

HEARING OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE
UNITED STATES

FOURTH PUBLIC HEARING -- INTELLIGENCE AND THE WAR ON TERRORISM

253 RUSSELL SENATE OFFICE BUILDING, WASHINGTON, D.C.

TUESDAY, OCTOBER 14, 2003, 9:00 A.M.

CHAired BY: THOMAS H. KEAN

WITNESSES:

JAMES R. SCHLESINGER, CHAIRMAN, MITRE CORPORATION, AND FORMER DIRECTOR
OF CENTRAL INTELLIGENCE AND SECRETARY OF DEFENSE;

JOHN M. DEUTCH, PROFESSOR OF CHEMISTRY, MIT, AND FORMER DIRECTOR OF
CENTRAL INTELLIGENCE AND DEPUTY SECRETARY OF DEFENSE;

JAMES B. STEINBERG, VICE PRESIDENT AND DIRECTOR OF FOREIGN POLICY
STUDIES, THE BROOKINGS INSTITUTION, AND FORMER DEPUTY NATIONAL SECURITY
ADVISER;

RICHARD KERR, FORMER DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE, CENTRAL
INTELLIGENCE AGENCY;

MARY O. MCCARTHY, VISITING FELLOW, CENTER FOR STRATEGIC AND
INTERNATIONAL STUDIES, AND FORMER NATIONAL INTELLIGENCE OFFICER FOR
WARNING, CENTRAL INTELLIGENCE AGENCY;

JOHN GANNON, STAFF DIRECTOR, HOUSE SELECT COMMITTEE ON HOMELAND
SECURITY

GOV. THOMAS H. KEAN: Okay, I'd like to call the hearing to order.
On behalf of the National Commission on Terrorist Attacks Upon the
United States, I hereby call the public hearing to order. We are
holding this, our fourth open session, to hear testimony on the topic
of intelligence in the war on terrorism; how to improve the
effectiveness of the intelligence community against the terrorist
threat. That's one of the areas that Congress has directed us to look
at.

Between now and the end of this calendar year we'll continue to
explore questions involving policy. In the new year, our hearings will
focus increasingly on key fact questions in the events that led up to
the attacks on September 11 and their aftermath. In both open and
closed sessions, we will question individuals who held positions of
responsibility in the present and in the past administration. Hearings
will run for several days duration. Upon the conclusion of this
hearing, the vice chair and I will be available if there are any
questions from the press.

During the first part of our hearings today, questions will focus
on organization and leadership within the intelligence community and

the national security structure. In the afternoon we're going to turn our attention to the important question of how our government prepares and provides warnings about terrorist attacks. Questions for our witnesses this morning will include the attacks of September 11, estimates of systematic failure with the leadership, organization, performance or funding of the intelligence community, and what changes can best address that particular problem.

Should there be a director of national intelligence, with direct authority over the national intelligence agencies of our government? How well is the government coordinating the conduct of efforts against terrorism and relevant work of the intelligence community? What changes are needed in the role or structure of the National Security Council and the Homeland Security Council? Has the Congress met its responsibility in establishing priorities, providing resources and providing oversight of the intelligence community?

To start off, our first witness this morning I think is known to everyone in this room. The Honorable James R. Schlesinger, currently the chairman of the MITRE Corporation, he's a former Director of the Central Intelligence Agency, as well as a former Secretary of Defense. We appreciate your willingness very much to appear before the Commission. Your prepared statements will be entered into the record in full, so if you could proceed with your testimony.

MR. JAMES R. SCHLESINGER: Thank you, Mr. Chairman, and I thank the Commission for inviting me today to testify. I shall try to summarize my testimony. My initial observation is a caution to remind you that intelligence is a very difficult business. Intelligence is not only supposed to gather facts, many of which others are attempting to conceal or disguise and increasingly so, may I say in passing. It is also expected to provide a coherent picture that helps to prepare us for future developments. To be sure, few of us are clairvoyants. When events throw the inherent limitations of intelligence into bold relief, we are surprised and frustrated because intelligence has failed to predict the future.

Intelligence is highly successful in dealing with routine developments. It is, however, particularly prone to failure at the turning points of history. It is perhaps obvious that the problems of intelligence become even harder when we deal with non-Western cultures, amplified when we are attempting to understand those who regard us as infidels. Nonetheless, I believe that we can do better in responding to terrorism. Until now we have not been sufficiently strategic and long term in our analytical efforts. We have relied too much on secret intelligence and too much on country expertise.

When events do throw the inherent limitations of intelligence into bold relief, the immediate response is to seek the restructuring of the intelligence community in organization or in management. It is perhaps an American tendency to minimize inherent substantive problems and to believe that failures are failures of organization, which can be prevented by the right organizational solution. No one would question that management can always be improved, but major organizational change is not the salvation. I would submit that the real challenge lies in recruiting, fostering, training and motivating people with insight, and

when necessary bring about long-term changes in the ethos of intelligence organizations.

Intelligence is produced by normal human beings with their preconceptions, their habits of mind, their associations and the like. Tinkering with the organizational structure can help, but by itself will not improve and bring about a major improvement. Now, ideas regarding organizational reform have a long history. Over the years there have been dozens of studies. I myself produced a study in 1971 at the behest of President Nixon, at a time that it was felt that the benefits of intelligence were not commensurate with the costs and the central problem of intelligence was the quality of analysis.

I recommended against the creation of a director of national intelligence, because it would only dilute the role of the DCI without corresponding advantage. Instead, I urged that the DCI be given greater authority over the entire intelligence community, provide budgetary guidance and overall plan, much of which President Nixon subsequently ordered. In 1982, I argued against proposed legislation that would have created an intelligence charter intended to rein in the intelligence community. That legislation would have established in effect a Department of Intelligence that would have combined intelligence assets scattered across the government.

The point that I made then was that intelligence had to be oriented toward the consumers of intelligence, that agency heads and others needed to know and to trust the people that were providing intelligence, and that if intelligence was centralized in the prescribed manner, inevitably and surreptitiously intelligence activities would be recreated in departments, agencies and the several commands. Indeed, the widespread tendency to deplore duplication and to embrace the efficiency of centralization lasted only until one could see the consequences.

Still, the urge to combine intelligence activities under central command and control continues to reappear. I urge this commission to reflect on the long history involved and refrain from recommending major surgery, unless substantial improvement is to be obtained. It takes awhile to settle down after surgery and the disruptions that are inevitable are likely to distract us from the main goal: the improvement of the intelligence product.

With regard to performance, one must seek to achieve two somewhat contradictory things. On the one hand, one must seek to engage the policymakers in the intelligence process so that they do more than read, if they do, the intelligent product or listen to the briefings. It is essential for good intelligence to understand the concerns of the policymakers so that both collection and analysis can focus on those concerns. At the same time, one must seek to avoid mixing intelligence and policy, even though in a complicated world that cannot be avoided entirely. Regrettably, that essential line frequently is crossed from either side.

