

TESTIMONY**Hearing of the
Committee on Government Affairs****September 21, 2001****Testimony of****Governor James S. Gilmore, III
Governor of the Commonwealth of Virginia****&****Chairman****Advisory Panel to Assess the Capabilities for Domestic
Response to Terrorism Involving Weapons of Mass
Destruction****Introduction**

Chairman Lieberman, Senator Thompson, and distinguished Committee Members, thank you for inviting me to discuss recommendations of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, a national commission established by Congress in 1999 (P.L. 105-261). The Advisory Panel has assessed our Nation's combined federal, state and local capabilities to detect, deter, prevent – and respond to and recover from – a terrorist attack inside America's borders, and to offer recommendations for preparing the Nation to address terrorist threats.

For almost three years, I have served as Chairman of the Advisory Panel, and it has been my privilege to work with experts in a broad range of fields, including current and former federal, state and local officials and specialists in terrorism, intelligence, the military, law enforcement, emergency management, fire services, medicine and public health.

I am saddened to report that, as of today, one member of our Panel is reported as missing at ground zero in New York. Ray Downey, Chief of Special Operations for the New York City Fire Department, was one of the first emergency responders to arrive at the World Trade Center on September 11. Firemen from California to Virginia to New York know Ray Downey as a man of great courage and skill and commitment. Our prayers go out to Ray and his family.

Attack on American Freedom

Ladies and gentlemen, for many generations to come, September 11, 2001, is a day that will stand out in the history of the United States and, indeed, the entire world, as the day tyranny attacked freedom. Individuals who committed these attacks on the people of the United States, in New York and Virginia, sought a decisive strike, one that was designed to remake the world and the post-Cold War era.

The picture of two commercial airplanes careening into two office towers and a wounded Pentagon – recorded for posterity – forever will remind our children and grandchildren of how precious freedom is and that freedom can never be taken for granted.

The goal of these terrorists was to prove that the great democracies are not the way of the future. The goal was, in fact, to establish the dominance of tyranny, force, and fear – and to blot out a love of freedom and individual liberty, which has been growing consistently since the Enlightenment centuries ago. In the 21st century, the United States stands as the ultimate statement and symbol of that human freedom and liberty across the world; and, therefore, the United States was the country attacked.

Ladies and gentlemen, the people who committed these crimes, with those goals in mind, have failed. They have failed in their attacks. They have not blotted out the United States as the ultimate formation and symbol of liberty. They have not diminished the resolve of the United States. They have not created fear and terror in the United States.

Yes, we grieve as a civilized people for the people who have died. Freedom-loving people in New York at the World Trade Center – a stunning loss of life in the nation's largest city. At the Pentagon, across the river in Virginia. The people who died on the airplanes, totally innocent victims. As I recall, having read the manifest on the airplanes, there were fathers with their young daughters on those planes. Barbara Olson, who we all knew and loved. She was a personal friend mine. We lost our firemen and emergency rescue responders, who gave their lives attempting to save the lives of their fellow Americans. Ray Downey, another personal friend, may be one who gave the last measure of commitment. Yes, I grieve. The American people grieve. Any civilized people would grieve.

But, in the eternal conflict between freedom and tyranny, the people of the United States shall never retreat.

Work of the Advisory Panel

Sooner or later, those who inflicted these injuries will feel the full weight of justice and the free world's combined efforts to hold them responsible.

We cannot undo their evil actions now. If only we could. Be we can, and must, move forward to do everything we can to prevent a tragedy of this magnitude from striking again in our homeland.

That brings me to the work of the Advisory Panel. The Advisory Panel was established by Section 1405 of the National Defense Authorization Act for Fiscal Year 1999, Public Law 105-261 (H.R. 3616, 105th Congress, 2nd Session) (October 17, 1998).

For the last three years I have worked with a distinguished panel of experts, with staff support from the RAND Corporation, to draw up a blueprint for American preparedness. Our commission has been a three-year commission. It began to work in the year 1999. We have issued two reports to the President and Congress. The first report was issued December of 1999, and the second report in December of 2000. Both reports can be downloaded from RAND's website: www.rand.org/organization/nsrd/terrpanel.

