

Bipartisan Policy Center
Governor Tom Kean and Congressman Lee Hamilton
Testimony before the Senate Committee on Homeland Security and
Governmental Affairs
March 30, 2011

[Introduction](#)

Mr. Chairman, Madam Ranking Member, members of the Committee: We are pleased to have the opportunity to appear before you today. This committee has been at the center of defending the country from the terrorist threat we face. We are deeply grateful to you for your sustained support of the 9/11 Commission's recommendations and leadership in reforming our national security institutions. Over the last decade, you have done much to ensure we are taking the difficult steps necessary to confront this determined enemy and protect Americans, our allies, and people throughout the world.

Today, we are appearing in our capacity as co-chairmen of the Bipartisan Policy Center's National Security Preparedness Group (NSPG), a successor to the 9/11 Commission. Drawing on a strong roster of national security professionals, the NSPG works as an independent, bipartisan group to monitor the implementation of the 9/11 Commission's recommendations and address other emerging national security issues.

NSPG includes the following membership:

Governor Thomas H. Kean, Former Governor of New Jersey;
Chairman of the 9/11 Commission; and Co-Chair of the National
Security Preparedness Group;
The Honorable Lee H. Hamilton, Former Congressman from Indiana;
Vice-Chair of the 9/11 Commission; and Co-Chair of the National
Security Preparedness Group;
The Honorable E. Spencer Abraham, Former U.S. Secretary of
Energy and U.S. Senator from Michigan, The Abraham Group;
Mr. Peter Bergen, CNN National Security Analyst and Author,
Schwartz Senior Fellow at the New America Foundation;
Dr. Stephen Flynn, President, Center for National Policy;
Dr. John Gannon, BAE Systems, former CIA Deputy Director for
Intelligence, Chairman of the National Intelligence Council, and U.S.

House Homeland Security Staff Director;
The Honorable Dan Glickman, former Secretary of Agriculture and U.S. Congressman;
Dr. Bruce Hoffman, Georgetown University terrorism specialist;
The Honorable Dave McCurdy, Former Congressman from Oklahoma and Chairman of the U.S. House Intelligence Committee, President of the Alliance of Automobile Manufacturers;
The Honorable Edwin Meese III, Former U.S. Attorney General, Ronald Reagan Distinguished Fellow in Public Policy and Chairman of the Center for Legal and Judicial Studies at The Heritage Foundation;
The Honorable Tom Ridge, Former Governor of Pennsylvania and U.S. Secretary of Homeland Security, Senior Advisor at Deloitte Global LLP, Ridge Global;
The Honorable Frances Townsend, Former Homeland Security Advisor and former Deputy National Security Advisor for Combating Terrorism;
The Honorable Richard L. Thornburgh, former U.S. Attorney General, Of Counsel at K&L Gates; and
The Honorable Jim Turner, Former Congressman from Texas and Ranking Member of the U.S. House Homeland Security Committee, Arnold and Porter, LLP;

In recent months, our group has sponsored the following events:

- BPC Domestic Intelligence Conference featuring FBI Director Mueller and DNI Director Clapper-October 2010.
- Bridge-Builder Breakfast: Addressing America's Intelligence Challenges in a Bipartisan Way with House Intelligence Committee Chairman Rogers and Congressman Ruppberger-March 2011.
- Press conference marking the release of the Bipartisan Policy Center's National Security Preparedness Group report, *Assessing the Terrorist Threat*-September 2010.

We believe the depth of this group's experience on national security issues can be of assistance to you and the executive branch and we look forward to continuing to work with you.

Overview as We Approach the 10th Anniversary of the 9/11 Attacks

Now, nearly ten years after the tragic 9/11 attacks, and seven years since *The 9/11 Commission Report*, is an appropriate time to take stock of where we are in national security reform.

Effect of the 9/11 Attacks

The terrorist attacks of September 11, 2001 had a profoundly dramatic impact on government, the private sector, and our daily lives. The suddenness of the attacks on American soil and the loss of so many lives, made us feel vulnerable in our homes and caused us to question whether our government was properly organized to protect us from this lethal threat. The economic damage resulting from the attacks was severe. In short order, we shifted from a “peace dividend” at the end of the Cold War to the expenditure of massive amounts of taxpayer dollars on new security measures.

The consequences of the attacks for the private sector have been striking. More than 80% of our nation’s critical infrastructure is owned by the private sector, and protecting it from terrorist operations has become an urgent priority. Working together, the government and private sector have improved their information sharing and thus our security posture.

Businesses in all sectors have adapted to this new reality. They have focused on how best to protect personnel and our food and water supplies; prepared continuity plans in preparation for possible disruptions; and altered how buildings are constructed, adopting innovative safety features. U.S. importers, working with the Department of Homeland Security, have pioneered new ways to ensure the integrity of shipping containers that bring goods into the country. The insurance industry’s risk analysis has evolved to reflect new realities. These necessary innovations have increased the costs of doing business. Future innovations responding to the evolving threat may raise costs higher.

