



BIPARTISAN POLICY CENTER

**Bipartisan Policy Center
Congressman Lee Hamilton and Governor Tom Kean
Testimony before the Senate Homeland Security Committee
January 26, 2010**

Introduction

We are very happy to be back before you today. This committee's role in enactment of the historic Intelligence Reform and Terrorism Prevention Act was critical to the most substantial changes to the national security infrastructure since its creation in 1947. Senators Lieberman and Collins, as well as Congressman Hoekstra and Congresswoman Harman, went well above the call of duty to see to its enactment and that's something for which the country should be grateful.

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:

- Mr. Peter Bergen, CNN National Security Analyst and Author, Schwartz Senior Fellow at the New America Foundation
- 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

- 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 Richard L. Thornburgh, former U.S. Attorney General, Of Counsel at K&L Gates
- The Honorable Jim Turner, Former Congressman from Texas and Ranking Member of the U.S. House Homeland Security Committee, Arnold and Porter, LLP
- Mr. Lawrence Wright, New Yorker Columnist and Pulitzer Prize winning author of *The Looming Tower: Al Qaeda and the Road to 9/11*
- The Honorable E. Spencer Abraham, Former U.S. Secretary of Energy and U.S. Senator from Michigan, The Abraham Group

Over the course of 2009, our group met with Obama Administration and former senior officials from the Bush Administration, including:

- Director of National Intelligence, Admiral Dennis Blair (July 2009)
- CIA Director Leon Panetta (July 2009)
- Secretary of Homeland Security Janet Napolitano (July 2009)
- FBI Director Bob Mueller (September 2009)
- Former CIA Director Mike Hayden (September 2009)
- Former DNI Mike McConnell (September 2009)

We will also meet with Deputy National Security Adviser John Brennan this afternoon.

We believe the strength of our group will allow us to be a voice on national security issues and a resource to you and the executive branch. First and foremost, we are here to help play a constructive role in support of your work.

Recently the 5 year anniversary of the Intelligence Reform and Terrorism Prevention Act passed and that makes it an appropriate time for us to consider how well this has worked and whether additional changes need to be made. At the Bipartisan Policy Center, our National Security Preparedness Group has been studying the implementation of the 9/11 Commission's recommendations, especially the state of intelligence reform, and new threats to our national security.

We look forward to working with you, and benefiting from the work of this committee, as our study continues.



We should state at the outset that the events that transpired on Christmas give us the opportunity to make two important points.

First, the threat from al Qaeda and radical Islam remains strong. Al-Qaeda's core is still active, individuals are still being radicalized in Western countries and motivated to commit violence, and homegrown lone actors are still a risk. As our colleague Bruce Hoffman observed, "al Qaeda is on the march, not on the run." We have been concerned that our sense of urgency on terrorism has been low. We must reject complacency and recognize we still face a serious threat from organizations like Al-Qaeda. This is not a reason for panic but for a concerted, comprehensive effort.

Second, as we see that the determination of the terrorist to attack the homeland remains unabated, it reminds us of the need for establishing a Director of National Intelligence and a National Counter Terrorism Center in the first place. At their core, the problems evident on September 11, 2001, were about the failures and obstacles to sharing information among the federal partners charged with protecting the country and that there was no one in the federal government charged with fusing together intelligence derived from multiple foreign and domestic sources. The DNI has been charged with breaking down bureaucratic, cultural, technological, and policy barriers to the sharing of information among federal agencies and the NCTC has been successful in a number of incidents in helping thwart potential terrorist attacks.

We need to support these entities and build them into enduring institutions. It is imperative that the DNI and the NCTC to be successful in the vital missions they have been asked to undertake for the country.

Effectiveness of the DNI

We are very pleased your committee has initiated this series of hearings to study how well intelligence reform has been implemented. This is the kind of congressional oversight the 9/11 Commission called for and we welcome your efforts to scrutinize the activities of our national security system.