In this connection, one must understand the distinct role of the policymaker once he has decided he must explain, that is sell, that policy to the public, the press and the Congress. Intelligence unavoidably deals with shades of gray, not with black and white. But

leaders cannot dwell on the uncertainties, the fuzzy evidence, the equivocations of intelligence. Leaders have to decide. When decisions are made, they are regularly hyped in the quest for public support. One can cite notable examples from the Roosevelt administration, from the Reagan administration, from the Clinton administration, if not in more recent years. All administrations will engage in the practice. In a democracy administrations are obliged to seek public support.

At the other end of this dichotomy, analysts cannot be vestal virgins operating in an academic environment. If they want their product to be taken seriously by the policymakers, they must be prepared for some interaction. If the subject is relevant and the product is interesting, there should be questioning. Nonetheless, analysts all too frequently act like a bunch of college professors: how dare they challenge me? The analytic fraternity varies between two moods. In one mood it is said that the policymakers pay no attention to what I write. There must be more interaction. In that second mood, the policymakers are interacting, and one hears the cries, I am being pressured or even attacked. In politics, those cries will attract attention. But one must bear in mind that the questioning is desirable. Nonetheless, it will regularly be described as pressure.

Mr. Chairman, over the years it has been recognized for this continuous need for interaction between the policymakers and the intelligence community. Efforts have been made in that direction. They have been brief and they usually are terminated. It is only in periods of crisis that regularly we have the kind of interaction between the policymakers and the intelligence community that is most fruitful.

Mr. Chairman, we all recognize that priorities must be adjusted over time, particularly so is this -- is this so when there is a major change in the international scene, such as there was after the collapse of the Soviet Union and subsequently with the rise of terrorism. Those are major turning points. Yet what is conceptually easy to accept remains difficult to implement and practice. Intelligence organizations are large bureaucracies, particularly -- they do not adapt immediately. Particularly, this is the case when there is little budget leeway and resources must be wrested away from others in the organization.

In the late 1990s, for example, intellectually it was recognized that we were at war with the terrorists. Nonetheless, resources did not stream into counterterrorism to the degree that one might expect for a nation at war. The reason of course: those resources had to be pried loose from other entities in the intelligence establishment, which stood ready to resist such loss of resources. After 9/11 we readily, if belatedly, recognized that more resources should have moved in accordance with the indicated change in priorities.

That was easy to recognize in retrospect, though even now we are not creating the strategic framework for a long-term war. We must recognize that large bureaucracies do tend to become inbred and that inevitably there is resistance to new ideas, particularly those that come in from the outside. Though we cannot simply acquiesce in such behavior, we must recognize the difficulty of adaptation in large

organizations. That is why we need to protect and foster competition in analysis. Thank you, Mr. Chairman.

MR. KEAN: Mr. Ben-Veniste?

MR. RICHARD BEN-VENISTE: Good morning, Mr. Secretary, and thank you very much for appearing here today to share your extraordinary experience with us. And on a personal note I would simply like to say that your extraordinary service to the country, over now I guess four decades, is both remarkable and a tremendous opportunity for us to have you share that experience with us today. So I thank you again for your willingness to appear.

MR. SCHLESINGER: Thank you, sir.

MR. BEN-VENISTE: Over the years you have certainly been consistent in stating that competing centers of analysis and interpretation within the intelligence community is superior to centralization, and you've also observed that centralization would probably be quixotic or impossible because the centers -- various competing centers would surreptitiously go back to their status quo or something close to it, even if there was an attempt to foist centrality upon it. I think that's a very interesting observation and one which obviously we need to take note of, because we live not in a theoretical world, but a practical world.

But having said that, when you have these competing centers of intelligence analysis and interpretation, would you agree that there is a concomitant impulse to protect and husband that intelligence analysis within each of these competing centers? And I see you nodding. Is that consistent with your experience?

MR. SCHLESINGER: It is and it must be resisted.

MR. BEN-VENISTE: But once you have these sort of practical issues of protecting turf and thereby protecting the substance of intelligence analysis, it occurs to me and perhaps others on this commission that although there was a significant amount of intelligence collected prior to 9/11, this very same desire to protect and concomitant resistance to share intelligence seemed to be a substantial contributing factor in the failure to prevent the 9/11 disaster. And I'd like to get your comment on that observation.

MR. SCHLESINGER: The biggest source of so-called intelligence failures are axioms that grip the political community. Axioms that grip the political community and infiltrate, as it were, affect intelligence estimates. And for that reason, the prevailing wisdom in intelligence has to be resisted. When I was DCI, however briefly, I was going to set up a division of devil's advocacy within the Central Intelligence Agency so that whenever there was a prevailing view, such as the Soviet Union will stop producing missiles at 1,000 -- ICBMs at 1,000 because all they want to do is match us. There was another view, which is that the Soviet Union might want to exceed our productions, our deployment. And so you need to have devil's advocacy within the system, and you need to institutionalize that within each agency.

Now, what you describe is in part the result of the hearings in the mid-1970s. Remember that it was the Congress that held those hearings and wanted to establish a wall between intelligence and the law enforcement community, such that the FBI could not draw on CIA information. Since 9/11 we've knocked down that wall, but the tendency to stay within organizations has in part been driven by the legislation and the rules that came out of the 1970s. We are breaking down some of those barriers. Within the intelligence community, narrowly defined, we have now something called Intel-link. And what Intel-link has done has been to weaken, though not eliminate, the baronies to which you refer. We need to go further.

One of the problems is the attitude of indifference to certain information, rather than the desire to hold that information within the organization. Take for example the report of the FBI agent out in Phoenix. It wasn't that the FBI felt that was so valuable that that was a nugget that had to be retained and not shared with anybody else. It was, "That's a small matter. Let's get on with fighting crime and disregard that." So a lot of this is a problem of insufficient attention to what is really relevant. And I think that this can in part be -- what you describe can be in part achieved by better scrutiny over the entire flow of intelligence, picking out those things that appear to be relevant to the current problem, even though you recognize that there's some future problem down the road that will be relevant but you don't know what it should be.

MR. BEN-VENISTE: Well, I appreciate that analysis, Dr. Schlesinger. You've raised in the course of that a number of important issues. Would you not agree that having some central form of receipt of analytical information would go a long way toward remedying the inherent problems in these baronies, as you put it so colorfully? In addition, you have touched on an issue relating to what I would regard as analysis and interpretation within our domestic intelligence gathering apparatus, the FBI. And the combination of those two I think speaks again to the issue of improving our analysis and interpretation mechanism and to put that information into the right hands for prevention, which has now since 9/11 obviously reared itself as an important second priority of the FBI, besides their primary goal of law enforcement.

And so could you comment based on your experience and whether you feel there is a need on the analytical and interpretation side within our domestic intelligence gathering apparatus to improve, or in some way differentiate between the law enforcement functions of the FBI and the analytical functions of domestic intelligence interpretation.