The Government's Response

Over the past ten years, our government's response to the challenge of transnational terrorism has been equally dramatic. We have created major new institutions. The Department of Homeland Security itself amounted to a massive reconfiguration of government. As one indication of the scale of change to government, DHS now has a workforce of 230,000 people and an annual budget of \$56.3 billion.

The Department of Defense and the Intelligence Community have also adapted. The military created a Cyber Command to respond to the increasingly alarming cyber threat. In 2004, with the leadership of Senators Collins and Lieberman, Congress created the Office of the Director of National Intelligence and the National Counterterrorism Center to ensure unity of effort in the Intelligence Community. There has been a dramatic increase in the intelligence budget. Some 263 organizations have been stood up or redesigned to assist in the effort. Across the national security community, a flexible and resilient workforce has been trained and is focused on protecting the American people.

Many of the 9/11 Commission's recommendations have been accepted and implemented, in whole or in part. Information sharing within the federal government, and among federal, state, local, and tribal authorities, and with allies, while not perfect, has been considerably improved since 9/11. The level of cooperation among all levels of government is higher than ever. State and local officials have a far greater understanding not only of the threat and how to respond to it, but also, their communities and those who may be at risk of radicalization.

The CIA, FBI, and the broader intelligence community have implemented significant reforms. As a result, in the years since the attacks, many plots have been disrupted and many terrorist operatives brought to justice.

Despite this considerable progress, some major 9/11 Commission recommendations remain unfulfilled. These require urgent attention because the threat from al Qaeda, related terrorist groups, and individual adherents to violent Islamist extremism persists.

[The Threat Today](#)

Smaller But More Varied Attacks

Al Qaeda and related terrorist groups continue to pose a serious threat to the United States. While much of al Qaeda's leadership has been removed, al Qaeda Central's top leaders, Osama bin Laden and Ayman al Zawahiri, are still at large. Although a devastating 9/11-type attack is less likely, the threat is more complex and diverse than at any time in the last decade. Al Qaeda and its allies continue to have the intent and the reach to kill dozens, or even hundreds of Americans in a single attack. There is a high risk of attacks, but they will likely be smaller.

The danger of al Qaeda comes not only from its core in Pakistan, but through its cooperation with other like-minded groups. Al Qaeda's influence is on the rise in South Asia and continues to extend into failing or failed states such as Yemen and Somalia.

Several factors, however, are working against al Qaeda and allied groups: the ramped-up campaign of drone attacks in Pakistan; Pakistani actions against some militants based on their territory; increasingly hostile attitudes toward al Qaeda and allied groups in the Muslim world in general; and the fact that some militant allies have now also turned against al Qaeda.

A key development in recent years is the increasingly prominent role and number of U.S. citizens and residents in the leadership of al Qaeda and aligned groups. Another development is the increasing diversification of the types of U.S.-based jihadist militants. Some are individuals inspired to engage in attacks on their own, while others have been actively recruited by overseas terrorist groups. Indeed these would-be jihadists do not fit any particular ethnic, economic, educational, or social profile. The operations they mount, or attempt, range from shootings, to car bombs, to suicide attacks to in-flight bombings of passenger aircraft.

In assessing terrorist threats to the American homeland, senior U.S. counterterrorism officials now call attention to al Qaeda's strategy of 'diversification'—mounting attacks involving a wide variety of perpetrators of different national and ethnic backgrounds. This strategy seeks to defeat any attempt to "profile" actual and would-be perpetrators.

Radicalization

We have seen a pattern of increasing terrorist recruitment of American citizens. In 2009, there were two actual terrorist attacks on our soil. The Fort Hood shooting, claimed the lives of 13 people, and a U.S. military recruiter was killed in Little Rock, Arkansas. Indeed, many counterterrorism experts consider 2010 the “year of the homegrown terrorist.” Last year, 10 Muslim-Americans plotted against domestic targets, and 5 actually carried out their plots. Today, we know that Muslim-American youth are being recruited in Somali communities in Minneapolis and Portland, Oregon, in some respects moving the front lines to the interior of our country.

Moreover, we know that individuals in the U.S. are engaging in “self-radicalization,” which is an alarming development. This process is often influenced by blogs and other online content advocating violent Islamist extremism. While there are methods to monitor some of this activity, it is simply impossible to know the inner thinking of every at-risk person. Thus, self-radicalization poses a grave threat in the U.S. Our group issued a report last Fall on this issue and will follow up this Spring with a set of recommendations for dealing with this important and sensitive problem.

