threats of both foreign and domestic origin, they say, policymakers may find themselves at a major disadvantage in implementing strategies to counter such threats.

Concern also exists over the potential for seemingly limitless economic costs of security associated with homeland defense. The issue is part of a broader question – is the nation overreacting by overprioritizing terrorism? To what degree does America's expenditure of unending energy and billions of dollars constitute a follow-on victory for Al Qaeda by weakening our economy and relatively open, unregulated lifestyle? No sizeable nation can afford the cost of fortifying every square inch of its territory from terror attacks, so as the 9/11 Commission recommends, both

strategy and implementation policies must wisely prioritize allocation of resources for counterterrorism and homeland defense.

Complicating these efforts, governments and terrorists may be fighting "different" wars. Policymakers often view success against terrorism in terms of minimizing physical damage – death, injury, and destruction of property – and concentrate their energy and resources in this area. On the other hand, terrorists, while seeking physical damage, may also view success in abstract or ideological terms. For example, what is the impact of an action on recruitment? How does it affect government policies or the stability of the government in power? What is the impact of an act of terrorism on the economy of a nation or on global economic networks? What is the impact on behavioral patterns of a target population? Might public opinion pressure a government to pursue policies that appease terror, or alternatively that provoke an attack that could spark a wider sectarian conflict sought by terrorists? A question arises, how long can democratic governments pursue policies that pressure terrorists if such policies are seen as bringing on terrorist retaliation? Breaking or weakening this political will is likely to be a central terrorist goal.

Some well thought out strategies promote holding the line on terrorism or setting it back. But a potential flaw in formalized strategies such as the *National Strategy for Homeland Security* and the *National Strategy for Combating Terrorism* is that the strategy may rigidly dictate the response instead of the threat dictating the response – as the threat is often rapidly evolving. Arguably, terrorists today can change strategy, technology, weaponry, organizational structures, tactics, personnel, and funding with minimal constraints. Thus, one option for policymakers charged with combating terrorism is to design flexibility and agility into strategies, organizational structures, and funding utilization.

While strategies or changes in governmental organizational structures such as those recommended for the intelligence community by the 9/11 Commission may accelerate success against global terrorism, other human resource factors are equally critical. Many experts see strong national leadership and high quality rank-and- file personnel using advanced technology as being central. Hence, one potential pitfall of relying on strategies and reforms involving restructuring of government organizations is that a focus on implementing strategies or administrative changes may overshadow other important factors such as quality of personnel and technology. In particular, this human resource factor may warrant more attention in an environment where organizations may feel pressed to find personnel to fill a plethora of newly created counter-terror related positions. In this context, the question arises, to what extent were the "failures" surrounding 9/11 "human" rather than "organizational" failures?

Few question the 9/11 Commission Report's overarching premise that U.S. counter-terrorism structure, strategy, and implementation are important, but there are various disparate views on its recommendations. At the crux of the policy debate is whether it is necessary to act immediately, especially in the heat of an election year, on complex issues vital to national security. Some argue that in the critical times that we as a nation threatened by terrorism find ourselves in today, full individual and organizational efforts should be focused on combating the threat of terrorism and not

be diverted by a need to adapt to new organizational structures, responsibilities, and roles.

At issue here is the pace at which refinement, or restructuring, of the intelligence community should proceed at a time when the nation perceives itself at war with terror. Some question to what degree major organizational changes might reduce operational efficiency in the short term and how this compares to any long-term benefits inherent in more dramatic reform.

But if not now, when? Is it realistic to expect the gravity of terrorist threats to the nation and the world to diminish substantially in the immediate future? Many suggest that not enough has been accomplished since 9/11 to keep pace with the rising threat of international terrorism, and given the gravity of the threat, changes in organizational structure, strategy, and tactics – long overdue – must be implemented without delay. Yet others see the Commission's recommendations simply as fine-tuning, or "piggy-backing,"on efforts already being implemented by the Bush Administration in keeping with its *National Strategy for Homeland Security* and its *National Strategy for Combating Terrorism.*

Overall, the 9/11 Commission recommendations share many features of the Administration's *National Strategy for Combating Terrorism.* The theme of using a portfolio of "all elements of national power" resounds in both documents. Both documents emphasize the core importance of timely and actionable intelligence. Both emphasize a need for pre-emptive strategy, for attacking terrorists and their organizations, for international cooperation, for foreign economic assistance, for winning hearts and minds, for strengthening counter-proliferation efforts, for attacking terrorist financing, for denying sanctuaries, and for border security. Pursuit of government policies that draw potential recruits away from terrorist agendas is a core recommendation of the 9/11 Commission report.

A number of the Commission's recommendations falls within the category of preventing the growth of Islamist extremism and both the 2003 *National Strategy for Combating Terrorism* and the 9/11 Commission Report to a large degree equate the terrorist threat with Al Qaeda and affiliated groups. However, a valid question is the degree to which, if at all, such a single-minded approach detracts attention from individuals or groups with other motivations that may soon appear on the horizon.

Central to a global strategy for combating terrorism is defining the threat and understanding who the enemy is. "Terrorism" as a generic concept is too vague and amorphous to design a strategy against. Moreover, terrorism, though often perceived as the enemy, is perhaps better characterized as a tactic or a *process.* An important point made by the 9/11 Commission is that the strategic threat faced by the United States and its allies is from an enemy consisting of certain groups with a specific ideology and with stated objectives. In the words of the Commission: "The enemy goes beyond al Qaeda to include the radical ideological movement, inspired in part by al Qaeda, that has spawned other terrorist groups and violence. Thus our strategy must match our means to two ends: dismantling the al Qaeda network and, in the long term, prevailing over the ideology that contributes to Islamist terrorism."

A related issue involves the potential impact of globalization on promoting terrorism or deterring it. Globalization breeds rapid change, frequently leading to uncertainty and disruption, especially in traditional societies. Such uncertainty can beget a sense of helplessness and alienation, leading to anxiety, resentment, anger and aggression, feelings exploited by terrorist recruiters. On the other hand, globalization can raise standards of living and provide access to knowledge for the masses, thereby arguably making it more difficult for terrorists to recruit the uninformed.

Important in combating criminal or terrorist networks is identifying and exploiting weak links. Often an opponent's weak link may be his greatest strength. In the case of Al Qaeda, it may be that the network's weakest link is its ideology. Yet arguably, we are doing little to enhance the legitimacy of more moderate alternatives in Islam. Moreover, some critics contend that because we support regimes that may be viewed by their populations as authoritarian and corrupt, we are doing little to meet the needs and aspirations of the people on whom we might have an effect.