MR. SCHLESINGER: It's not only in the world of terrorism, and it is, of course, not only domestic. There is the interweaving of intelligence that comes from overseas with what we gather domestically. One of the problems that occurred from the legislation in the 1970s was that although the Central Intelligence Agency was set up to gather all information, after the changes of the 1970s the FBI was precluded from turning to the CIA and that led to some of the problems that we saw with respect to the two terrorists who were in Kuala Lumpur.

I overstate when I say that the FBI was not into analysis. They didn't do analysis. Organizations are bureaucracies. You go to the

place, you go to the functions, to the specialties within an organization in which you will have promotions. In the FBI prior to 9/11, as I recall it, you could soar all the way up to GS11 if you were in analysis. That was not the way to attract the best talent. And analysis tended to be to confirm that General Motors -- "Where is General Motors headquartered?" would come a question from the special agent in charge out in Paducah, and the answer will come back from the analytical shop, "General Motors is headquartered in Detroit, Michigan."

I think that it's changing. I think that the Director is working hard at changing, but he has got to create an analytical frame of mind within an organization that has not been strong in that area.

MR. BEN-VENISTE: So you would recommend, I take it, that the -- if the intelligence analysis function is to remain within the FBI, there be a separate form of promotion and a professional cadre of analysts within the FBI who would be promoted on criteria that is much different --

MR. SCHLESINGER: From those of the past.

MR. BEN-VENISTE: -- from those criteria used for promoting the law enforcement side of the FBI?

MR. SCHLESINGER: Well, they have to an opportunity, a serious opportunity, to rise within the organization. It's the same way that it was in the military services. If you spent too much time in joint commands in the past, your chances for promotion were modest.

MR. BEN-VENISTE: And would you agree that in the recruitment effort in getting the best and the brightest analysts possible, that the criteria might be substantially different than the recruiting criteria traditionally for law enforcement agents?

MR. SCHLESINGER: Yes, sir.

MR. BEN-VENISTE: Thank you.

Slade?

MR. KEAN: Senator Gorton?

SEN. SLADE GORTON: Thank you, sir.

That certainly leads to my question. Jim, in one trenchant sentence, which regrettably you don't follow up, you say: "I would submit that the real challenge is recruiting, fostering and motivating the right people." What suggestions do you have for accomplishing or reaching that goal?

MR. SCHLESINGER: That in itself is not an easy question. One has got to move away from narrow expertise and to convey the broader picture of the new environment in which the United States finds itself as a result of the global war on terrorism. It is a substantially different environment. No longer can you focus on being the leading authority on Soviet deployment of the SS-9 or SS-18 missile. Country

expertise, to which I referred here, is in a sense too narrow because terrorism spreads beyond many of the countries in the Muslim world.

And as I indicate, even though at the moment we are responding tactically to many of these problems, I don't think that we have a sufficiently good strategic framework of the overall problem of terrorism, a problem that stems from a civil war that is going on within the Muslim worlds and which, partly for reasons of political correctness here in the United States, we tend to blur somewhat. So I think that you have to have people that you protect. And, as I mention in here, when analysts read in the paper every day how they've failed and so forth, they begin to get risk averse. It's important that we have straight talk from the analysts and that we protect them in a way that they do not become risk averse. I'm not sure that I've fully answered that question, Senator?

MR. GORTON: It is an aspiration that is not easy to achieve. But let me go to a second question. A good deal of the public inquiry, now reflected at this commission, has to do with the so-called question of "connecting the dots." In your view from all of your reading and expertise in this area, was the failure to anticipate and prevent 9/11 a failure to connect the dots that were available, or were there too few dots? And if the former, would a different organization have resulted in connecting the same dots that we had in a way that was more productive than constructive?

MR. SCHLESINGER: Well, thank you for that question. I have here a diagram that shows a large number of dots of different hues and the problem, Senator, is not that we have too few dots, but that there are too many dots and we cannot identify which of them is significant. In retrospect it is easy to identify the significant dots. I've got here, "Mohammed Atta, one-way tickets, paid cash, four Arab looking men in aisle seats." In retrospect, since we know what happened, we can select amongst the various dots and we will be able to identify those that were important and we -- if we had known they were important before, we could have taken action.

The problem, the challenge is to find means of highlighting these areas, those that were significant. And there are a number of ways that we can do that, and I don't believe that the intelligence community is sufficiently focused on some of the cheaper ways in SIGINT, cellular phones and so forth, that would be of help in this area. Of finding, of highlighting, what is a countless set of dots.

MR. GORTON: But was that an organizational failure, or a failure of imagination?

MR. SCHLESINGER: It's both. It's both. Imagination is a precious and rare commodity and we need to understand that within any organization that those who presently have the resources like it that way, and they don't like to sacrifice those resources because somebody comes up with what he thinks is an imaginative idea. That is the responsibility of leadership. To find those areas, in this case of new technologies, we are spending billions up there on new satellites. And some of the things that we could be doing to highlight these areas I believe can be achieved through tens of millions of dollars. But as your question implies, we have to recognize them.

Let me go back to your initial question if I may, Senator. I thought that we did not connect the dots before 9/11, in particular. And I said this at the time. This is not a retrospective view. We had the seizure of that French aircraft, we had the episode in Manila in which there was the plan to shoot -- to blow up 10 or 11 American airliners coming out of the Far East and included, as a throwaway line, to take an aircraft and to drive it into the headquarters of the CIA in Langley, Virginia.

Now, I think that should have gotten more attention at CIA headquarters in Langley, Virginia, than may have been the case. That certainly should be an attention grabber. It was plain that they were thinking in terms of using aircraft in this way. In general, the problem remains that there are many, many dots out there and it is -- one of the effects of the criticism that has gone on of the intelligence community is that analysts have become more risk averse. And so instead of evaluating these dots and saying, well, that comes from an incredible source, and we can disregard it, or we should pay less attention to it, they are saying, suppose that that source, even though he's got a very poor record of credibility, turns out to have been right. Then my job is on the line, so pass along all the dots to the highest authority -- that gets to be problem.

MR. GORTON: Well, with respect, each one of the dots, each one of the incidents to which you refer, was generally and publicly known before 9/11.

MR. SCHLESINGER: Yes.

MR. GORTON: Did you anticipate or fear this kind of attack? Did anyone of like experience with you outside government that you know of do so?

MR. SCHLESINGER: Did I anticipate that? I thought that it was not unlikely given what had happened particularly in Manila. Given, as you will recall, the episode with the Egyptian aircraft and so forth. I don't think, in retrospect, we should have been surprised.

MR. GORTON: You say that in 1971 you recommended against the creation of a Director of National Intelligence, is that still your view?

MR. SCHLESINGER: Yes, sir.

MR. GORTON: You also say that you urged the DCI be given greater authority over the entire intelligence community. You implied that that took place during the Nixon administration. Is it still desirable to increase that authority?