New Threats

Our enemy continues to probe our vulnerabilities and design innovative ways to attack us. Such innovation is best exemplified by the discovery in October 2010 of explosives packed in toner cartridges, addressed to synagogues in Chicago, and shipped on Fed Ex and UPS cargo flights from Yemen. This plot constituted an assault on our international transportation and commerce delivery systems. Although it failed, terrorists will not abandon efforts to develop new ways to inflict great harm on us.

The Cyber Threat

Successive DNIs have warned that the cyber threat to critical infrastructure systems –to electrical, financial, water, energy, food supply, military, and telecommunications networks-- is grave. Earlier this month, senior DHS officials described a “nightmare scenario” of a terrorist group hacking into U.S. computer systems and disrupting our electric grid, shutting down power to large swathes of the country, perhaps for as long as several weeks. As the

current crisis in Japan demonstrates, disruption of power grids and basic infrastructure can have devastating effects on society.

This is not science fiction. It is possible to take down cyber systems and trigger cascading side effects. Defending the U.S. against such attacks must be an urgent priority.

Status of the 9/11 Commission Recommendations

Emergency Preparedness and Response

Unity of Command

The 9/11 attacks demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough. Teamwork, collaboration, and cooperation at an incident site are critical to a successful response. We therefore recommended that emergency response agencies nationwide should adopt the Incident Command System (ICS); an essential element of this is that there be a unified command with one person in charge of directing the efforts of multiple agencies.

DHS incorporated ICS and the National Response Framework into the National Incident Management System (NIMS). NIMS provides nationwide guidance to clarify the roles of federal, state and local governments, NGOs, and the private sector in protecting against, responding to, and recovering from disasters. It has trained first responders throughout the country in the operation of NIMS.

NIMS was implemented during last year's Gulf oil spill. Its goal was to provide a unified, coordinated response under the leadership of DHS, with the Coast Guard as lead agency and BP as the responsible party. It divided the response into four main categories of effort: command, planning, operations and logistics. Each team was able to grow rapidly as more people arrived to respond to the spill. Management of the disaster was not without flaws, but in general it was an improvement over the often-fragmented approaches taken in response to previous disasters.

While the government has made some progress, our recommendation is still a long way from being fully implemented. Our discussions with community

leaders and first responders indicate that many metropolitan areas, with multiple agencies that would be involved in responding to a disaster, still have not solved the problem of unified command structure.

Radio Spectrum

The inability of first responders to communicate with each other was a critical failure on 9/11. Incompatible and inadequate communications led to needless loss of life. To remedy this failure, the Commission recommended legislation to provide for the expedited and increased assignment of radio spectrum for public safety purposes.

To date, this recommendation languishes. We find this unacceptable, because quite literally lives are at stake. The political fight has been over whether to allocate spectrum directly to public safety or auction it off to wireless bidders who would then be required to pay for a nationwide public safety communications network.

Initially, some advances were made when 10 MHz of radio spectrum were allocated to public safety. The overwhelming majority of our nation's police chiefs and first responders, however, support the allocation of an additional 10 MHz of radio spectrum—the “D block”—to the existing dedicated public safety spectrum. Public safety agencies would be able to use the D block spectrum to build a nationwide interoperable broadband spectrum, allowing diverse agencies to communicate with each other, and supporting mission critical voice, video, text, and other data transmissions.

In his State of the Union address, President Obama called for allocating the D block spectrum to public safety. He also supports allocating \$7 billion in federal funding to support a build-out of the network to ensure it reaches cash-strapped localities, especially rural communities.

We support the immediate allocation of the D-block spectrum to public safety. We must not approach these urgent matters at a leisurely pace. We don't know when the next attack or disaster will strike. Further delay is intolerable. We urge the Congress to act.

Transportation Security

In the field of transportation security, a number of 9/11 Commission objectives have been advanced over the past two years. Airline passenger pre-screening and full implementation of Secure Flight fulfill our recommendation that TSA take over from the airlines the administration of the “no fly” and “automatic selectee” lists.

We are not satisfied, however, with the implementation of other recommendations. Additional funding has led to a major increase in the deployment at airports around the country of advanced screening equipment used in checkpoint explosives detection and in-line checked bag screening. Unfortunately, explosives detection technology lacks reliability. Airport body scanning machines are also not effective at detecting weapons, such as explosives, hidden within the body. Our conclusion is that despite ten years of working on the problem, the system still falls short in critical ways with respect to detection.

The Department of Homeland Security has improved international sharing of flight information substantially. The U.S. and the European Union now share information about passengers as soon as tickets are purchased, rather than after the plane has taken off, as was the case only a few years ago. Enhanced international cooperation should produce major gains in both air and maritime cargo security.

On the other hand, we still struggle to set priorities, define roles and implement a robust budget for transportation security. The GAO continues to identify serious holes in virtually every security layer.

Border Security

Since 9/11 and the creation of the Department of Homeland Security, a critical goal of our border security apparatus has been to prevent terrorists from entering the United States.