Finally, although the 2003 *National Strategy for Combating Terrorism* and the 9/11 Commission both support the use of foreign assistance as a means of taking away fertile breeding ground for the nurturing of terrorist groups, any correlation between standard of living levels and terrorism is open to serious debate. Nevertheless, there is a growing recognition in U.S. anti-terrorism strategy that poverty can breed ignorance and despair and that despair can be exploited to support terrorist goals.

Mr. Chairman, this concludes my formal remarks, and I welcome your questions and comments. Thank you.

# The 9/11 Commission Recommendations and The National Strategies

## Common Themes

- both protective and preemptive action
- help foreign nations fight terrorism
- timely and actionable intelligence and warning
- integration of information sharing
- effective law enforcement
- law enforcement and intelligence coordination
- remove barriers to inter-governmental cooperation
- an informed citizenry
- terrorist financing
- track and apprehend terrorists
- combat fraudulent travel documents
- better secure borders, including ports
- risk analysis

*Prepared by Raphael Perl*
*Specialist in International Relations*
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Mr. SHAYS. Thank you very much.

Mr. Parachini.

Mr. PARACHINI. Thank you, Mr. Chairman. I want to put my remarks into a little context here. At the RAND Corp., we recently conducted an exercise to simulate what might be a strategy session of the Jihadists and then try to evaluate how our current national strategy is configured in order to counter that strategy, what might happen in the future. So that will inform the remarks that I'm going to make about the 9/11 Commission recommendations as well as the national strategy documents.

Let me say that the basic message I would want to underscore here is, I think the institutional recommendations are not nearly as important as some others. I say that because we are really facing a prolonged global insurgency from a Jihadist movement that I think the 9/11 Commission has aptly identified as Islamist terrorism. More important in my view are the commission's recommendations about how we stem or stop the spread of Islamist terrorism. An important part of that, and the Commission provided a number of valuable suggestions that were both in the realm of soft power, both public and private diplomacy. We are not going to be strategic about stopping this global insurgency unless we somehow stem the recruits who are coming at us.

So that's the basic message. I think the institutional recommendations are not nearly as important in the longer strategic term that we need to be focused than their emphasis on trying to stem the spread of this problem.

Now, I think the commission does us an enormous service by really trying to provide a focused characterization of the threat. This was certainly our experience in the exercise at RAND. We cannot know how to prioritize and focus our efforts or allocate funds unless we have some consensus on who we think the adversary is and how they are liable to evolve.

We can have lots of strategy documents that give us blueprints for doing things, but unless we know what we're planning against, we're just planning in the abstract, or one department and agency is planning in one direction and another department and agency is planning in another.

So we have to at least start with a baseline. And this I think the commission, albeit briefly, did quite nicely, which is they have essentially a three point strategy. They talk about attack Islamist terrorists, prevent the spread of Islamist terrorism and essentially defensive measures against terrorist attacks, two offensive strategic thrusts and one defensive.

I think on balance we're doing pretty good on one offensive, attack the terrorists, and the defensive one. What we're not doing very well at is stopping the spread of this phenomenon. Even if Bin Ladin is captured or killed tomorrow, we already see in somebody like Abu Musab al-Zarqawi another person up the road who is tangentially linked to al-Qaeda, appeared at al-Qaeda training camps but actually in Afghanistan had his own camps, competed with Bin Ladin for recruits.

There will be others who will replace even him, and in medrosses all around central, south and southeast Asia is the next generation of what we're now calling al-Qaeda. But I want to talk about more

a broader global Jihadist insurgency. That's what the problem is that we have to deal with. So in order to deal with that type of broad, multi-year threat, we have to focus on the objectives and the programs that get at that longer term problem.

Now, in the National Strategy for Combating Terrorism, there is an interesting chart that essentially shows a network of groups that start at a national level, go through a regional level and go up to a global level, essentially talks about transnational terrorist networks, and that is the nature of the threat today. The national strategy then articulates that what the end state of the strategy is is to essentially delink that global network of transnational terrorism and render it unorganized, localized, non-sponsored and rare. That is a useful, I think, definition of where the starting point is and where the ending point is. My concern is getting from one point to the other.

The national strategy documents provide blueprints with long menus of things to do. But it does not give the appropriate guidance in a focused, prioritized fashion. There are a lot of things to do. Indeed, immediately after September 11, the portfolio management approach was probably a good one, because we had a lot of holes to fill. Now, 3 years after, we have to figure out how to not only spend big but actually spend smart. And unless we have a more focused approach, a more prioritized approach, we won't be able to do that.

So one of the ways to get a better handle on prioritization and focus is to develop metrics that are helpful for gauging our progress or our falling back, backsliding. This is not an easy task in a global insurgency. It's not an easy task in a global insurgency that's liable to be longer than 2 years longer than 4 years and longer than 6 years. So we have to think about metrics that take into account things that we can count in the short term, terrorists killed and captured, finances frozen, States that drop off of our State sponsored list, foreign terrorist organizations that are no longer on the foreign terrorist organization because we deem that they are no longer a terrorist organization. Things that we can clearly identify and count.

But that is not sufficient. We also have to think about qualitative longer term metrics like, the United States has not been attacked in quite some time, and that time is meaningful. Just because we have not been attacked in the last 3 years is not necessarily indicative of very much, given al-Qaeda's historical pattern of planning several years in advance and waiting for the moment to strike.

We have to also be concerned about disrupting their command and control system. Even though we might take down 30 people, there may still be the one key person who's out there. So we have to think differently about what the metric is, and something more qualitative in nature may be more valuable.

Let me conclude here by saying, measuring this mestastisizing global Jihadist movement is not going to be easy, but it is an avenue to accomplishing that greater priority and focus that I think is needed and that is hard to achieve. Senior leaders in the Government are as you know, Mr. Chairman, and Congressmen, don't have a lot of time in the day and there are a lot of things to do.

And given the long term nature of this problem, we have to hit a few home runs on a few key issues, and I guess the one that is, I think, most important that the commission brings our attention to is stopping the spread of this phenomenon.

Thank you very much. I look forward to your questions.

[The prepared statement of Mr. Parachini follows:]

TESTIMONY

# Combating Terrorism

## The 9/11 Commission Recommendations and the National Strategies

JOHN V. PARACHINI

CT-231

September 2004

Testimony presented to the House Committee of Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations on September 22, 2004.