MR. SCHLESINGER: It has been an evolution. It started -- at that time the DCI had control of about 15 percent of the intelligence budget. And therefore there was -- and there was tension as the previous question suggested, there was tension within elements of the community in that -- to take one clear example, the NSA did not like to be directed by people from the Central Intelligence Agency, and we had to break that down otherwise -- and let me say also that at that time

the people who were running the intelligence community staff all -- virtually all were drawn from the clandestine services. Clandestine services provide you with many insights, but they do not necessarily provide you with the best insight with respect to SIGINT.

And so there was legitimate resistance on the part of the NSA as well as institutional resistance. We moved slowly in that direction, it went up, at some times it receded, I think that the DCI has substantial authority now, the necessary authority if it is pushed too hard, if he pushes that authority too hard he will run into resistance. First from the military services, then from the NSA, then from the Secretary of Defense, or perhaps in the reverse order.

MR. GORTON: Do you -- are you aware of the recommendations that John Deutch is going to make as our next witness?

MR. SCHLESINGER: I'm not specifically aware.

MR. GORTON: All right. Let me share what I consider the heart of them and ask for your comments on them. He, as I read his testimony, is going to recommend that the DCI be given executive authority for domestic intelligence activities. That is to say, that the DCI will in effect be in charge of that portion of the FBI that is now dealing with domestic intelligence activities, just as he has control over the CIA today. What is your reaction to that recommendation?

MR. SCHLESINGER: My reaction is the DCI is a pretty busy man already. I would approach that with great caution. I think that we now have an experiment, and these experiments as it were, take a considerable period of time to reach fruition. We have the director of the FBI attempting to move in the right direction with regard to improving analytical activities within -- analytical intelligence activities within that agency. To disrupt it now I think might be a mistake. We will see.

Perhaps more significant, it has been the suggestion, which I'm not yet ready to endorse, that we create an MI5 in this country, which in effect takes that intelligence function away from the FBI. I don't think we should do that as yet, but we should consider it as an alternative. And I think that that may be a more effective way than simply handing over the intelligence functions of the FBI to the DCI. Over the years we have had -- what shall I say? An interesting history of relations between the Central Intelligence Agency and the FBI. When J. Edgar Hoover was director, he had instructed his people not to talk to the people in the CIA. Well, that was a prime example, I think, of the baronies -- I should add that despite that directive from the Director, that the people in the agency understood that they had to talk to each other, so that they did that surreptitiously.

MR. GORTON: One more question, Mr. Schlesinger. The investigations and the resulting reforms from the Church Committee, in your view did they improve our intelligence capabilities, derogate from them, were they neutral? Or if they derogated from them, did they have other values which made them worthwhile? What is your general view of the aftermath of that dramatic set of changes?

MR. SCHLESINGER: Well, I think that in the large that they probably were detrimental. I think that it was useful to point to certain activities that had been going on, but that, particularly on the House side, rather than the Senate side, that the investigations got out of hand; that more was -- far more was revealed in those investigating than it was desirable to reveal, and that some of the legislation and rules that evolved from it have not been helpful.

MR. GORTON: Thank you, Mr. Chairman.

MR. KEAN: Mr. Ben-Veniste?

MR. BEN-VENISTE: Dr. Schlesinger, another recommendation that has been discussed is to invest in a Director of National Intelligence with certain authorities over budget, many of which you've mentioned that now reside within the Pentagon. And now you see the Director of CIA who has obligations with respect to running that agency and, nominally, is supposed to direct traffic in terms of where intelligence resources go, but has no actual authority because he does not control the budget. Eighty percent or so of the intelligence budget is held within the Department of Defense.

What would your reaction be -- and I know you have expressed over the years the injunction against emulating kiddy soccer whenever there's a crisis, where everybody, all the kids run to the ball. Mindful of that, however, and in view of this very significant change in the intelligence needs of this country after the Cold War, what would your view be about a Director of National Intelligence who was disassociated from running a particular agency, had no troops, but yet had budget allocation authorities to direct how the enormous amount of money that's spent on intelligence is allocated?

MR. SCHLESINGER: Well, he would be without troops and he would be essentially another special assistant to the President. There is always a temptation to try to move things towards the White House, and the White House is better at setting overall policy than running operations, and only a limited number of operations can be run from the White House. I think that you really want to keep that back in the agencies and the departments.

I would add that the President proposes, the Congress disposes, that it is the Congress that will decide on the level of appropriations for various intelligence activities, and that these appropriations may or may not be used or may be amplified for the purposes prescribed. The NRO, to take an example, is -- I would not like to see the Air Force begin to lose its interest in running the NRO because the authority over the NRO has been shifted off some place else. I think that one has to be very careful once again in motivating the people who are actually doing the work. If the NRO, which has over the years drawn very qualified Air Force officers, were suddenly to be an orphan of the Air Force -- that would not be desirable for that particular arm of the intelligence community, and the consequence would be that you would draw in fewer capable people. And I think that that is more or less inevitable. It is now some 40 years since I wrote a paper on how you had to motivate agencies and institutions to do what you want to do. Simply handing down directives usually runs into considerable resistance.

MR. BEN-VENISTE: You have been very articulate in expressing all of the things that shouldn't be done to change.

MR. SCHLESINGER: Uh-huh.

MR. BEN-VENISTE: Where do you come out in terms of your recommendations of what should be done?

MR. SCHLESINGER: Well, the first point, once again, is that management changes can be helpful, but they should be a result of modest adjustment rather than gross surgery. Gross surgery probably -- unless it is very carefully conceived in advance, probably does more harm than good for an extended period simply because you've shaken up all of these institutions. People are wondering who's in charge, whatever the formal organizational chart. So adjustments: Build up the counter-terrorism work, draw better people into it, set up a special group that would deal with establishing a conceptual framework for -- a conceptual strategic framework for dealing with the terrorism problem, which we have not as yet, I believe, thought through. Those are the kinds of things: recruit better people and protect them. The real problem is the quality of intelligence.

When the CIA was started, when the intelligence community was started, there was a greater tendency in the intelligence community to go outside and to find what were regarded as the best minds in the country. That has diminished, and I think that there ought to be encouragement, greater encouragement, to go out and find some of the people. There's too much of talking to each other and not talking to the people out there. Just take an example. There was, I think, insufficient contact with the people in the oil industry with regard to the ferment in the Middle East. These people are out there. They know what's going on. They know what's going on better than somebody sitting in his cubicle at Langley or in the DIA. And there needs to be more outreach, it seems to me. There is an outreach program. It has always been there, but it has become more and more formalistic: debriefing people who visited Baghdad since 1995, or what have you.

MR. BEN-VENISTE: Thank you, sir.

MR. SCHLESINGER: Let me add that I don't think, given what they had, that the analytical -- the analysts did too badly with regard to the issues of weapons of mass destruction. The real problem is that with all the commerce that goes on in -- that has gone on in Iraq, that we were unable to get agents in who would tell us what was going on in the country.

MR. KEAN: Mr. Fielding and then Commissioner Gorelick.