Border security remains a top national security priority, because there is an indisputable nexus between terrorist operations and terrorist travel. Foreign-born terrorists have continued to exploit our border vulnerabilities to gain access to the United States.

Terrorist Travel Intelligence

The 9/11 Commission recommended that the “United States . . . combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility.” Every time terrorists travel they make themselves vulnerable to detection and interdiction.

While our government has made improvements, worrisome vulnerabilities remain in the system. Several attempted attacks over the past two years were perpetrated by terrorists who could have been detected by the U.S. immigration system. Examples include Christmas Day bomber Umar Farouk Abdulmutallab, who used a valid U.S. visa to board Northwest flight 253 in Amsterdam; Hosam Smadi, who plotted to blow up a Dallas office building after overstaying his visa; and Faisal Shahzad, who naturalized just over a year before attempting to detonate a massive car bomb in Times Square.

The U.S. government has the legal authority and infrastructure to secure against terrorist travel in a manner it did not prior to 9/11. Yet recent events suggest that further improvements can be made. In particular, a more streamlined terrorist watchlisting capability and improved information sharing between intelligence and immigration authorities should be priorities.

Biometric Entry-Exit Screening System

One area of great progress is the deployment of the biometric entry system known as US-VISIT. This system checks all individuals who arrive at U.S. borders, ensures they are who they say they are, and helps prevent known terrorists from entering the country. Data collected by US-VISIT are also used by homeland security, defense, law enforcement, and intelligence agencies for various important national security functions. US-VISIT has proven its value as a national security tool.

Yet despite the successful deployment of the entry component of US-VISIT, there still is no comprehensive exit system in place. As important as it is to know when foreign nationals arrive, it is also important to know when they leave. Full deployment of the biometric exit component of US-VISIT

should be a high priority. If law enforcement and intelligence officials had known for certain in August and September 2001 that 9/11 hijackers Nawaf al-Hazmi and Khalid al-Mihdhar remained in the U.S., the search for them might have taken on greater urgency.

Standardize Secure Identifications

Eighteen of the nineteen 9/11 hijackers obtained 30 state-issued IDs amongst them that enabled them to more easily board planes on the morning of 9/11. Due to the ease with which fraud was used to obtain legitimate IDs that helped the hijackers embed and assimilate in the U.S. for the purpose of carrying out a terrorist act, the 9/11 Commission recommended that “The federal government should set standards for the issuance of birth certificates and sources of identification, such as driver’s licenses.”

The REAL ID Act established these standards by statute. In 2008, detailed regulations were issued setting standards and benchmarks for driver license issuance. While nearly one-third of the states have complied with the first tier of benchmarks, the deadlines for compliance have been pushed back twice to May 2011, and a recent announcement pushed back compliance again until January 2013. The delay in compliance creates vulnerabilities and makes us less safe. No further delay should be authorized, rather compliance should be accelerated.

In addition, there are still no minimum standards for birth certificates in place, as required by the Intelligence Reform and Terrorism Prevention Act of 2004. These standards are needed to close a back door that terrorists could use to obtain driver’s licenses.

Intelligence Reform

Robust and well-organized intelligence capabilities are essential to protect the nation from the lethal terrorist threat we face today. We believed it was necessary to remove institutional blocks—legal, policy, and cultural barriers—between various agencies concerned with counterterrorism to forge a unity of effort across the intelligence community.

DNI

We recommended and Congress created the position of Director of National Intelligence. The *Intelligence Reform and Terrorism Prevention Act of 2004* (IRTPA) made the DNI the principal intelligence advisor to the President, responsible for directing and coordinating the efforts of the 16 agencies of the intelligence community. In the six years since the creation of this post, the DNI has increased information-sharing, improved coordination among agencies, sharpened collection priorities, brought additional expertise into the analysis of intelligence, and further integrated the FBI into the overall intelligence effort. These are significant achievements.

At this time, however, it is not clear that the DNI is yet the driving force for Intelligence Community integration that we had envisioned. IRTPA left ambiguous the DNI's authority over budget and personnel. Such authority is critical to the success of the DNI. Secretary Gates and DNI Clapper reached a conceptual agreement last fall moving the intelligence budget under the DNI's purview. That will be of some help. But Congress needs to make clear the extent of the DNI's authority over both budget and personnel. The lines drawn should be bright.

It will then be the responsibility of the DNI to exercise that authority with discretion because it will bump up against authorities exercised by other powerful officials: Director of the CIA, DoD's Undersecretary of Defense for Intelligence, and the directors of the DoD intelligence agencies (DIA, NSA, NRO, and NGA). We are also concerned that there have been four DNIs in six years. Short tenures detract from the goal of building strong authority.