The work of our Advisory Panel is significantly and qualitatively different from any previous terrorism commission. Our panel includes a unique combination of experts from all three levels of government representing the intelligence community, front-line local emergency responders, military experts, and state and local law enforcement. We also have leaders from the health care community. Reflective of the broad array of experts and a strong “outside-the-beltway” perspective, our panel has addressed the full realm of issues from assessment of the risk to prescriptions for detection, prevention, response and recovery. We have focused a tremendous amount of attention upon state and local first-responders, as well as intelligence issues and national coordination topics. Other commissions have not covered as wide a realm of topics.

Conclusions & Recommendations Issued in First and Second Reports

In our first report (December 1999), we provided a comprehensive assessment of the actual threat of a terrorist attack on U.S. soil. Among our findings were the following:

- First and foremost, the threat of a terrorist attack on some level inside our borders was inevitable, and the United States must prepare.
- In assessing the kind of attack the United States could expect, we concluded that a conventional attack (such as the one that occurred on September 11) had a high probability of occurrence and should receive more attention than they were receiving at that time. We concluded that an attack using weapons of mass destruction, while threatening a high impact, had a lower probability of occurrence in the near term, but could not be ignored. Regardless of the kind of attack, we called for a national strategy to address the full spectrum of possible attacks.
- We also said that the terrorist threat would be more lethal than ever before because the trend among terrorists is toward greater and greater lethality.
- We concluded that the real weapon is not the device or the material involved, but the terrorist delivery capacity and capability. Unfortunately, I am afraid that this point has been borne out by the events of September 11.
- Our review revealed that counter-terrorism efforts to date had been largely reactionary, to a threat not clearly understood. While we should prepare, first and foremost, for the most likely conventional terrorist attack scenario (such as the conventional attack we recently witnessed), we must also heed the threat of a more exotic attack by weapons of mass destruction.
- We concluded that a clear comprehensive national vision and strategy for large or small events must be developed and put into place, but that such a vision and strategy did not presently exist as of the time of that report. We recognized that a coordinated national strategy could be built upon the well-tested system that already exists for responding to natural and man-made disasters, such as hurricanes, earthquakes, toxic chemical spills and nuclear accidents. That is, firefighters, emergency medical providers,

public health offices and private hospitals, police and the National Guard.

- And we stressed the paramount importance of preserving our citizens' constitutional rights and civil liberties. We said, "[T]he Panel urges officials at all levels of government to ensure that the civil liberties of our citizens are protected." We can meet this terrorist threat without trampling the Constitution. In fact, the goal of the enemy would be to have us trample our constitutional rights. We don't have to do that and we should never ask the people of the United States to give up their freedoms because of an attack like this.

Our second report, issued a year later (December 2000), contained about 50 recommendations for improving our nation's preparedness against terrorism. Most importantly, the second report underscored the need for something more than a *federal* strategy. The federal government's role represents only one component of a *national* strategy. The distinction here is an important one. The federal government cannot address this threat alone. We need new public and private partnerships. Every state and local community has capabilities, resources, assets, experience and training that must be brought to bear in addressing this threat.

Among our most important recommendations in our second report are the following recommendations:

- First, we called for statutory creation of a new "National Office for Combating Terrorism" to coordinate national terrorism policy and preparedness in the Executive Branch – located in the White House. The Director of this office should be high ranking, appointed by the President, and confirmed by the Senate. Foremost, the office should have the responsibility to develop a comprehensive national strategy to be approved by the President.
 - We proposed that Congress create a "Special Committee for Combating Terrorism." This could be a joint committee of senators and congressmen to create a unified legislative view or it could encompass two distinct committees, one for the House and one for the Senate. Of course, we do not presume to instruct the Congress on how it should conduct its affairs, but we offer that recommendation in the best interests of the people of the United States. The Special Committee should have a direct link to the Executive Branch's National Office for Combating Terrorism, and it should be the first referral for legislation preparing our nation for terrorist attacks.
 - Next, we addressed the issue of intelligence-sharing and focused on the fact that it is very typical in the intelligence community to hold information so close it can often not be communicated to those responsible parties who need to know. This is particularly true of sharing intelligence information with state and local authorities. Thus, we need to develop a comprehensive national intelligence system based on sound need-to-know principles.
 - We found our federal intelligence apparatus was lacking critical tools it needs to detect terrorist plots, so we recommended improvements to human intelligence capabilities such as, for example, rescinding the CIA guidelines on paying foreign informants engaged in terrorist or criminal activity.