MR. FRED F. FIELDING: (Off mike.) Is that better? Thank you very much for appearing here today and for your government service over the years. You have to bear with us; we have to analyze something that you've thought about for years and years, and what we're trying to do is, in fulfilling our mandate, come up with a recommendation of what changes, if any, should be done. So if we're asking questions that seem a little mundane or a little off the walls, because we're searching.

One of the issues Richard just touched upon is something that is confusing to me as well, and that is dealing with budgetary authorities and that sort of thing. And I noted that in -- you gave some testimony in 1972 in which you said be careful of those who are paying for the intelligence -- who are paying the intelligence analysts, that if -- and the example you cited was that if the CIA was paying for the analyst, then the Secretary of State or at least the Foreign Service would probably look askance at the information. They would deem that to be penetration. And you stated that you were concerned that the DCI might have difficulty effectively executing budget authority outside of his ambit.

In that regard I guess I have two questions. If a Director of National Intelligence is created, or if the Director of CIA is given greater authority over the intelligence agencies within the various departments, Defense et cetera, should each department continue to pay for its own analysts and its own intelligence? And a follow up to that is, is there an effective way to centralize authority of our counterintelligence agencies, though they're located in different departments and different subsets, without creating too much tension again due to budgetary control issues?

MR. SCHLESINGER: Let me deal with that second question first. Yes, I think we need to think long and hard about mechanisms for a greater cohesion within the counterterrorism effort, simply because we have not thought about it very much in the past and that it has been, at least for some agencies, a secondary effort. And so now that the global war on terrorism is the central priority of American foreign policy, we need to think better how to bring together these elements that are dealing with the counterterrorism issue. I think that that, indeed, is the case.

Now, as to your earlier part of your question, this goes back to that need for competition. I note that in the press and amongst members of Congress there has been great enthusiasm expressed that the Department of State took a footnote, if that was what it was, in the recent NIE, October 2002, saying that they didn't see that there was all that much evidence that there was weapons of mass destruction. I think that you need to have that kind of ferment going on and protecting that source of special information for the Secretary of State is highly desirable. It took us years to break down the resistance of what were then called CINCs to making use of the very costly satellites that we are utilizing, because they were national intelligence and they weren't under the CINCs' direct control. I think that we have shown that those national assets can be responsive to the needs of the CINCs, now the Combatant Commanders, and that as a result they welcome this source of information not under their direct control.

But I read in the press about allegations at least that the Department of Defense set up a special entity to examine certain aspects of our Middle Eastern problem. I think that that may have been exaggerated. The press does exaggerate from time to time. But it does point to the fact that when an agency head is disappointed with the quality of information that he's getting, he is going to find some way of setting up in effect his additional sources of intelligence under his guidance.

MR. FIELDING: Thank you.

MR. SCHLESINGER: I'm not sure that I answered your question.

MR. FIELDING: No, you have. Thank you.

MR. KEAN: Ms. Gorelick.

MS. JAMIE S. GORELICK: Dr. Schlesinger, I'd like to follow up on Slade Gorton's question. He asked you whether there was a failure of imagination or a failure of organization, and you essentially responded there was a failure of leadership. And I personally would add a failure of urgency.

MR. SCHLESINGER: I think I said there was both.

MS. GORELICK: Yes, both and you added leadership. My question is an organizational one, and I know you've warned us against organizational changes. But I'm having trouble squaring that with the observations in your testimony. Right now we have a situation where there is no accountability for the entire government's intelligence capacity, except in the person of the President of the United States and the National Security Advisor as his aide. And my question to you is how do you get the organization, the imagination, the leadership, the urgency if you haven't invested someone with authority to move resources to where they need to go?

You say in your testimony, you're not going to get the resources away from a certain agency that has them, the Defense Department, to the place where they might be needed at the observation of the DCI, for example, who doesn't have them, because the Secretary of Defense is not going to part with them. We are faced with that. We have to remedy that. We have to address that. You've sat in both places, as has Dr. Deutch of -- from whom we'll hear in a few minutes. You know that as Secretary of Defense if you wanted resources to stay put, they stayed put in your agency. And you know when you were DCI, if you wanted them from the Secretary of Defense, in that battle you were likely to come out the loser.

So my question to you is what are we supposed to make of that? How do we remedy the fact that there is no accountability anywhere in the government for the intelligence product right now, except at the presidential level?

MR. SCHLESINGER: I think that the DCI has responsibility for the intelligence product. The President does not deal with producing intelligence. The President has got too many other things on his mind, and the DCI is the advisor to the National Security Council, which presumably does these allocations. Now, the example that I cited was not the unwillingness of Department X to give up resources to Agency Y. It was within Agency Y it is difficult to reallocate resources under a budget constraint, simply because the resistance to taking away resources from the other established entities is too fierce. And it is, as your question implies, even more fierce when you cross agency lines.

I don't know -- I do not know that this issue has a resolution. It is that we will just have to cope with it. And George Shultz when he was here, when he used to describe what is the function of government is to cope with the same damn issue day after day, month after month. We aren't going to resolve the budget issues. Budgets are the heart of government policy and conceptually we can put somebody in charge and he will allocate here and there and so forth, and you do not know after you've put that somebody in charge what the consequences will be of that allocation; whether you will be able to retain good people or recruit good people in the NRO, an example I cited earlier.

So conceptually you are suggesting that we have some overall intelligence, not in the technical sense, that deals with the allocation problem and far-seemingly allocates resources. I don't think that you're going to be able to achieve that.

MS. GORELICK: Because of the politics of it? Because of the oversight? I mean, we had a situation in which the DCI literally was pounding on tables all over town, saying -- in February of 2001 saying, we have a very big problem here. This issue of al Qaeda and particularly threats to the United States had skyrocketed to the top of his attention, and yet we don't see a -- what the follow up was. We don't see the urgency. And the question is how do you get that? Is there an organizational way to address it? Obviously that is not all that you would do. But it strikes me anyway that simply saying, well, this is what we've got is, quite frankly, not a sufficient answer.

MR. SCHLESINGER: The Agency has much of the analytical talent of the intelligence community, and the Director of -- and, as I mentioned earlier, the analytical question is the heart of the problem. The Director presumably is able to influence the analytical effort. In the case that you cited, my recollection is, at least according to the press, that after we pounded the table that we wound up with five people working on the al Qaeda problem prior to 9/11. You know, if you want to deal with a problem, this country is at war. That is a major threat, all of which was right and all of which the director said, and he didn't get the support or understanding, as your question implies, that he should have gotten. But still there was a minimal effort directed towards the al Qaeda problem, and that is something that could have been handled within the Agency.

MR. KEAN: Mr. Secretary, thank you very, very much. I know there are commissioners who have additional questions, three or four of them. We've simply got to move on because of our time constraints. But I want to thank you very, very much, Mr. Secretary.

MR. SCHLESINGER: Thank you, Mr. Chairman.

MR. MAX CLELAND: Mr. Chairman, we can't ask a question?