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**Statement of John V. Parachini***
**Policy Analyst, RAND Corporation**

**Before the Committee on Government Reform**
**Subcommittee on National Security, Emerging Threats, and International Relations**
**United States House of Representatives**

**September 22, 2004**

Chairman Shays, and other members of the Committee, thank you for inviting me to testify today on the various national strategy documents and the 9/11 Commission Report recommendations.[1]

My comments today are informed, in part, by a two-part scenario exercise recently developed and conducted at the RAND Corporation. The first part of the exercise attempted to simulate a debate among Jihadist leaders about their future strategic goals and attack operations. The objective was to have people think like the Jihadists. In the second part of the exercise, participants assessed how the *National Strategy for Combating Terrorism* prepares the country to contend with possible next moves of the Jihadist movement. Exercise participants included RAND staff from a variety of

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[1] According to the Office of Management and Budget annual report to Congress on combating terrorism, the documents guiding national strategy include: *National Strategy for Combating Terrorism*, February 2003; *The National Strategy for the Physical Protection of Critical Infrastructures and Key Assets*, February 2003; *The National Strategy to Secure Cyberspace*, February 2003; *National Strategy to Combat Weapons of Mass Destruction*, December 2002; *National Strategy for Homeland Security*, July 2002. Office of Management and Budget, 2003 Report to Congress on Combating Terrorism, September 2003, pursuant to the Fiscal Year (FY) 1998 National Defense Authorization Act (P.L. 105-85), (hereafter, the OMB Report on Combating Terrorism), p.1. Federal agencies often feel unnecessarily burdened with reports requested by the Congress, but this is an example of very valuable congressional oversight for the both institutions of government and the American people. The report has steadily improved in character over the last six years.

different disciplines as well as outside experts, including senior congressional staff and former counterterrorism officials from the Clinton and Bush administrations.

These exercises were not designed to be predictive. They provided a process to systematically explore possible futures, identify gaps in planning, and highlight insufficiently examined issues. Even though the data set of exercises is limited in size and qualitative in approach, the findings were insightful and bear on the subject of today's hearing.

In the portion of the exercise focused on the Jihadists' possible next moves, there was consensus among participants that the United States remains the most highly valued target. Views on how Jihadists might assess the opportunity to further their cause by conducting attacks in Iraq were mixed. Some argued that supporting Iraqi insurgents was important because an American defeat there would boost the global movement just like the Soviet withdrawal from Afghanistan. Others argued that the Iraqi situation is troubling enough for the United States and likely to get more complicated through the upcoming Iraqi elections, and aside from modest assistance to keep things going, the Jihadist movement should allocate resources other places. Finally, some objectives and attack options that were not readily seized upon also warrant mention. First, exercise participants felt that there was no particular interest in attacking the United States during its upcoming election. Attacks on the American homeland will be conducted when the Jihadists are operationally ready to deliver a strike, which may or may not occur during the election. Second, despite regular Jihadist rhetorical attacks on Israel, exercise participants did not dwell on the possibility of future attacks on it. Third, participants discussed using conventional means of attack to achieve catastrophic results, but not

unconventional ones such as chemical, biological, radiological, or nuclear weapons. As the global insurgency has shown time and time again, unconventional *operations* using conventional *means* can deliver catastrophic results.

Two important perspectives emerged in the second portion of the exercise examining the *National Strategy for Combating Terrorism*. First, exercise participants felt that the United States needs to develop a consensus on the adversary we face and the threat it poses. In the exercise, some argued that the threat was Osama Bin Laden and al-Qaeda, a fairly centralized enemy that is on the defensive. Others argued that Bin Laden and al-Qaeda were just prominent parts of a decentralized global insurgency. This contrast in people's perception of the threat directly influenced that assessment of the *National Strategy for Combating Terrorism*. Some argued that the lack of succinct characterization of the threat underscored the necessity to conduct a threat assessment that could define the priority threat that the country needs to plan against. Others who wondered about the value of a threat assessment process, argued, nonetheless, that a more focused and definitive characterization of the threat was needed.

A second main perspective in the exercise was the importance of putting far more attention on the portion of the national strategy focused on diminishing the underlying conditions terrorists seek to support. The *National Strategy for Combating Terrorism* urges partnering with the international community to strengthen weak states and waging the "war of ideas" as the two objectives of this portion of the strategy. Not only did exercise participants think that this portion of the strategy needed to become a high priority, but they also argued that this is an area where the United States is falling behind. Developments in Iraq, abuses in the Abu Ghraib prison, and other American foreign

policy measures related to the Middle East and other countries with significant Muslim populations, all contribute to conditions terrorists are exploiting. No other section of the *National Strategy for Combating Terrorism* evoked such strong opinions and deep concerns than this one.

## I. Comparing and Contrasting the National Strategy for Combating Terrorism and the 9/11 Commission Report

When comparing the *National Strategy for Combating Terrorism* with the report of the 9/11 Commission, the committee should bear in mind the different purposes of these documents. On one level, the *National Strategy* documents serve as a federal government blueprint for action. They are designed to provide broad guidance to the departments and agencies of the federal government, foreign allies, the Congress, local authorities, and the American public. Assembling the documents undoubtedly stimulated review of relevant existing programs and needs for new programs to enhance existing activities or fill new needs that remain unmet. The hard analytical task is assessing the extent of the progress and determining their contribution to American security.

The 9/11 Commission report, in contrast, provides a detailed history of the September 11th tragedy and the federal government's actions before and after the attacks. Based on this historical review, the Commission offers forty-one different recommendations to the federal government that are designed to prevent a future terrorist attack of similar catastrophic proportions. These recommendations range in nature and scope from urging the U.S. to "offer an example of moral leadership in the world, committed to treat people humanely, abide by the rule of law, and be generous and caring to our neighbors" to suggesting that "Congress should support pending legislation which provides for the

expedited and increased assignment of radio spectrum for public safety purposes."[2] The scope and focus of the recommendations varies greatly. As a group they do not amount to a strategy, but rather, serve as an important list of areas of the country's national counterterrorism strategy that should be reconsidered.