Strengthening the DNI's position would, we believe, advance the unity of intelligence effort that is needed. Legislation could fortify the office. Direct and repeated indication from the President that the DNI is the unequivocal leader of the intelligence community would also go far to strengthen his position and authority.

FBI

Since 9/11, the FBI has gone through wrenching change. A fundamental problem in responding to the growing threat posed by transnational terrorism before 9/11 was the FBI's culture. Traditionally, as a law enforcement organization, its managers and personnel have been steeped in that culture. In the years since the attacks, the FBI has shifted considerable resources and

personnel from traditional criminal investigations to international counterterrorism and intelligence gathering. The changes have enabled it to make many arrests and disrupt many terrorist plots.

In 2005, we said that progress at the FBI was too slow. Since then, progress toward developing new functions and capacities has been significant but uneven. The change that has taken place has required real effort. The question now is: Have the reforms produced an integrated intelligence program within the FBI? This Committee's recent report on the Fort Hood shootings points to problems that still exist within the FBI. Specifically, It is not clear, for example, that analysts within the FBI are the drivers of intelligence that they ought to be at this time, or that they have achieved a status and importance within the FBI commensurate with the traditional power and management structure of the organization. Information the FBI and the military had on the alleged shooter, before the tragedy, was analyzed in terms of the threat of terrorism he posed but authorities failed to consider the counterintelligence implications it raised.

The failure of our government to prevent the Fort Hood tragedy also showed instances of poor communication among FBI Field Offices and between Field Offices and relevant offices within FBI headquarters. Restrictions on access to certain, sensitive FBI databases hindered some officials on detail to the FBI from fully understanding the potential threat posed by the perpetrator. These problems need to be addressed.

We are also concerned that the enormous effort to transform the FBI into an organization with an important focus on gathering and analyzing intelligence to prevent terrorist attacks may have diminished the Bureau's ability to vigorously enforce the criminal law and to investigate complex crimes.

The shift taking place within the FBI is a work in progress. More resources and more agents may well be part of the answer. Congress has a critical role to play. Through regular engagement and strong oversight it can help the FBI strike the right balance in its difficult transformation.

CIA

The CIA is central to the fight on terrorism. It has been taking the fight to the enemy, relying on its dedicated officers and on cutting edge technology. To help CIA perform its vital role, we recommended that it rebuild its analytic capabilities; improve its human intelligence capabilities; develop a stronger language program; and recruit more diverse officers so they can blend more easily in foreign cities.

CIA has made some progress in breaking down the barriers between the spies who collect intelligence and the analysts who use the data for finished reports, going so far as to remove physical barriers in its operations center and other offices that had historically divided the two disciplines. Analysts and operations officers now train together beginning early in their careers. It has given specialists in 'open source' intelligence equal standing with spies and analysts in its key centers. It has stepped up use of its "intranet" in distributing reporting through secure networks maintained by the State and Defense Departments. It also makes greater use of alternative intelligence assessments produced by outside experts and has placed more analysts overseas. These are positive steps.

CIA and its oversight committees have been talking for many years about improving the Agency's human operations. Our sense is that there has been far more talk than action. To be fair, the fight against terrorism places huge demands on CIA. Over the past decade it has had to surge personnel to a number of war zones. While it has increased the numbers of its officers deployed overseas, added personnel strength and even greater funding do not necessarily result in better human operations. The simple fact is that it is very difficult to develop and recruit crucial sources, the ones with real access to decision making, in closed societies. Penetrating close-knit terrorist cells is also excruciatingly hard. But our national security demands that we make progress.

There are some larger, complex, and interlocking issues here. While we don't want to create permissive failure, it is important to recognize what CIA does is very difficult business. We want it to take risks in protecting the American people. Congress can help by depoliticizing oversight, removing the risk of political blame on those occasions when a necessary CIA operation fails, despite all reasonable planning, to achieve its aim, and results in negative blowback.

In the 1990s our intelligence community had to deal with serious budget cuts. These had a negative effect on the strength of the CIA. Now, we are asking it to rebuild, during tough economic times. Former CIA leadership told the 9/11 Commission that it would take five years to rebuild the Agency. Building capabilities takes a long time. The workforce of CIA is young and a large percentage of its personnel have been added since the 9/11 attacks. Congress must provide the funding and support necessary to bring it to the level of excellence the threat we face requires.

CIA, despite having bolstered its language programs and recruited more people with specialized language skills, still does not have enough officers with fluency in the languages of greatest interest to our national security. The problem, however, does not just lie with CIA, or more broadly with the intelligence community. The fact is, our country deemphasizes language study. There are exceptions, of course, but in general our young people do not gain language proficiency in high school or college. To generate the pool of language proficient intelligence officers we need in the future, Congress and the Executive should develop, and implement through legislation, a strategy that will incentivize young people to learn and become fluent in difficult languages.