- We recognized the importance of state and local agencies in responding to and recovering from terrorist attacks and insisted they be included in the plotting of a national strategy. Thus, the panel recommended a number of ways to strengthen the nation's first responders: firemen, law enforcement, emergency medical services and emergency management.
- We also called for improvement of health and medical response capabilities and I think everybody is very proud of the hospitals and medical services that have been called into action over the past weeks. Our report, however, recognized that our public and private hospitals are prepared for the routine, but in the case of a high concentration of traumas resulting from a weapon of mass destruction – especially biological in nature – or a catastrophic conventional attack such as we have seen, our medical system might become overloaded. Therefore, we intend to address this issue further in our final report.
- And, finally, we have focused a great deal of attention on the use of the Armed Forces, their appropriate role and how they should be used. We expressly recommended that the U.S. military *not* serve as the lead federal agency in responding to a domestic terrorist action. Although it is generally accepted that events could occur where the military needs to be engaged, particularly the National Guard, nonetheless, we have expressed an abiding caution about deploying a military response to a domestic situation and only then in support of a civilian federal agency like FEMA.

These are the highlights of our work to date. Our work is not yet complete, but we intend to make it so in a short time. Our next meeting will be held next week, on Monday, September 24, where we will decide upon our final set of recommendations. Among the topics we expect to address in our final report are U.S. border security, cyber terrorism, proper role of the military in domestic response scenarios, and necessary medical strategies to plan for a biological or chemical weapon.

I would like to focus your attention today on two central recommendations that implicate the organization of government agencies and coordination: first, the creation of a “National Office for Combating Terrorism” located in the White House with a direct report to the president, and second, U.S. border security proposals that will require unprecedented coordination of resources, intelligence and effort between U.S. Customs and the Immigration & Naturalization Service.

A White House “National Office for Combating Terrorism”

Let me start by outlining the panel’s recommendation for a National Office for Combating Terrorism in the White House. As I mentioned earlier, we called for statutory creation of a new National Office for Combating Terrorism to coordinate national terrorism policy and preparedness in the Executive Branch – located in the White House and directed by an individual with high rank appointed by the President and confirmed by the Senate.

Our panel’s review of the federal bureaucratic structure, spread across numerous agencies vested with some responsibilities for combating terrorism, revealed a structure that is uncoordinated, complex, and confusing. Our first report included a graphical depiction of the numerous federal agencies and

offices within those agencies that have responsibilities touching upon terrorist threats. Our research indicated that attempts to create a federal focal point for coordination with state and local officials – such as the National Domestic Preparedness Office – have met with little success. Moreover, many state and local officials believe that federal programs intended to assist at their levels are often created and implemented without sufficient consultation. We concluded that the current bureaucratic structure lacks the requisite authority and accountability to make policy changes and impose the discipline necessary among the numerous federal agencies involved.

Therefore, we have recommended creation of the National Office for Combating Terrorism to serve as a senior level coordinating entity in the Executive Office of the President. The office would be vested with responsibility for developing both *domestic* and *international* policy as well as coordinating the Nation's vast counter-terrorism programs and budgets.

There is an important distinction here. Our proposal is an office located in the White House, reporting directly to the President of the United States – not a separate agency that competes for turf against other agencies and even Cabinet Secretaries. Instead, this office will invoke the direct authority of the President to coordinate various agencies, receive sensitive intelligence and military information, and deal directly with Congress and state and local governments.