The *National Strategy* documents are predictably more comprehensive and in some cases more detailed. For example, the *National Strategy to Combat Weapons of Mass Destruction* outlines "three principal pillars" that guide national policy.[3] The 9/11 Commission offers one recommendation in this domain that essentially urges implementing three existing programs with greater emphasis. On balance, most of the recommendations of the 9/11 Commission Report echo policy elements in the three strategy documents most relevant to the Commission's area of focus: the September 11th attacks.[4] By comparing all the 9/11 Commission's recommendations with topics covered in the *National Strategy for Combating Terrorism*, I see only five recommendations that seem truly unique and not really covered by in the guidance of one of the strategy documents. Several of these recommendations are unique because of their specificity, like urging the drafting of new principles on the humane treatment of captured terrorists or establishing a Youth Opportunity Fund. Others outlining initiatives that run counter to existing government practice such as disclosing the annual appropriation request for the intelligence community or consolidating paramilitary functions in the Department of Defense. In my view, the great contribution of the 9/11 Commission Report is not the new recommendations or the suggestions for institutional restructuring, but rather how it

[2] Final Report of the National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, July 2004, p. 376 and p. 397.
[3] *National Strategy to Combat Weapons of Mass Destruction*, December 2002, p. 2.
[4] The relevant documents are: *National Strategy for Combating Terrorism, National Strategy to Combat Weapons of Mass Destruction,* and *National Strategy for Homeland Security.*

highlights issues acknowledged in the *National Strategy* documents, but remain enduring problems that require priority attention.

## II. Key Recommendations of the 9/11 Commission

Much of the attention on the 9/11 Commission's recommendations has focused on institutional changes. While these recommendations may be valuable, in my opinion, the institutional ailments they were designed to addressed are not unique to the realm of counterterrorism. In this regard, I share the view of Judge Posner that the "contention that our intelligence structure is unsound" and "to blame...for the failure to prevent the 9/11 attacks...is overblown."[5] There are three aspects of the 9/11 Commission Report that I believe are worth stressing particularly in the context of a discussion about documents outlining existing counterterrorism strategy. First, the 9/11 Commission Report underscores the importance of clearly identifying the nature of the threat. Second, the Commission Report makes several valuable recommendations in sub-section 12.3, "Prevent the Continued Growth of Islamist Terror." Third, the Commission Report makes a number of recommendations for means to more effectively identify terrorists before they enter the United States and find them even if they do. The first two issues also emerged as major points of consensus in the RAND scenario exercises. The third issue flows naturally from the Commission's rich history of the events leading to the September 11th attacks.

[5] Richard A. Posner, "The 9/11 Report: A Dissent," *The New York Times Book Review*, p. 9.

### 1. Baselining the Threat

To its considerable credit, the 9/11 Commission Report starts its recommendations for a global strategy by underscoring the importance of defining the threat.[6] In the judgment of the Commission, the threat at this time "is not just 'terrorism,' some generic evil," but "Islamist terrorism—especially the al Qaeda network, its affiliates, and its ideology."[7] Given this threat, the Commission report argues that the U.S. government needs "a broad political-military strategy that rests on a firm tripod of policies to

- Attack terrorists and their organizations;
- Prevent the continued growth of Islamist terrorism; and
- Protect against and prepare for terrorist attacks."[8]

The Commission is exactly right, but its simple insight is not new. The Government Accountability Office, a number of expert panels, and individual experts have repeatedly underscored the value of conducting a comprehensive terrorism threat assessment in order to establish a baseline to guide national counterterrorism planning.[9] In the aftermath of the September 11th attacks, the plethora of counterterrorism holes to fill and actions to take were so numerous that we could afford to pursue a portfolio management approach for federal budget allocations and program initiatives. Now, however, three years after September 11th, with mounting deficits, and the high probability of a

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[6] *The 9/11 Commission Report*, pp. 361-363.
[7] *The 9/11 Commission Report*, p. 362.
[8] *The 9/11 Commission Report*, p. 363.
[9] See Combating Terrorism: Need for Comprehensive Threat and Risk Assessments of Chemical and Biological Attacks, (GAO/NSIAD-99-163), September 7, 1999; See also, First Annual Report to the President and the Congress of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, *I. Assessing the Threat,* December 15, 1999; and, Second Annual Report of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, *II. Toward a National Strategy for Combating Terrorism,* December 15, 2000. See also, Statement of Michael A. Wermuth, RAND Corporation, before the Subcommittee on National Security, Veterans Affairs, and International Relations, *Combating Terrorism: Assessing Threats, Risk Management, and Establishing Priorities*, July 26, 2000.

prolonged struggle before us, it is more important than ever to make sure we spend smart as opposed to simply spending big.

As participants in the RAND exercises noted, a comprehensive national assessment of the terrorist threat at least provides policymakers with a baseline to plan against in both the short- and long-term. Without a baseline, even a flawed one, policymakers are more likely to be driven by short-term tactical issues and not longer-term strategic ones. Addressing these longer-term issues is critical for the country to reduce the dimensions of the threat Islamic terrorism poses to the United States, its allies, and the global community of nations.

### 2. Crafting and Communicating Vision of Opportunity to Trump the Vision of Death and Violence

The 9/11 Commission Report recommendations urging the development of a message and casting it in a lexicon that does not feed the animosity and enhance the appeal of our terrorist adversaries is critical. As noted earlier, the *National Strategy for Combating Terrorism* does note the necessity "to diminish conditions that terrorists can exploit," and asserts the government "will wage a war of ideas to make clear that all acts of terrorism do not find fertile ground in any nation..."[10] The U.S. government must more effectively draw upon the strengths inherent in the multicultural nature of American society to devise and communicate more effectively in the Middle East and to countries with significant Muslim populations.[11]

The phrases "war of ideas" or "struggle for hearts and minds" are clichés we should dispense with because they serve as shortcuts to policy guidance without offering it. We should say what we mean without relying on phrases laden with meaning from other eras. At the

[10] *National Strategy for Combating Terrorism*, p. 22 and p. 23.
[11] Comments by Ambassador David Aaron, RAND Conference, " Three Years After: Next Steps in the War on Terror," Washington, DC, September 8, 2004.

moment, most observers believe we are not winning the "war of ideas" and we are losing the "hearts and minds" of those we need on our side. Even simple polls taken in the Arab countries in the Middle East indicating that 65% percent of the population admires Osama Bin Laden and only 7% admire President Bush are a disturbing indication that American policy and action is not working.[12] We can start by engaging in the painstaking task of mining the strength of our cultural values, examining the American foreign policy, understanding the audiences we need to reach around the globe, and crafting and delivering a message to key audiences that will best that of the Jihadists. The 9/11 Commission, participants in the RAND exercise, and a series of other reports and studies have underscored this problem. Satisfactory measures to address it are embryonic at best. National Security Advisor Condoleezza Rice recently conceded that senior U.S. government officials have not given major addresses outlining the country's strategy against Jihadist terrorism and the shared interests these populations have with the American people in this struggle.[13] The U.S., its allies, and friendly nations with significant Muslim populations must provide a positive vision to counter the Jihadist vision of violence and death. The 9/11 Commission provides a start on that vision by stressing the benefits of tolerance of others, treating people humanely, abiding by the rule of law, creating educational and economic opportunities for all people.[14] Simply being *against* Islamist terrorism, terrorism, or terror, is not a compelling message.