It is also imperative for CIA to recruit officers with diverse ethnic backgrounds. To operate effectively in the toughest and most challenging region of the world, to build relations with a diverse range of people, it helps to ‘look like the world.’ We continue to hear much about the difficulty of getting first-generation Americans through the security process. While we don’t minimize security concerns, the intelligence community needs people with such backgrounds. This area needs to be rethought, so we can bring on board the people we need.

As the CIA is not transparent, it is difficult for us, or anyone outside the government, to assess with accuracy the status of implementation of recommended reforms. Because of the need to protect the CIA’s sources and methods, only the intelligence oversight committees and a restricted circle of officials within the Executive Branch are briefed on the sensitive aspects of CIA’s progress toward reform. We urge those officials to exercise vigorously their authority in order to help strengthen CIA and make it more effective. Among the important questions to be answered are: Has the quality of analysis improved? Are our policy makers receiving in a timely fashion the intelligence they need? How successful has the CIA been

in penetrating terrorist organizations? Do we have the capability to recruit the human sources we need? How do we measure success in both human operations and in analysis? Do we have sufficient numbers of clandestine officers in the regions that pose the greatest threat to our country?

Information Sharing

Legal, policy, and cultural barriers between agencies created serious impediments to information sharing before the 9/11 attacks. The 9/11 Commission made a number of specific recommendations to improve information sharing across our government. The formation of the National Counterterrorism Center was a major step toward improved information sharing.

We believe that information sharing has improved considerably in recent years. There are now 105 Joint Terrorism Task Forces throughout the nation, and 72 Fusion Centers in which federal, state, local, and tribal authorities investigate terrorism leads and share information. Since 2004, DHS has provided more than \$340 million in funding to the Fusion Centers. Information sharing with the private sector has also become routine and is an important part of our defenses.

While the mechanisms are in place for better information sharing, the fact is that we missed opportunities to stop the Christmas Day bomber from boarding Northwest Flight 253, as well as opportunities to intervene before the Fort Hood shootings. Clearly there is much room for improvement. An enormous amount of intelligence information constantly pours into our national security system. Sifting through it, synthesizing it, making sense of it, and making sure it receives the necessary attention is a backbreaking challenge, one that requires attentive management and testing to determine where the flaws are and how to fix them.

The publication of sensitive government documents by organizations such as WikiLeaks has harmed our government's ability to conduct its affairs and has had serious consequences for our national security. It highlights the difficulty of striking a balance between the need to share information and at the same time preventing its unauthorized disclosure. Our government has the duty to prevent the unauthorized access to, and misuse or disclosure of, sensitive information. Appropriate sharing of information among authorized agencies and officials is essential to protecting the country from terrorist and

other threats. Finding the right balance is not easy. Congress has a role to ensure that the Executive Branch is taking appropriate steps to address the problem.

Civil Liberties and Executive Power

The 9/11 Commission recommended the creation of a *Privacy and Civil Liberties Oversight Board* to look across the government at the actions we are taking to protect ourselves to ensure that privacy and liberty concerns are considered. Congress and the President enacted this recommendation. We commend the dedicated work of privacy officers in each of the respective agencies with national security responsibilities; they are doing their work with professionalism. In particular, assessments they have authored on the impact on civil liberties of policies, regulations, and directives issued by their respective departments have been strong.

But the government-wide board has been a disappointment. In fact, for more than two years it has been dormant. The Obama administration recently nominated two members for the Board but they have not yet been confirmed and the Board has not met.

If we were issuing grades, the implementation of this recommendation would receive a failing mark. We urge the Administration and Congress to address this failure in a speedy fashion. An array of security-related policies and programs present significant privacy and liberty concerns. A robust and visible Board can help reassure Americans that these programs are designed and executed with the preservation of our core values in mind. Board review can also give national security officials an extra degree of assurance that their efforts will not be perceived later as violating civil liberties.

Congressional and Administrative Reform

The 9/11 Commission said that oversight of intelligence was “dysfunctional.” We strongly believed that “of all our recommendations, strengthening congressional oversight may be among the most difficult and important. So long as oversight is governed by current congressional rules and resolutions, we believe the American people will not get the security they want and need.”

We recommended that Congress create a Joint Committee for intelligence or create House and Senate committees with combined authorizing and appropriating powers. We are disappointed that Congress has not fulfilled this recommendation. The basic issue is that agencies listen to the people who control their purse. But appropriations for CIA, for example, come under an already overburdened House Appropriations Subcommittee on Defense. The thrust of our recommendation is to ensure that there is credible, robust expert oversight of the intelligence community's funding and other activities. Our recommendation would ensure that the intelligence appropriations process was not an appendage to the massive defense budget. Last week, the Chairman of the HPSCI announced a decision to include three Members of the House Appropriations Committee to participate in House Intelligence Committee hearings and briefings. This is a positive step but there is more to do here.