- First and foremost, the office's principal task will be to develop a comprehensive national strategy that is approved by the President and updated annually to respond to the latest intelligence. The national strategy will address the full range of domestic and international terrorism deterrence, prevention, preparedness, and response. The approach to the domestic strategy should be "bottom up," developed in close coordination with local, state and other federal agencies.
- Second, the office should ensure that sufficient resources are allocated to support execution of the national strategy, and should be vested with budgetary control over significant counter-terrorism resources for domestic preparedness. (However, the U.S. strategy for detection and deterrence, prevention and response for terrorist acts *outside* the United States should remain vested with the Department of State.)

The office's budget authority should include responsibility to conduct a full review of federal agency programs and budgets to ensure compliance with the programmatic and funding priorities established in the approved national strategy and to eliminate conflicts and unnecessary duplication among agencies.

- Third, the office should coordinate foreign and domestic terrorism-related intelligence activities, including the development of national net assessments of terrorist threats. A critical task will be to develop, in concert with the intelligence community, policies and protocols for dissemination of intelligence and other pertinent information regarding terrorist threats to designated entities at all levels of government – local, state and federal. We also recommend that an Assistant Director for Intelligence be appointed within the office to assume these responsibilities, and to ensure strict adherence to applicable civil rights and privacy laws and regulations in the context of "domestic collection" of intelligence.

- Third, the office should be vested authority to review state and geographical area strategic plans for consistency and effectiveness in fulfilling the national strategy. That review authority will allow the office to identify gaps and deficiencies in the national strategy as well as federal programs, and to assess the need for additional federal funds to assist state and local governments.
- Fourth, it would be the responsibility of the National Office for Combating Terrorism to propose new federal programs or changes to existing federal programs, including federal statutory or regulatory authority, to ensure an effective national strategy.
- Fifth, we recommend that an Assistant Director for Domestic Preparedness Programs be appointed to direct coordination of federal, state and local response agencies, funding and programs – especially in the areas of “crisis” and “consequence” planning, training, exercises, and equipment.
- Sixth, we recommend that an Assistant Director for Health and Medical Programs be appointed to coordinate federal health and medical programs addressed at terrorism response with state and local health officials, emergency medical services, public and private hospitals, and emergency management offices.
- Seventh, the office should coordinate research, development, test and evaluation programs directed at counter-terrorism.
- Eighth, we recommend that the national office serve as the information clearinghouse and central federal point of contact for state and local entities. We have heard many comments about the difficulties encountered by state and local government officials to navigate the maze of the federal bureaucracy. The national office should serve as a “one-stop-shop” for state and local agencies in their efforts to counter terrorist threats.

Before leaving this subject, let me suggest a few attributes the new National Office for Combating Terrorism must should possess. Most importantly, the Director must be politically accountable and responsible. Therefore, he must be vested with sufficient authority to accomplish the office’s goals. Congress must have someone to go to assess out Nation’s preparedness. That is why we have recommended the Director be appointed by the President, confirmed by the Senate, and serve in a “cabinet-level” position.

The office should have sufficient budget authority and programmatic oversight to influence the resource allocation process and ensure program compatibility and effectiveness. The best way to instill this attribute is to give the Director a “certification” power – a process by which he could formally “decertify” all or part of an agency’s budget as “non-compliant” with the national strategy. This “certification” power would act as a veto of all or any part of any agency’s budget, but would be sufficiently powerful to effect the coordination responsibility.

Finally, while the National Office should be vested with specific program coordination and budget authority, it is not our intention that it be given actual “operational” control over various federal agency activities. Under our paradigm, the office would not be “in charge” of response operations in the event of an actual terrorist attack. It’s job will be ensuring existing bureaucracies

are prepared to respond in a coordinated and comprehensive manner. According, the word “czar” is inappropriate to describe this office.

U.S. Border Security

While we are on the subject of government organization, I also would like to offer the Committee a preview of one of the panel’s upcoming recommendations for U.S. border security. As many of you know, several of September 11 hijackers may have entered the United States on forged visas or by car from Canada. A truck carrying explosive materials bound for Seattle for New Year’s eve 2000 was interdicted at the Canadian border.