MR. KEAN: Well, it just -- we have another witness who's going to be late if we don't move on. We've got a schedule beyond this for other witnesses. We're already 15 minutes beyond schedule, but I apologize.

MR. CLELAND: Mr. Chairman, while Mr. Deutch is taking his seat, would it be possible for those of us who have not had a chance to ask a question to start the second round of questioning?

MR. KEAN: I'm sorry?

MR. CLELAND: For those of us who have not had a chance to ask a question yet, would it be possible for us to come to the front of the line here in terms of questions to Mr. Deutch?

MR. KEAN: Yes. But there are two people who were already ahead of you, Senator, in the last round.

Our next witness is the Honorable John Deutch, professor of Chemistry, MIT. Of course, for our purposes most importantly former Director of Central Intelligence and Deputy Secretary of Defense. Like our first witness, this is a man who has served our government long and well, for which we all appreciate and thank him, and has had very important experience at senior levels of government.

We do appreciate your willingness to appear before the Commission. Your prepared statement will be in the record in full, so if you'd like to proceed, sir.

MR. JOHN M. DEUTCH: Thank you very much, Mr. Chairman. What I'd like to do if it's suitable, sir, is to summarize the basic points of my testimony and then answer the many questions that I'm sure you will have. We owe it to the families of the victims of the 9/11 attacks and to all U.S. citizens to assure that the United States intelligence is the best -- in the best possible position to protect Americans from future terrorist attacks.

In my judgment -- sir? Is that better, sir? In my judgment, the U.S. intelligence capabilities are inadequate to meet today's terrorist threats and other security threats that our nation faces. This is not surprising. Intelligence responsibilities and authorities were really established 50 years ago to meet Cold War challenges. They were based on distinctions which no longer hold today: that there was a bright line between peace time and war time; that there was a bright line between foreign and domestic threats; and that there was a bright line between national security and law enforcement.

In my judgment, significant change is required and in my comments I would like to describe to you the realignments that in my judgment are needed to accomplish this improvement in U.S. intelligence. My principal and my underlying proposed realignment is that I believe that the balance between national security and law enforcement in counter-terrorism efforts, that the priority must be given to national security and to defense of the American people. As you understand, at present the Director of Central Intelligence has little executive authority over the intelligence programs for which he or she is responsible. Even though that -- he is the senior intelligence official responsible for national security, he has executive authority only over the Central Intelligence Agency and over none of the other intelligence -- many other intelligence agencies that are in our government, including in the Defense Department and the FBI.

By "executive authority" I mean the combination of two kinds of functions. One is the budget and resource allocation function, and the second thing is the responsibility for day-to-day management of operations. The Director of Central Intelligence is responsible for the Central Intelligence Agency and therefore for foreign intelligence collection, but domestic intelligence collection activities are in the FBI and that separation of foreign and domestic intelligence collection places limits on the effectiveness of our intelligence which I believe have to be removed in order to better combat terrorist threats.

The single most important change that I propose for your consideration, Mr. Chairman, is that the Director of Central Intelligence be given executive authority for domestic intelligence collection where U.S. persons are involved. This would mean transfer of the FBI's intelligence division and counter-terrorism division to the new Domestic Intelligence Service established as an agency under the director of Central Intelligence. And that this new Domestic Intelligence Service would report and be responsible to the director of Central Intelligence, just as the CIA is today.

There should be transfer of those individuals, special agents in the FBI who are dedicated to and able to help in this domestic intelligence collection, but the principal function would be to bring together domestic and foreign intelligence collection under the executive authority of the director of Central Intelligence. The principal advantage of this arrangement would be that it would permit integration of domestic and foreign intelligence efforts to combat terrorism. Consider a database put together to look at the movements of suspected foreign terrorists into the United States, or dealing with foreign persons abroad. All of this needs to be handled under a single collection and analytical umbrella to provide the information, the intelligence and the warning for the leadership of this country.

I don't believe that this can be adequately pursued in the Federal Bureau of Investigation because their traditional approach, highly successful as it has been, is to build a case for prosecution under the laws -- under the rules and the procedures which work for law enforcement. Their view, their tradition, and a strong tradition it is, is to collect a case, provide the basis for a case suitable for bringing to prosecution in a case of law. The intelligence community on the other hand is collect information, give it as wide as possible dissemination with appropriate caveats in order to provide warning of potential attacks or warning of potential actions.

The FBI as a consequence has limited analytical capability for intelligence collection and, more importantly, analysis. And while I'm sure that there have been improvements in past years, I believe that ultimately the fundamental culture of having it in a law enforcement environment where law enforcement rules hold mean that the intelligence dissemination, collection and analysis will not be as wide as it should be.

There are, of course, disadvantages to the centralization of domestic and foreign intelligence under the Director of Central Intelligence, and most of that has to do with the risk of misuse of intelligence information bearing on Americans. That's a very serious matter. But, indeed, I would suggest that that risk exists in all

arrangements that are under consideration, including the present one where the FBI is involved in these activities. And that the Department of Justice, a very important responsibility, must assure and have the power of oversight to make sure that there is no violation of what are the agreed upon American rights, rights of Americans during the collection and analysis of domestic intelligence.

The second most important recommendation that I make is to -- for strengthening our intelligence capability to combat terrorism and other national security threats is to change the balance of authority between the Director of Central Intelligence and the Secretary of Defense. As you know, the Director of Central Intelligence has limited ability to coordinate or plan the resource efforts of the intelligence community. Of the three major national security intelligence programs, the national foreign intelligence program, the joint military intelligence program, and the tactical intelligence and related activities, all of which are -- many of -- most of which are in the Department of Defense, the Director of Central Intelligence does not have authority over two out of three of those programs: the so-called JMIP and the TIARA program. The Director of Central Intelligence has little ability to influence some of the key intelligence agencies in the Department of Defense, the National Security Agency, the National Imagery and Mapping Agency, the Defense Intelligence Agency and the National Reconnaissance Office.

I believe that effective intelligence requires an integrated effort of all these programs and all these different agencies. One must establish a metric for performance, a metric for following costs, a schedule for achieving different benchmarks for better intelligence collection and analysis. For example, it is vital to have the strongest link between the National Security Agency and the CIA's Directorate of Operations. That could only be managed more effectively over time if there is integrated resource planning by the Director of Central Intelligence. Therefore, I would propose that the Director of Central Intelligence be given responsibility for resource management -- principal responsibility for resource management over all intelligence programs of this country, but specifically of the Department of Defense.

I would leave the day-to-day management of the agencies with the Secretary of Defense for very practical reasons. The activities of the National Security Agency, for example, in communications security, the activities of the Defense Intelligence Agency in supporting troops in the field require that the Secretary of Defense have day-to-day management authority. Unlike my proposal for a domestic intelligence service where I would give executive authority to the director of Central Intelligence, in this case I believe the day-to-day management responsibility must be with the Secretary of Defense, and resource planning should be -- and resource allocation with the Director of Central Intelligence, that person being held accountable, and in the end with the secretary of Defense having to concur in the proposed program.