Since September 2001, unfortunately, some of the American message has played into the worldview of Osama Bin Laden and the al-Qaeda movement in ways that are detrimental to American national interests. Calling our efforts to defeat Bin Laden's al-Qaeda movement a

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[12] CNN Presents," Nuclear Terror," broadcasted on Sunday 12, 2004.
[13] Office of the Press Secretary, The White House, Remarks by National Security Advisor Condoleezza Rice Followed by Question and Answer to the U.S. Institute of Peace, Washington, DC, August 19, 2004, (http://www.whitehouse.gov/news/release/2004/08/print/20040819-5.html).
[14] *The 9/11 Commission Report*, p. 376

"war on terrorism" and then, even more broadly, a "war on terror" unnecessarily elevates them, as they see it, to the heights of global warriors battling the mighty enemy of Islam. Giving them reason to perceive that they are fighters in a great struggle of civilizations confirms for them the worthiness of their mission. The global revulsions to the violent terrorist acts in Breslan, Russia is an example where the events have been denounced by Arab commentators in the Middle East and Islamic leaders around the globe. The goal should be to get a similar response to every act of Jihadist violence wherever it occurs.

The 9/11 Commission appropriately points out that the lexicon the United States has used has been overly broad and general, making it difficult to focus and prioritize efforts. Terrorism is a tactic, not an adversary. Using the word "terror" as the object of our mission is also not helpful because it is an emotion. The importance of word choice in this instance should not be undervalued.

The United States must work with allies to reduce the appeal of the global Jihadist insurgency. Given the anticipated prolonged character of this struggle, the 9/11 Commission offers some valuable recommendations on promoting American values that resonate with people struggling for better lives for themselves and their children. Similarly, fostering stable political and economic conditions in key countries with large Muslim populations is important to allow new leaders to emerge who appeal to the growing populations of many of the countries that concern us. In the RAND exercise, a consensus among participants was that the United States has not been effective at public diplomacy. Not only does the U.S. government need to establish and support alternative radio and television outlets in the Middle East, but it also needs to aggressively engage in

debate on the outlets that the U.S. does not control and that a majority of the people in the region listen to and watch.

### 3. Achieving a Balance between Public Security and Citizen Rights and Privacy

One important area the 9/11 Commission constructively discusses that is important to our national discussion on combating terrorism is the need to strike the right balance between the rights of citizens and the government's duty to ensure public security. Since September 11th, the national discussion on this balance of national needs has lacked perspective and intellectual creativity and has been clouded by cavalier approaches by both government officials and privacy advocates. The Commission offers at least seven valuable recommendations that raise issues of the potential conflict between citizen rights. All of them merit serious consideration. However, recommendations on biometric entry-exit screening, national standards for secure identification, enhanced sharing of information between government entities, and an integrated and comprehensive network of border screening points, will raise issues of privacy and protection of the rights of American citizens' and international visitors.

Rightly or wrongly, the pressures that led to the shelving of Defense Advanced Research Project Agency (DARPA) research programs and the Department of Homeland Security's Computer-Assisted Passenger Prescreening System (CAPPS II) program have deprived the country of valuable programs that held some promise to both enhance the privacy of citizens and improve the abilities of authorities to identify potential terrorists before they strike. Delaying Senator Kennedy and Congressman Lewis from boarding

commercial aircraft because their names showed up on a "No Fly" list and the mistaken detention of an Oregon lawyer under suspicion of involvement in the Madrid bombing do not inspire confidence.[15]

The Commission's recommendation that there be a board to advise the entire government on privacy and civil liberty issues germane to counterterrorism is a much bolder initiative than simple establishing individual offices in various departments and agencies.[16] A semi-independent body with government-wide reach may have more authority and may provide valuable consistency across the government. Progress also needs to be made on the side of ensuring security and protecting citizen rights at the same time. Incentive based systems such as the Transportation Security Administration's "Registered Traveler" program need to be devised for a wide range of travel and transport activities.[17] Harnessing people's interests in ways that increase security are much more likely to work in the long-term than government mandates aimed at changing behavior.

### III. Measuring the Effectiveness of the National Strategies

Developing metrics to help measure progress in the struggle against Islamist terrorism is critical to counterterrorism strategic planning. The defeat of the global Jihadist insurgency will not end with a "dramatic signing ceremony on the USS Missouri or the

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[15] Charlie Savage, "No-Fly List Almost Grounded Kennedy, He Tells Hearing," *The Boston Globe*, August 20, 2004, p. A2. Sara Kehaulani Goo, "Sen. Kennedy Flagged by No-Fly List," *Washington Post*, August 20, 2004, p. A1. Sara Kehaulani Goo, "Hundreds Report Watch-List Trials; Some Ended Hassles at Airports by Making Slight Change to Name," *The Washington Post*, August 21, 2004, p. A08. Tomas Alex Tizon and Richard B. Schmitt, "FBI Exonerates Ore. Attorney," *Los Angeles Times*, May 25, 2004, p. 20.
[16] *The 9/11 Commission Report*, p. 395.
[17] TSA Press Office, "TSA Launches Register Traveler Pilot Program at LAX," Transportation Security Administration, U.S. Department of Homeland Security, July 23, 2004; TSA Press Office, "TSA To Test New Passenger Pre-Screening System," Transportation Security Administration, U.S. Department of Homeland Security, August 26, 2004.

collapse of the Berlin Wall."[18] Osama Bin Laden reportedly said that this clash "began centuries ago and will continue until Judgment days."[19]

In a struggle that may last years, even decades, some way to measure progress or backsliding is critical. The annual OMB report to Congress on combating terrorism indicated, "One of the key challenges that the Report underscores is measuring progress both in terms of outputs and outcomes to benchmark efforts to achieve strategic goals."[20] With considerable understatement, the OMB report notes, "Much work remains to be done in this area." Indeed, in each of the report's sections it notes devising adequate metrics for measuring progress as an unmet challenge.[21]