If America is to be secure, we must have a coordinated policy of immigration enforcement and border security, and it must address the totality of all avenues of entry into the United States – land, air, and sea. This effort will require unprecedented coordination between the U.S. Border Patrol, the Immigration & Naturalization Service, U.S. Customs Service, the Coast Guard, and the Federal Aviation Administration – as well as state and local law enforcement.

In its previous two reports, this panel acknowledged that the laws and traditions of the United States creating and maintaining a very open society make us vulnerable to terrorist attacks. Some statistics emphasize this stark reality:

- Over 100,000 miles of national coastline
- Almost 2000 miles of land border with Mexico, another 4000 miles with Canada, most of it essentially open to transit
- Almost 500 million people cross our borders annually
- Over 127 million automobile crossings annually
- Over 11.5 million truck crossings annually
- Over 2.1 rail cars annually
- Almost 1 million commercial and private aircraft enter annually
- Over 200,000 ships annually dock in maritime
- Over 5.8 million containers enter annually from maritime sources

The movement of goods, people, and vehicles through our border facilities is characterized by vast transportation, logistics, and services systems that are extremely complex, essentially decentralized, and almost exclusively owned by the private sector. Despite valiant efforts by personnel of the U.S. Customs Service, the U.S. Coast Guard, the U.S. Immigration and Naturalization Service (including the U.S. Border Patrol), the Federal Aviation Administration, and other Federal entities, as well as State and local enforcement authorities, the challenge is seemingly insurmountable. Those efforts are further hampered by a lack of full interagency connectivity and information sharing.

With adequate coordination of effort and resources – and primarily through information sharing – these agencies could significantly improve a seamless enforcement and detection system without unduly hindering the flow of goods and people. However, still, simply increasing enforcement of current laws and regulations through existing mechanisms may not provide the ultimate solution. That activity could result in further delays at very busy ports of entry. The likely “domino” effect of further delays will generate opposition from many U.S. commercial interests whose businesses depend on carefully timed delivery of goods, political pressure from states and localities whose job markets would likely be affected, potential retaliation from foreign countries who export goods to the United States, and increased complaints from the millions of business and tourist passengers transiting our border—many of whom are already unhappy about the queues at airports of entry.

Given the nature and complexity of the problem, the panel recognizes that we as a nation will not likely find the “100% solution” for our borders. We should, nevertheless, search for ways to make it harder to exploit our borders for the purpose of doing harm—physical or economic—to our citizens. The confluence of these issues calls for new, innovative approaches that will strike an appropriate *and* more effective balance between valid enforcement activities, the interests of commerce, and civil liberties.

Among the Advisory Panel’s upcoming recommendations to accomplish these objectives are the following proposals:

- First, we must improve intelligence collection and dissemination between and among agencies responsible for some aspect of border protection. This panel is strongly committed to the proposition that relevant, timely intelligence is crucial in the campaign to combat terrorism. That is especially so in the arena of enhancing the security of our borders. New and better ways must be developed to track terrorist groups and their activities through transportation and logistics systems. All agencies with border responsibilities must be included as full partners in the intelligence collection, analysis, and dissemination process, as related to border security. This process is a “two-way street;” all entities involved must be willing to share information, horizontally and vertically. This will represent a departure from the current “culture” of many agencies to cloister information. The structure and procedures that the panel recommended in its second report, for the establishment of intelligence oversight through an advisory board under the National Office for Combating terrorism could facilitate a new paradigm in this area.

The fact is that no single framework exists to look at terrorist and security threats across all the various agency functions. And what is critically needed is *connectivity* across agencies to create a virtual national data repository of data that will serve as the focal point for the fusion and distribution of information on all border security matters.

Although some interagency agreements for border security do exist, notably the Memorandum of Agreement on Maritime Domain Awareness among the Department of Defense, the U.S. Coast Guard, the U.S. Immigration and Naturalization Service, and the Department of State, all affected agencies are not involved in a fully coordinated and integrated process. Therefore, we

recommend that the Maritime Domain Awareness model be expanded to create an interactive and fully-integrated database system for “Border Security Awareness.” It should include participation from all relevant U.S. government agencies, and State and local partners. Congress should mandate participation of all related Federal agencies in this activity, and provide sufficient resources to fund its implementation. The development and implementation of such a system, including appropriate resources for systems integration to be provided by the Congress, can be accomplished by the National Office for Combating Terrorism.