Equally important, we recommended that Congress should create a single, principal point of oversight and review for homeland security. This, too, has not been done. The homeland security committees in the House and Senate do not have sufficient jurisdiction over important agencies within the Department of Homeland Security. Too many committees have concurrent and overlapping jurisdiction. Jurisdiction has been carved up to accommodate antiquated structures. This is a recipe for confusion. The upshot is that DHS receives conflicting guidance and Congress lacks one picture of how that enormous organization is functioning. Congress should be helping integrate the sprawling DHS; a fragmented oversight approach defeats that purpose.

We firmly reinforce what we said in our final report: That it is in our country's security interest that Congress make committee reform a priority.

Nonproliferation

The 9/11 Commission was deeply alarmed by Osama bin Laden's efforts to acquire nuclear weapons in the late 1990s. Our report concluded, "the greatest danger of another catastrophic attack in the United States will materialize if the world's most dangerous terrorists acquire the world's most dangerous weapons." We recommended that "Preventing the proliferation of these weapons warrants a maximum effort—by strengthening

counterproliferation efforts, expanding the Proliferation Security Initiative, and supporting the Cooperative Threat Reduction Program.”

President George W. Bush said that “the biggest threat facing this country is weapons of mass destruction in the hands of a terrorist network.” Sharing this assessment, President Obama said that “the prospect of nuclear terrorism is the most immediate and extreme threat to global security.” While the likelihood of a terrorist mass-casualty attack may have diminished, the gravity of the harm were such an attack to take place would be enormous.

Currently, there are nearly 2000 tons of highly enriched uranium in dozens of countries around the world, enough to make 60,000 nuclear weapons. In light of this threat, in April 2010 President Obama hosted a Nuclear Security Summit of 47 nations. The Summit focused on the need to intercept trafficking in nuclear materials, enhance international cooperation, and improve the security of stockpiles. The Obama administration announced a new initiative to secure all vulnerable nuclear materials by 2013. In FY 2010 the administration asked for significant funding increases for all nonproliferation programs. It plans to spend \$14.2 billion over the next five years to reduce the threat posed by nuclear and radiological materials.

Congress has not yet approved the FY 2011 budget. There are proposals to slash the National Nuclear Security Administration’s budget for nonproliferation by as much as 22 percent. We must guard against any underfunding of this highest priority security need.

Develop Coalition Standards for Terrorist Detention

We recommended that the “United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists” and that new principles might draw upon Common Article 3 of the Geneva Conventions.

Within days of his inauguration, President Obama signed a series of executive orders on the treatment of detainees and barring the CIA from using any interrogation methods not already authorized in the U.S. Army Field Manual. This ended CIA’s authority to use harsh interrogation methods. The Administration is still grappling with how to close the Guantanamo prison facilities.

By bringing the U.S. into compliance with the Geneva Conventions and with international and customary law on the treatment of prisoners, the executive orders have substantially fulfilled our recommendation. Looking forward, however, we are concerned that the issue of how prisoners are to be treated has become so highly politicized.

This, we believe, is not good for the country or our standing in the world. Showing that bipartisan agreement is possible, and intending to reaffirm our values, the five Republicans and five Democrats on the Commission unanimously agreed on this recommendation. Together, we believed that our country's values require adherence to the rule of law and a commitment to human rights and humane treatment.

A lingering problem that two presidents have grappled with is how we reconcile the rule of law with keeping alleged terrorists in indefinite detention. For too long, the president and Congress have delayed resolving this difficult problem. In some cases we lack sufficient evidence against the detainees or the evidence that we have is problematic because of the way it was obtained. We regard as positive the Executive Order that requires periodic review of the status of prisoners at Guantanamo. Congress and the President must decide on a comprehensive approach that spells out clearly the rules of evidence and procedures and the forums in which they will be applied. Congress should anchor these decisions in a firm statutory basis.

Foreign Policy

As we meet here today, the Middle East and North Africa are in a state of upheaval. Exactly what will emerge from this unprecedented wave of protest sweeping the Arab world is unclear. While regime change or reform may move the region toward democracy, the ensuing instability could also be exploited by terrorists. Clearly, the United States would like to see governments emerge in the region that are inhospitable to terrorist organizations and that reject extremist ideologies. What can we do to enhance the likelihood of that outcome?

The 9/11 Commission explicitly addressed the critical role that U.S. foreign policy plays in counterterrorism, but did so with some modesty: Countries may share the common unifying thread of Islam, but each is different and

has its own unique culture and traditions, requiring a country-by-country approach.

We said that tolerance, the rule of law, political and economic openness, and the extension of greater opportunities to women must come from within Muslim societies themselves. The United States must support such developments. Our relations with these countries must be based on our core values. We should seek democratic change and tolerance through pragmatic reform.