Counting leaders captured or killed is useful, but not sufficient. The apprehension of such senior al-Qaeda leaders as Abu Zabaida, Ramzi Bin al-Shib, and Khalid Sheik Mohammad, is important because these are movement leaders with institutional knowledge, operational experience, and murderous intent, whose capture degraded some of al-Qaeda's capacity. Even though the capture or death of Osama Bin Laden would be important, the nature of this global insurgency has metastasized, creating other aspirants to the leadership of the global Jihadist movement. Abu Musab al-Zarqawi is a perfect example. Even though he visited some of Bin Laden's camps in Afghanistan in the 1990s, he also set up his own camps and competed with al-Qaeda for recruits. Although his deadly activities in Iraq resemble al-Qaeda operations, in a letter he attempted to send to Bin Laden, which U.S. forces intercepted, he discussed a common agenda with Bin

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[18] Deputy Secretary of Defense Paul Wolfowitz, "A Strategic Approach to the Challenge of Terrorism," Remarks prepared for Delivery to the RAND Corporation conference, September 8, 2004, (http://www.defenselink.mil).
[19] Osama Bin Laden, quoted in, Brian Michael Jenkins, "Looking for 'High Noon' in a Hundred Years' War," *San Diego Union-Tribune*, August 22, 2004.
[20] OMB Report on Combating Terrorism, p. 1.
[21] OMB Report on Combating Terrorism, pp. 25-26, and 43.

Laden, but the tenor of the letter suggests that he is operating largely on his own.[22] We know about al-Zarqawi, but what about those who we still yet to get a clear fix on? Moreover, what about the youth in Islamic schools in Central, South, and Southeast Asia who are tomorrow's Jihadists? American security against the global Jihadist insurgency will not be achieved simply by apprehending or killing the Jihadist operatives we know of today. Counting them reveals tactical, but not strategic progress. Keeping track of a metric that does not ultimately measure an end state we desire is an example of measuring what we can, not what we should.

Measuring the effectiveness of initiatives should be considered in two time frames: short-term and long-term. Too often the metrics used to measure progress focus on short-term accomplishments. Terrorist leaders captured or killed, terrorist funds seized or frozen, and arms shipments interdicted or destroyed are very important, they are all tactical and short-term in nature. The global Jihadist movement has demonstrated that it can replace its leaders with new ones, it can secure new sources of funds, and in a world seemingly awash in weapons, and it is able to replenish its arms supplies. Even though these short-term victories are important accomplishments, they are not sufficient to win a long-term struggle against a global movement. Furthermore, inordinate focus on these short-term tactical measures skews the attention of senior policymakers from long-term strategic issues.

Longer-term and strategic initiatives designed to meet national goals and objectives are not as obvious to formulate, require time to prove their merit, and pose fundamental choices that often entail considerable resources and making choices between important

[22] The Coalition Provisional Authority, Full Text of Zarqawi Letter, February 12, 2004, (http://www.cpa-iraq.org/transcripts/20040212_zarqawi_full.html).

and competing policy priorities. Strategic initiatives are difficult to design because they frequently do have significant consequences for resource allocation and involve hard choices. In sum, mighty political forces are often in conflict and the ability of senior leaders to mediate these forces is often a function of their political standing and the political capital they are willing to invest.

In addition to developing different metrics for different time frames, metrics should also be both quantitative and qualitative in character. This is not to dismiss the important of metrics such as the rate of attacks around the world, the number of Jihadist leaders killed or captured, and the value of assets frozen. Rather, the point is that we should also seek to define other measures that provide another angle of insight into our progress. Examples of other measures are the absence of attacks against the U.S. homeland, a noteworthy decline in the appeal of the Jihadist movement, sustained public support for counterterrorism measures, assistance from unlikely allies, and a reduction in the networked quality of the Jihadist movement.[23]

Defeating the global Jihadist insurgency is probably a decade long problem. Different intelligence services and commissions estimate that the number of Jihadists who attended al-Qaeda training camps in Afghanistan range from 20,000 to 120,000.[24] While the span of this spread suggests the actual number is hard to know with much confidence, even if we take the lower number of 20,000, it will likely take a decade to capture, kill, or force into retirement this number of committed fighters. Unfortunately, the estimates of comparatively finite numbers of al-Qaeda terrorists are augmented daily by others around the globe inspired by Bin Laden and al-Qaeda, but not necessarily

[23] Daniel Byman, "Scoring the War on Terrorism," *The National Interest*, Summer 2003.
[24] *The 9/11 Commission Report*, p. 67. See also,

connected in a direct fashion. Additionally, a next generation of Jihadist recruits studying in thousands of religious schools may some day soon take the place of operatives trained in al Qaeda's Afghan camps. Preventing the development of the next generation of Jihadists is a critical task for reducing the scope of and eventually defeating the global Jihadist movement.

### IV. Assess the Success of the National Strategies for Combating Terrorism

Measuring the progress in a struggle against a global insurgency that has grown in size and changed in character is not easy. While considerable progress has been made to reduce al-Qaeda's capabilities, it is not the only or the commanding force in this global insurgency. A combination of tactical, strategic, quantitative, and qualitative metrics is probably the best way to measure progress. Devising these various metrics is worth some effort to develop.

Given the evolving character of this insurgency movement, military power and law enforcement actions alone will not, in the long-term, guarantee success. Without question, there have been a number of impressive successes in these realms. The United States must match noteworthy "hard power" success with a much more strategic and robust application of "soft power" in all its dimensions.

Mr. SHAYS. Thank you all very much.

Sorry for the interruptions, and we'll have another interruption. Do you want to start? I'm happy to have you start, Mr. Tierney. Why don't you start?

Mr. TIERNEY. Thank you, Mr. Chairman. I think we're both heading in the same direction here, so it's fine either way with me.

Mr. Rabkin, you made the comment during your opening remarks that you've noticed some difficulties in establishing the standards of first responders. Can you give me sort of a status assessment? I know the chairman has been a leader here in a bipartisan method to try and get some standards established, so that local responders, even local industries understand where it is they're supposed to go, when it goes from yellow to orange, from one color to another, instead of just running around like chickens with their heads cutoff doing everything in sight, spending every dime they have just to try and say they're doing all they know how to do, without really knowing whether or not what they're doing is the most effective thing.