If these different authorities are given -- these additional authorities are given to the Director of Central Intelligence, I believe we have to recognize that the responsibilities of that individual are different than the Director of Central Intelligence

Agency and that those two positions should be separated. There should be an individual who functions as the Director of Central Intelligence, with responsibility over the new domestic intelligence service, over the CIA and the resource planning for the entire intelligence community, and there should be a director of the CIA who reports to the DCI just as the new Director of the Defense Intelligence Service.

Clearly, to do this responsibly, properly, the Director of Central Intelligence will need a stronger community staff with greater responsibilities to integrate different efforts. I've included in the testimony -- I know it doesn't show up well -- a chart that indicates the proposed realignment of responsibilities. And the central features of the chart are the creation of a new domestic intelligence service under the Director of Central Intelligence, and the creation of a single integrated resource planning effort for the combined intelligence budgets. Finally, it indicates the responsibility of the intelligence community staff providing needed functional oversight over many parts of the intelligence community activities that are required to strengthen our intelligence capability. I'm just going to briefly mention what these are. They are mentioned in more detail in my testimony.

First, this new realignment will strengthen human intelligence collection by integrating various efforts which are taking place today at DOD, in the FBI and certainly in the Directorate of Operations in the Central Intelligence Agency. It should, very importantly, improve intelligence analysis by giving analysts access to information from every possible source, especially domestic collection efforts. It will make the Director of Central Intelligence more accountable for performance because that individual now will have a responsibility for resource management for the entire community, and it will give that individual executive authority over domestic and foreign intelligence collection.

There are other accompanying changes which should help make this a more effective arrangement. There are measures which could be done to strengthen covert action, an extremely important feature of our fight against terrorism. The ultimate success is to learn of a serious terrorist threat and to interdict it before it occurs to threaten American people and American lives and property. The new arrangement should also be organized to do better oversight and management of information operations, offensive information operations.

I believe the Director of Central Intelligence needs to be given greater authority to coordinate cooperation with other countries. Currently this is done on an agency by agency basis and we do not have a general approach to our -- it's been my experience, to cooperation with all aspects of intelligence with various countries who are extremely important partners to us in the fight against terrorism and other intelligence matters. The new arrangement should help the Director of Central Intelligence plan for and execute a better and more effective science and technology program, bringing online advances in technology which will help collect intelligence, more information for our protection. For example, in the management and exploitation of databases. For example, the detection of biological warfare and chemical warfare agents. For example, in the downstream processing,

exploitation and dissemination of the enormous amount of material which are now collected by our satellites.

And, finally, I would mention the importance of having rotation of personnel between intelligence agencies, just like was done in Goldwater-Nichols here in this building, I guess, to assure that officers in one of the intelligence agencies some time in their career as they gain in seniority have the experience of working in other intelligence agencies.

Let me summarize, sir. Terrorism and national security threats demand greater integration of intelligence collection and analytic activities in this country. The walls that exist between law enforcement and intelligence in the intelligence community must be just done away with. And the intelligence community must have greater ability to manage the resources which are presently in the Department of Defense's budget.

I've proposed integration under the Director of Central Intelligence as the best way to achieve and improve intelligence for the security of the U.S. people. There are, of course, other options. Let me mention three. One is do nothing. Work at the margins to improve the existing practice. That's always a prudent thing to do. It's always the easy thing to do. In my judgment, that will not lead to the necessary improvement of intelligence which should be given to the American people.

The second is to establish a domestic intelligence service, but to place it in the Department of Homeland Security. This is sort of the MI5 model where the MI5 model really reports to the Home Office in the United Kingdom. Here I think that would be moving in exactly the opposite direction. Instead of consolidating the intelligence activities, it would be creating yet a third center. You could give the responsibility to the Secretary of Defense. On the other hand, the Secretary of Defense's primary responsibility is military matters and, as I said earlier, that person is very busy indeed as things stand. Or, finally, you could give principal authority to the FBI and the Department of Justice.

I believe that there is an essential conflict between law enforcement and national security that makes that a bad idea. I believe that the FBI, for the cultural reasons I've mentioned, is unlikely to quickly build up the necessary capability for either collection or analysis. And, frankly, I believe the Department of Justice should have a focus on defending and protecting and assuring that U.S. rights are respected however the balance is struck in these matters.

So in my judgment the best option and the option that I would urge this commission to consider carefully is to a centralization of the intelligence activities and responsibilities under the Director of Central Intelligence, with the provisos that I have mentioned. Thank you very much for your attention, Mr. Chairman.

MR. KEAN: (Off mike.)

MR. FIELDING: Dr. Deutch, thank you very much not only for being here today and for providing us with some interesting reading prior to this, but also for your many, many years of government service to your country. As I explained to Dr. Schlesinger earlier, we're trying to work within our mandate and trying to figure out, looking at existing structures, what if anything we should recommend by way of change. It's clear that the system certainly can stand scrutiny. The real question is whether changes should be made.

We don't want to recommend change for change sake, obviously, and we certainly want to get it right. But by the same token, I don't think anybody is served if we recommend something that's purely aspirational but can't effectively solve whatever problems exist. You've given us a very, very serious and well thought out proposal and I know we're appreciative, and please don't misunderstand if I ask questions that seem like I don't necessarily agree with it. I just -- I'm trying to make sure I understand the facets of it, and I'm sure my fellow commissioners will have the same goal.

But the first thing I'd like to discuss with you is in February of 1992 the Chairmen of the House and Senate Intelligence Committees held a press conference and announced their plans they were going to create a Director of National Intelligence. And according to the legislation they then introduce, the Director of National Intelligence would have complete control over the U.S. intelligence community, including the management of assets owned and operated by the Defense Department. All of the assets. And they argued that a DNI was badly needed because the intelligence community had grown into an empire without an emperor, so to speak, and responsibility was decentralized, money was being wasted on duplicative programs that were turf battles among agencies, with little legal authority to guide U.S. intelligence operational activities.

I know this sounds all very familiar to all of us now, but this was 11 years ago and they announced that this was going to be a czar with teeth. Dave McCurdy was pushing this was the czar with teeth. He's going to be a czar with troops and forces and budgets. And obviously the reaction to the legislation was relatively swift and overwhelmingly negative. And I know you're now familiar with the recommendations of the Joint Inquiry, which again came out 10 years later and concerned -- and recommended a Director of National Intelligence. And they -- I have a quote here. This was to be the principal advisor to the President on intelligence and, quote, "have the full range of management, budget and personnel responsibilities needed to make the entire U.S. intelligence community operate as a coherent whole," end of quote. And they recommended that that position be cabinet level, as you know, and that no person simultaneously serves as Director of National Intelligence and Director of CIA.