The protests and revolutions in the Middle East and North Africa region give us a degree of hope for reducing radicalization. Change and reform can reduce feelings of rage and despair, caused at least in part by political repression and economic stagnation. The call in the streets has been for democracy and political participation—not for bin Laden’s version of jihad. It is worth noting, though, that the wave of protest does not yet seem to be touching Afghanistan or Pakistan—key countries identified in the 9/11 Commission’s Final Report.

Public diplomacy (and nontraditional diplomacy more broadly) strikes us as essential in responding to the protests and change sweeping through the region. We should seek to foster reform, forestall gross human rights violations, and work closely with the international community, while avoiding putting the American imprimatur on the protests.

The key will be to engage pragmatically with the governments of the region to help them build stable institutions and provide immediate economic improvement to their people. We should support an agenda of opportunity for the Islamic world. People-to-people exchanges—between legislators, businesspeople, students, academics, civil servants, trade unions, lawyers, scientists, and other groups—could be very productive here. In The 9/11 Commission Report, we recommended that the United States “rebuild the scholarship, exchange, and library programs that reach out to young people and offer them knowledge and hope.” A significant exchange program for emerging Middle East and North Africa democracies should be a relatively easy lift for Congress, and would be a tangible way of signaling U.S. friendship to the new democracies, on the basis of mutual respect and without seeming to meddle or to seek control.

The U.S. and European Union should also work together to use trade policy

to give a quick economic assist, in terms of market access, to the new democratic governments (once they emerge). Such an initiative would be much more effective if done in concert with the EU.

Reasons for the Success of the 9/11 Commission

We have reflected often on why the 9/11 Commission was successful. We think a number of reasons explain its success: First, because of the great damage and trauma the 9/11 attacks produced, the American public wanted action and had high expectations for measures and reforms that would improve the nation's security; importantly, the statutory mandate for the Commission was limited, precise, and clear—the Commission was authorized to investigate the facts and circumstances surrounding the attacks and to make recommendations to keep the country safe; the Commission had an extraordinary non-partisan staff, the members of which possessed deep expertise and conducted their work with thoroughness and professionalism; the Commissioners had deep experience in government and political credibility with different constituencies; the final report was unanimous and bipartisan; families of the victims of 9/11 provided solid and sophisticated support throughout the life of the Commission and in the years since; and following the Commission, the Commissioners and staff continued, to the present, to work closely with Congress and the executive branch to implement and monitor reform.

But the principal reason for the success of the Commission's work was that political leadership, including prominently the leaders of this Committee, embraced its findings and recommendations, pushed hard to enact them, and have continued to drive reform. Your support and leadership have been critically important in protecting the nation's security.

Conclusion

Significant progress has been made since 9/11, and our country is undoubtedly safer and more secure. Yet important 9/11 Commission recommendations remain to be implemented. Over the next two years there is heavy lifting to be done. To date, Congress has resisted reorganizing its own institutions. Streamlining congressional oversight of the Intelligence

Community and Department of Homeland Security would go far toward advancing unity of effort in the intelligence community and within DHS.

It is also time for a clear-eyed appraisal of how the Office of the DNI is functioning, as well as the state of reform in the FBI. We have concerns about each, and our goal should be to strengthen both. While our group brings together well-informed experts with deep experience in government and counterterrorism, we are at a disadvantage: We cannot conduct investigations; we cannot compel people to come forward and state candidly what is not working; and we cannot review classified documents. This Committee, and other committees, has that authority. The American people rely on you to continue asking the hard questions, as this Committee has done so effectively in the past.

Over the last 10 years, we have damaged our enemy, but the ideology of violent Islamist extremism is alive and attracting new adherents, including right here in our own country. Close cooperation with American Muslim communities is the key to preventing the domestic radicalization that has troubled some of our European allies. Positive outreach and efforts to foster mutual understanding are the best way to prevent radicalization and sustain collaborative relationships.

Our terrorist adversaries and the tactics and techniques they employ are evolving rapidly. We will see new attempts, and likely successful attacks. One of our major deficiencies before the 9/11 attacks was that our national security agencies were not changing at the accelerated rate required by a new and different kind of enemy. We must not make that mistake again.

The terrorist threat will be with us far into the future, demanding that we be ever vigilant. Our national security departments require strong leadership and attentive management at every level to ensure that all parts are working well together, that there is innovation and imagination. Our agencies and their dedicated workforces have gone through much change and we commend them for their achievements in protecting the American people. But there is a tendency toward inertia in all bureaucracies. Vigorous congressional oversight is imperative to ensure that they remain vigilant and continue to pursue needed reforms.

Our task is difficult. We must constantly assess our vulnerabilities and anticipate new lines of attack. We have done much, but there is much more to do.

Thank you for inviting us to testify, and for this Committee's longstanding leadership on these critical issues. #