So can you give me a status report on that, or some suggestions on how to get there quicker?

Mr. RABKIN. I think you defined some of the problem in your question. There is a lack of standards as to how prepared they should be and what they should be prepared for. There is also a lack of definition of who is a first responder and what the various colors on the threat advisory mean. The Department of Homeland Security is making some progress on this, and they're getting help from some private sector organizations as well. There is also some work being done developing performance standards for responding to emergencies, whether they be caused by terrorists or by natural causes.

There are plans and strategies and plans within the Department to incorporate these standards into the programs so that the Department can figure out where the first responder grant funds should go. The standards would be based on common definitions of what first responders are supposed to do, what kind of equipment they need to do it, and how prepared they need to be. So it can be transferred into the funding decision.

Mr. TIERNEY. Thank you.

Mr. Parachini, is RAND one of the organizations that the Department of Homeland Security is asking for some advise and counsel?

Mr. PARACHINI. RAND does do some work for the Department of Homeland Security.

Mr. TIERNEY. Does any of it involve setting up the sort of metric that you were talking about?

Mr. PARACHINI. No. Not that I am aware of.

Mr. TIERNEY. Have there been published papers or studies done in terms of expanding or expounding upon what you've recommended there?

Mr. PARACHINI. No, and your question is a good one and it points to what I think is a national deficiency, that we really need to get much better at understanding how to measure progress in something like this. Quantitative tools are indeed part of it, but we've got to think about other ones. Unfortunately, that means it's prob-

ably a mosaic of different metrics. This problem is not an easy one to understand, and there will not be an easy balance sheet way to understand it and whether we're making progress. That doesn't mean we shouldn't try and we shouldn't try hard.

Mr. TIERNEY. One of the concerns I have with the Department of Homeland Security itself is just how well they are coming together. There are 22 odd agencies coming together at a very critical time when we have so much for them to do and there were some criticisms at the beginning that it would simply be moving the deck chairs on the Titanic at that time. Do any of you have a perspective on how well the Department has done in actually coming together as a cohesive unit, whether or not we are there?

I read one very critical article recently talking about just the simple matter of where it's located, and its offices and how difficult the physical setup is for people to work in that environment. Are we really putting together a cohesive Department of Homeland Security? Is there still a lot of fractured relationships going on there? Are we focused?

Mr. RABKIN. I can try to answer that, Mr. Tierney. Before the Department was created, we put it on the GAO high risk list, because we knew the difficulty there would be in not only a department putting 22 agencies together, but 22 agencies that bring a lot of management problems with them, alnd doing it while carrying out perhaps something that's the most important mission in the Government today. We will be revisiting that issue as to whether they are still at high risk in their transformation and implementation in the Department.

But to answer part of your question, that immediately when they were put together their first priority was dealing with the mission and some of these other issues of management and blending departments or the components together dealing with pay systems, dealing with insignias was of less importance. They have made progress in identifying what has to be done and starting down that road, they've done a lot of work in financial management and acquisition management, strategic planning, human capital management. It's a little early to say if they've gotten over the hump. But we've pointed out that these kinds of transformations generally take 5 to 7 years to work themselves out. It would be a little unreasonable to expect them in a year and a half or 2 years, to have done all that.

Mr. TIERNEY. Thank you. Anybody else care to comment on that?

Mr. PERL. I had some thoughts on the issue of metrics. One of the things that the commission talked about is maybe to include a little bit more out-of-the-box thinking. And shortfalls exist when we establish metrics. There are two shortfalls that I see traditionally. No. 1 is that when we look at success, I think it's important to include: did we over-react. Because we're not fighting one decisive victory, we're fighting an ongoing war or campaign where resources are limited.

So we can have success on a particular issue, but what was the cost? Did we over-react? I think the key is measured success, not just success by itself.

And the other issue is, I think it's important to factor in the terrorist concept of success and not just our concept. To a certain de-

gree we may be fighting different wars and measuring on different scales. For example, we may view as success the fact that we have large numbers of Transportation Security Administration people now at our airports. But the terrorists may also view that as success, because they're draining our resources, it costs the country an enormous amount of money and we're not putting the resources in other areas where they may attack.

Another observation is that it seems to me that when we tend to measure success—and this ties in with what John was saying about going after al-Qaeda and not trying to go after having better relations with the Muslim world generally and looking toward the future—we tend to measure success in tactical terms. And they tend to measure success in strategic terms. So it's not easy to do, and it's a daunting challenge, but I do think that as part of the framework that we have for measuring success, these factors are important.

Mr. TIERNEY. I yield back.

Mr. SHAYS. Thank you.

We have another round of votes, and I think what we're going to do is just try to finish here, so I don't keep you waiting another half an hour. But that does mean that there might be some questions to the subcommittee. And you all are real experts on this issue. I'm going to run through some questions real quick, and I'd love short answers.

Do the 9/11 Commission recommendations constitute a new counterterrorism strategy for the country?

Mr. RABKIN. I wouldn't call it a new strategy, but I think it suggests that the current strategy probably needs to be updated and some of these ideas worked into it.

Mr. SHAYS. Thank you. That's helpful.

Mr. Perl.

Mr. PERL. The 9/11 Commission recommendations constitute some fine tuning of strategy, particularly in terms of money laundering and terrorist financing: a recognition that seizing the money cannot be the only object. And some fine tuning in terms of emphasis, more emphasis on going after hearts and minds.

Mr. SHAYS. Mr. Parachini.

Mr. PARACHINI. I think it does account for a new strategy, because it's a very focused strategy.

Mr. SHAYS. What's a very focused strategy? The existing or what they want?

Mr. PARACHINI. The 9/11 Commission strategy. It's focused on the adversary and it defines who the adversary is.

Mr. SHAYS. In other words, even that point of just saying, instead of saying terrorism, it's Islamist terrorism?

Mr. PARACHINI. Extremely important. A small little word change, but I think it is extremely important.

Mr. SHAYS. And I think the other members would agree with that?

Mr. PERL. Yes.

Mr. RABKIN. Yes.

Mr. PERL. But that can also be a pitfall. Because we may not be focusing enough on other types of terrorism in the future that we'll be seeing.

Mr. SHAYS. And there will be. There will be.

Mr. PARACHINI. I understand that argument, but we don't see other terrorist groups rising up to this level of threat to the United States. There is nothing like this global insurgency out there.

Mr. SHAYS. The communists weren't our only threat. But Lord knows, they constituted the bulk of it. And we had a strategy to deal with that.