There has been a debate within the intelligence community on the state of intelligence reform and the effectiveness of the DNI. The DNI has been hobbled by endless disputes over its size, mission, and authority. We too are concerned about the expanding growth and bureaucracy of the DNI and we urge vigorous reevaluation of all its functions to assure its leanness. But such a review must

occur with the recognition that the Congress and the President gave the DNI a massive to do list in the wake of the intelligence failures of 9/11 and weapons of mass destruction in Iraq. This to do list includes:

- Solving systemic and longstanding information-sharing issues among Intelligence Community entities, especially to break down the “wall” between foreign and “domestic” intelligence, and to create an architecture to enable such sharing;
- Serving as the President’s Principal Intelligence Advisor;
- Developing a national intelligence budget across all intelligence agencies;
- Overseeing billions of dollars of intelligence community acquisitions;
- Improving the quality of intelligence analysis, especially to guard against “group-think,” and to manage an intelligence process that is inclusive of a variety of view points;
- Strengthening management across the Intelligence Community;
- Advancing and using the latest science and championing new research and development efforts;
- Creating a work force within the Office of the DNI with the right people to execute these important functions;
- Facilitating a “culture change” within the Community by establishing a joint duty system, modeled on DoD’s Goldwater-Nichols, to enable personnel to rotate assignments within the intelligence community;
- Bringing a mission focus to the IC by creating a group of Mission Managers “responsible for all aspects of the intelligence process to those issues” and leading centers like National Counter Terrorism Center and National Counterproliferation Center.

It is not enough to say simply that the DNI bureaucracy should be reduced. We need to take a fresh look at how the DNI has performed on these essential tasks, clarify the mission of the DNI, and then seek to adjust accordingly.

In recent months as we have studied the effectiveness of the DNI we have come to some preliminary conclusions. We have more work to do but we believe that the DNI has achieved a meaningful measure of success in its first years – that has made it worth the inevitable turmoil – but is a work in progress closer to the beginning of reform than the end. Some of the successes in the last five years include progress on information-sharing, a joint-duty program, and despite the failures evident in the Christmas attack, the National Counter Terrorism Center. Since September 11, 2001, the NCTC and other government agencies have repeatedly connected the dots and shared information necessary to defeat terrorist

attacks. Improvements have clearly been made although that sharing is not as prompt and seamless as it should be.

But many of the successes of the DNI have been heavily dependent on key personalities within the executive branch. We want to continue to look closely at the authorities of the DNI to make sure he has the authority to do his work, but it is our sense that the success of the DNI in the short term will not rise or fall on whether we make additional statutory adjustments to IRTPA.

To be sure, we believe there are some ambiguities in the law. Section 1018, the passage designed to ensure the chain of command in departments and agencies will not be abrogated, would certainly be in that category, although we understand that some of the problems resulting from this section were at least partially remedied in revisions to Executive Order 12333. Some ambiguities were the product of legislative compromise which is a fact of life in our political system.

Nonetheless, there are still ambiguities and they can contribute to mission confusion and lack of clarity about lanes in the road. This is perhaps the greatest challenge facing the DNI. Is the DNI a strong leader of the intelligence community empowered to lead the IC as an enterprise? Or is the DNI a mere coordinator, a convening authority charged with helping facilitate common inter-intelligence agency agreement? The lack of settled clarity on its mission invites a host of other criticisms, including that the ODNI is too large, too intrusive, and too operational.

The burden is on the President to be clear on who is in charge of the Intelligence Community and where final authority lies on budget, personnel, and other matters. In our estimation, we need a strong DNI who is a leader of the intelligence community. The DNI must be the person who drives inter-agency coordination and integration. At the same time, the DNI's authorities must be exercised with discretion and consideration of the priorities and sensitivities of other intelligence agencies. But the President's leadership is crucial and must be continuing or we run the risk of mission confusion and decrease the prospect of long and lasting reform that was recommended after September 11, 2001. The DNI's ability to lead the Intelligence Community depends on the President defining his role and giving him the power and authority to act.

Lessons from Christmas Attack

Much has been said on the lessons from the Christmas attack. We would like to highlight two issues.

First, the greatest single challenge that arises from this incident in our view is the urgent need to strengthen the analytic process.

As President Obama said, there was a failure to connect the dots. With more rigorous analysis, we might have been able to connect disparate pieces of information that might have foretold of the Christmas plot. We are pleased the President asked the DNI to look at this issue. The DNI was charged by the Congress to ensure the highest analytical standards within the Intelligence Community. The DNI is properly situated within that Community to assume a leadership role in applying more rigorous standards to analytical tradecraft. We hope the DNI will take a look at the incentives structure within the IC to reward analysts so we might recruit and retain the best people. We especially have in mind places in the intelligence community where analysts take a back seat to operators. We need to increase the prominence of the analyst which will lead to a lifting of standards across the intelligence community. Congress should also support these entities by giving the DNI and the NCTC the resources they need and the ability to recruit and keep the best people.