- Second, a necessary corollary to inter-agency intelligence sharing is the need to expand intelligence sharing with state and local agencies responsible for critical aspects of law enforcement and customs checks. This concept may break with “inside-the-beltway” culture, but state and local agencies must be trusted with important intelligence and information if our border security effort is to be successful. The point is plain and simple: The full, timely dissemination and sharing of information among effected Federal, State, and local agencies will be critical in preventing the movement of foreign terrorists and their weapons across our borders.
- Third, we must foster intensive coordination between and among the relevant agencies. Information and intelligence sharing is just a start. The next level of inter-agency cooperation will mean coordinated *operations* between federal and state agencies with border responsibilities. Again, this coordination could be led by the National Office for Combating Terrorism, which would bring to bear the power and authority of the White House to establish a special inter-agency advisory panel on border security, ensure cooperation and eliminate turf struggles. That entity could be an expansion of the Border Interdiction Committee, formed in the late 1980s to address the problem of drug trafficking across U.S. borders. This advisory board can assist the director of the NOCT in developing program and resource priorities as part of the national strategy for combating terrorism and the related budget processes.
- Fourth, we should enhance sensor and other detection and warning systems of the various agencies – but in a coordinated fashion to ensure each agency’s system compliments the others’ systems. Individual agencies have one or more activities underway that are intended to enhance enforcement and interdiction capabilities, through the use of static or mobile sensors and other detection devices. Valuable research and development is also underway in multiple agencies to extend such capabilities, especially in the area of non-intrusive inspection systems. There is, nevertheless, no comprehensive and fully-vetted plan among related agencies for critical aspects of such activities. Therefore, the National Office for Combating Terrorism should coordinate a plan for research and development among the agencies, and for fielding and integration of sensor and other detection and warning systems, as well as elevation of priority for the application of resources for the execution of such a plan.
- Finally, no border security plan will be successful unless we improve our cooperation with Mexico and Canada. It will be

imperative for the U.S. to implement more comprehensive agreements on combating terrorism with the governments of Mexico and Canada. Some agreements and protocols with both countries already exist, but more needs to be done. We know from open-source material and from other sources that Canada has been a country of choice for certain elements who have engaged or who may seek to engage in terrorist activities against the United States. Unfortunately, the laws of Canada do not explicitly make terrorist activities a crime *per se*. As a result, Canada has been unable to take action against certain individuals who may, for example, be conspiring to perpetrate a terrorist attack against the United States. Country-to-country negotiations should be designed to strengthen laws that will enhance our collective ability to deter, prevent, and respond to terrorist activities, to exchange information on terrorist activities, and to assist in the apprehension of known terrorists before they can strike.

Conclusion

Mr. Chairman, Senator Thompson, we must start preparing our Nation to defend freedom within our borders today. The President and the Congress face solemn decisions about how we proceed and there is little time for deliberation.

The members of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction are convinced, upon nearly three years of study, that there is an immediate need for appointment of a senior person at the federal level – in the White House – who both has the responsibility and the authority to coordinating our vast national resources and efforts – federal, state and local.

As our great democratic institutions move forward toward a solution, allow me to offer a couple of observations. This is not a partisan political issue. It transcends partisanship. It is about the preservation of freedom and the American way of life.

After a generation of moral relativity an equivocation, let there be no debate or doubt that the hijacking of four commercial airplanes and the tragedies that followed on September 11 clearly demonstrated that evil exists in our world.

However we as a democracy decide to approach this evil force, we must always remember that terrorism is tyranny. Its aim is to strip away our rights and liberties and replace them with fear. As Americans, it is our duty and our destiny to strike down tyranny wherever it may arise. We did in World War I, again in World War II, in Korea, and later in Kuwait. The battlefields and warriors change, but the enemy is always the same.

In the face of this evil, we will not be afraid, but strong. We will not divide, but unite. We will not doubt, but affirm our faith in freedom, each other, and the grace of God. And freedom will prevail.

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