Beyond the Federal Government, who needs to be involved in developing strategies to combat terrorism?

Mr. RABKIN. I think it's important that all the partners in carrying out the strategy have some part in putting the strategy together. This includes the State and local governments, the private sector, and our international partners, Congress ought to be involved. Certainly the Executive branch has the responsibility to promulgate the strategy, but others should be involved in the process of pulling it together and updating it.

Mr. PERL. I think we need to involve people with no experience in terrorism, sociologists, anthropologists, not just the usual gang of suspects. And also, this is very controversial, so I'll present it as an option, one option that might be worth considering would also be to engage criminals and former terrorists in developing counterterrorism strategy.

Mr. SHAYS. I hear you. When we have hackers, we invite hackers to tell us how we can figure them out.

Mr. PARACHINI. Well, there may be many stakeholders. It's really the President in a dialog with the Congress, to set a national strategy.

Mr. SHAYS. How should we think about measuring our national progress? I want it done in non-scientific terms, Mr. Parachini. I want to understand, how will John Tierney and I know we're making progress?

Mr. PARACHINI. I think if we see the number of recruits declining who go into Jihadist groups, that's a good sign. If we see editorials in government-owned Arab newspapers condemning the types of beheadings like we've seen recently, that's progress. If we hear in mosques all across the Islamic world these types of things being condemned, that I think is a sign of progress that's long term, that's important, and we're taking note of. I know we're taking great note of the opposite.

Mr. SHAYS. Thank you. Others?

Mr. PERL. I think also of progress in terms of civil liberties, if people can go to an airport, not have to wait a long time in line and not go through intrusive inspections or searches, I think that would be a sign of progress. I also think of progress in terms of the way the population reacts on a daily basis, is it a fearful population, how do they change their daily lives in terms of terrorism. In Israel there is something called the fear index that they give, or government commissions to get a sense of how the population sees progress.

And also important is progress on the street in other countries. We tend to address our polices to the elite, terrorists tend to talk to the street.

Mr. SHAYS. I'm going to respond to your fear issue, because I look at it both as a negative and a positive. Mr. Rabkin.

Mr. RABKIN. I think my answer would probably be too technical, because I think we ought to start with what the goals are and the organizations that are responsible for carrying it out need to develop those measures. That's what we ought to be paying attention to. There ought to be a system of measures. You don't need 500 measures. There ought to be one or two that each of the organizations is going to be held accountable to. And it would roll up into the kinds of measures that these gentleman are talking about.

Mr. SHAYS. Thank you. Just the thing with fear, sometimes when I hear our Secretary of Homeland Security say, we've gone to code yellow, to code orange, we've gone to elevated, to high, but just keep doing everything you ordinarily do, that to me is a false sense of security. I rebel at that. So I don't know. When I see a corrupt government but nobody's looking at it, and they say, well, it's an honest government, that doesn't mean it's an honest government just because they haven't grabbed at it. So your fear factor, I'm just responding to it a little bit.

We only have 4 minutes left. This is tragic, for me it is. Is there any last comment, gentlemen, you would like to put on the record? Because we could go a lot further. Any last comments, short ones?

Mr. RABKIN. I appreciate your interest, Mr. Chairman.

Mr. SHAYS. Let me just say, I think we're going to get all three of you back. If I'm back next year, I'm getting the three of you back. [Laughter.]

Thank you all very much. This hearing is adjourned.

[Whereupon, at 1:20 p.m., the subcommittee was adjourned.]

[The prepared statement of Hon. Carolyn B. Maloney follows:]

Statement of Congresswoman Carolyn B. Maloney
Subcommittee on National Security, Emerging Threats
and International Relations
Combating Terrorism: The 9/11 Commission Recommendations and the National Strategies
Wednesday, September 22, 2004
10:00 a.m.
2247 Rayburn House Office Building

Thank you Chairman Shays for your continued commitment to this issue.

Today marks exactly two months since the 9/11 Commission released its report that has provided us with 41 specific recommendations.

Unfortunately, earlier this month we marked the third anniversary of the attacks of 9/11.

Since the attacks, there has been a lot of discussion on how to prevent another 9/11. At times we have seen resistance to some of these proposals, but the American people have forced us to put aside partisan politics and insist that we act.

We saw this with the 9/11 Commission.

Its creation, access to documents and witnesses, it extension were all initially resisted only to prevail when the information was made publically available.

In July, when the report was released, the immediate reaction from some in Congress was that we needed to wait before acting on their recommendations. Fortunately, the Commission prevailed once again and Congress interrupted our August district work period and held a number of hearings. At each of these hearings Commission members have provided us with invaluable information.

Earlier this month, working with the commission's staff, Senator's McCain and Leiberman introduced bipartisan legislation in the Senate and Congressman Shays and I introduced the same legislation in the House.

This legislation, HR 5040, the 9/11 Commission Report Implementation Act, would put into law all 41 recommendations of the Commission. It has been endorsed by the Commissioners and by the 9/11 Families. As of today we have about 40 cosponsors. We believe that this legislation should be used as a base of discussion for implementing the Commissions recommendations.

But now we are hearing from some that this House will not be a rubber stamp for the 9/11 Commission. The Majority has indicated that they will have a new bill by Friday. This is bill that no one has seen, that could be hundreds of pages long, and it rumored to include a whole litany of provisions that are not part of the 41 recommendations of the 9/11 Commission.

So instead of working off the document we have been having hearings on for the last two months, we will now be working off a document that has not been the subject of a single hearing.

My question is why are we reinventing the wheel? The 9/11 gave us a play book with their report and the bill Chairman Shays and I have introduced was drafted with the 9/11 Commission Staff and takes all of the 41 recommendations and puts them in law.

Why are we not using this bill as the base bill rather than a bill that no one has seen and could be full of non-related items?

I hope that once again we can use some common sense and the credibility of the 9/11 Commission Members so that we can push to use the 9/11 Commission Report as the basis for enacting their recommendations. Let's use their play book as a base from where to start from.

Doing anything else just does not make sense.

I would like to hear the Commissioner's opinion on this matter and if we agree on this, I ask them to work with us to make this a reality.

I would like to hear from GAO on how some of the President's recommendations and actions match with the recommendations of the 9/11 Commission. When the bill that is rumored to come out at the end of the week, I will ask GAO to determine how it matches to the recommendations of the 9/11 Commission.

In the meantime, I look forward to everyone's testimony and working with the Commission to enact their recommendations.

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