Another part of improving analysis is judging sources of potential attacks properly. As the President's review has shown, we had a "strategic sense" that Al Qaeda in the Arabian Peninsula was becoming a threat, but "we didn't know they had progressed to the point of actually launching individuals here." We collect a tremendous amount of intelligence and we need the very best people not only sorting through it for tactical details, but in a strategic sense asking where the next attack will come from.

The principal challenge to improved analysis is that the Intelligence Community is awash with data. In an age when we are collecting more information than ever before, the real challenge is how do you understand, manage, and integrate vast amount of information. The DNI needs to develop ways of dealing with intelligence information overload. At the same time, we need to do a better job of pushing information to the right people within the Intelligence Community. We welcome President Obama's order to distribute intelligence reports more quickly and widely. We need better management of the data and to look to technology to help us better sort through massive amounts of information to ensure the right people are seeing it in time to make a difference. The technology we use must be state of the art, constantly upgraded to quickly put

information together and it must be properly placed instantaneously so better analysis can occur.

A second lesson from the Christmas attacks is that it reminds of the importance of eliminating terrorist sanctuaries. Finding that our attackers on 9/11 benefited from the time, space, and command structure afforded in Afghanistan, the 9/11 Commission placed great emphasis on identifying and prioritizing actual or potential terrorist sanctuaries. We recommended strategies employing all elements of national power to keep terrorists insecure and on the run. We're fortunate that the attack on Christmas emanating from Yemen did not succeed and this episode reminds us of the need to identify other potential sanctuaries. As our colleague Bruce Hoffman observed: "Al Qaeda is aggressively seeking out, destabilizing and exploiting failed states and other areas of lawlessness . . . and over the past year has increased its activities in places such as Pakistan, Algeria, the Sahel, Somalia, and of course Yemen." The U.S. should take a fresh look at these areas and deepen our commitment to ensuring al Qaeda cannot exploit those territories.

Privacy and Civil Liberties

The balance between security and liberty will always be a part of the struggle against terrorism. America must not sacrifice one for the other and must be in the business of protecting freedom and liberty as well as fighting terrorism. Following the 9/11 Commission recommendations, the Bush Administration created a Privacy and Civil Liberties Oversight Board to advise the executive branch and oversee government efforts to defend civil liberties. The board was staffed and became operational in 2006. In 2007, Congress restructured the Board as an independent agency outside the White House. Despite early accusations of undue delay and inadequate funding, the Board held numerous sessions with national security and homeland security advisers, the attorney general, and the FBI director, among others, on terrorist surveillance and other issues arising from intelligence collection.

However, the Board has been dormant since that time. With massive capacity to develop data on individuals, the Board has to be the champion of seeing that collection capabilities do not intrude into privacy and civil liberties. We continue to believe that the Board provides critical functions and we urge President Obama

to reconstitute it, quickly appoint its Members, and allow them full access to the information and the authority to perform to perform this essential function.

Congressional Oversight

The 9/11 Commission also placed great importance on rigorous congressional oversight. This recommendation helped precipitate the creation of a House Homeland Security Committee and a Senate Homeland Security and Governmental Affairs Committee. However, enduring fractured and overlapping committee jurisdictions on both sides of the hill have left Congressional oversight in a unsatisfactory state. DHS entities still report to dozens of separate committees hundreds of times per year, which constitutes a serious drain of time and resources for senior DHS officials. Further, the jurisdictional melee among the scores of Congressional committees has led to conflicting and contradictory tasks and mandates for DHS. Without taking serious action, we fear this unworkable system could make the country less safe.

The 9/11 Commission also called congressional oversight over intelligence dysfunctional. We made recommendations to strengthen the oversight committees which were not accepted by the Congress though some progress has been made. Today we want to emphasize the enormous importance we attach to rigorous oversight of the intelligence community. Congressional oversight can help ensure the intelligence community is operating effectively and help resolve disputes about conflicting roles and missions. We urge the Congress to take action to strengthen the oversight capabilities of the intelligence committees.