Your proposal suggests that you keep the Director of CIA -- excuse me, Director of Central Intelligence as the head of the intelligence community, and that you establish, as I understand it, the domestic intelligence service under that director's leadership. And I guess I have two threshold questions before we get to specifics. One of them is why do you believe that we should keep -- specifically keep the Director of Central Intelligence as the head of the intelligence community, as opposed to creating a cabinet level -- or the DNI with

some specificity? And the second question is why wouldn't both proposals, yours which modifies DNI, suffer the same fate in Congress, as it did 11 years ago?

MR. DEUTCH: Mr. Fielding, the first point is words. Whether you call it a director of National Intelligence or a director of Central Intelligence to me is not material. What is material is the description of the authorities and responsibilities that that person will have. If you at the last moment want to, for basically cosmetic reasons, change DCI to DNI, I think that that's -- you know, that is a question of cosmetics. The question is what is the authority and the responsibilities of the individual?

There have been a lot of past studies and people who have recommended the creation of greater authorities under the DCI or DNI, as you have mentioned in your comments, and I am here doing it again today, however with a little bit more precision in the sense that I only suggest executive authority for the DCI over the Central Intelligence Agency in the domestic intelligence service. I do not suggest executive authority over the Defense agencies. I think that must remain with the Secretary of Defense, and the best balance can be struck by having the resource planning responsibility given to the DCI, but not the day-to-day management. That is a question of my experience as Deputy Secretary of Defense, as well as DCI, how that balance can best be struck.

Would Congress approve such a proposal after the very strong endorsement of this commission? Let me say that you're as -- better. Everyone here is better able to estimate that possibility. And I am -- I'm, after all, a chemistry professor for MIT. But let me tell you something. I think it's the right thing to do and it reminds me very much of the debate that went on prior to the formation of the Secretary of Defense. Could it be that a secretary of Defense could balance being Secretary of War, Secretary of Navy, later Secretary of the Air Force? And it took a long time and there was still occasionally tangents and struggles. But inevitably, that's where time's arrow is going and that's really what I'm saying here.

MR. FIELDING: Thank you. I mean, I want to follow up on that just for a second too because you've got unique background to help us. You were Director of Central Intelligence and you were Deputy Secretary of Defense. So you know, if you will, from both sides of that issue when there is an issue of who's in charge. You suggest that the Director not manage the day-to-day operations of agency activities, as I understand it.

MR. DEUTCH: Yes, sir, in the Defense Department.

MR. FIELDING: That's what I'm talking -- I'm sorry. But I guess if they're an integral part of military operations, that's the need for that. But won't such a structure that just will lead to an overlap of duties between the Defense Department and the Director and perhaps confusion as to the lines of jurisdiction and who's going to be the arbiter of these disputes, so to speak? I mean, are we creating an absolute mess on our hands?

MR. DEUTCH: Well, first of all, I think we do have an absolute mess on our hands now and the American people are at risk because of it. But let me say to you, you can't do this with complete clarity. There are going to be lots of places where it's blurred and you must have a cooperative relationship between the Secretary and the Director of Central Intelligence. I believe that, had I not been deputy Secretary of Defense and had my Secretary in the office, Bill Perry, my job would have gone from being impossible to truly impossible. And so I do think that there is going to be some mess there and I can point out to you in great detail where it could occur.

Dual budget processes which kind of exist now and that cannot be allowed to happen. Directionally, it's the right way to go. If you want to make better integration of different intelligence collection, specially from the NSA and the Directorate of Operations in these matters, specially when it may deal with information on U.S. persons, this has to be done.

MR. FIELDING: Harking back to your experience as DCI, you obviously had some concerns as to the ambit of your authority and your control -- and I'm making that assumption. And if that be true, will this correct those problems that you had from the point of view of the DCI?

MR. DEUTCH: Let me divide it into two pieces. First of all, with respect to the Department of Defense, I personally didn't have this problem because I went, day one, from having done the Defense allocation issue on one side to the other side. So I personally didn't have this difficulty. My predecessor had this difficulty with me and I believe subsequently my successors have had this difficulty with others. But I didn't have it because I came from being deputy secretary of Defense.

With the FBI, the issue was entirely different, and while a lot of progress has been made, a lot of progress since the time of John Foster Dulles -- I mean Allan Dulles and J. Edgar Hoover, there still are tremendous difficulties. And if it had not been in the case of counterintelligence, with Louis Freeh and myself and my deputy taking an immediate interest, we would have serious problems, and I think that regardless of the good intentions of many, many people and both those strong and important organizations, it's just set up wrong. And you can't make it right by telling them to cooperate more.

MR. FIELDING: Thank you.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: Dr. Deutch, I want to echo Fred Fielding's comments of appreciation for the time and energy that you've put into this. You have given us in your testimony and in your written statement really a very rich and thoughtful product and I hope we'll have some time beyond the limited hour that we have today to benefit from your views and, as Fred pointed out, your unique experience.

I'd like to ask you some questions about focusing on the domestic side and first, to seek a very clear statement from you with regard to your proposal. I take it that you would not change in any way the

constitutional or statutory protections of rights that American citizens currently have with regard to the investigative techniques that may be used against them, or about them, or in relation to them. Is that correct?

MR. DEUTCH: I certainly am not proposing that here today. I am suggesting that whatever balance is struck, the arrangement that I suggest puts the Department of Justice in a better position to assure that that set of rules was followed for the current arrangement.

MS. GORELICK: Is that because you believe that the Department of Justice is now somewhat conflicted in that regard?

MR. DEUTCH: I think Department of Justice is tremendously conflicted between hugely important and valued goals. Goal one is to defend Americans. Goal two is to bring people to justice, and goal three is to protect the rights of Americans. And I think that is a very tough set of differences -- strains to resolve when you are working on databases which contain information about American citizens.

MS. GORELICK: So you would give the Department of Justice sort of policy oversight responsibility for the domestic collection capacities of this new DIS?

MR. DEUTCH: The word "policy" troubles me there, Counselor. I would say not only would they set the policy, they would also have the responsibility to making sure and enforcing that it was followed. So they would have, you know, a direct hand in determining that the rules of the game, with regard to American citizens especially, were scrupulously followed by the Domestic Intelligence Service.

MS. GORELICK: Now you say that there are -- you reject the notion of tinkering at the edges, working with what we've got is the way you put it and I'd like to turn your attention to the discussion of Terrorist Threat Integration Center, which, as you know, calls itself a joint venture. It's supposed to fully integrate information whether gathered at home or abroad. But there does not appear to be one person or one entity in charge of it. In your view, what are its limitations because this is the place where the intelligence is supposed to come together in the manner that you suggest would be possible under your new system? And could whatever shortcomings there may be, be overcome short of the organizational changes that you propose?

MR. DEUTCH: Well, let me first of all say that I have not had the occasion to know how the new Terrorist Threat Integration Center is operating and what the rules of the game are. So what I'll have to do in answering this question is to ask you certain questions. You know, I would ask, does the head of that TTIC have the right to reassign people to different jobs and call in from the FBI or call in from the NSA, I need 10 more analysts, bring them here tomorrow morning?

MS. GORELICK: No.

MR. DEUTCH: Sorry? I didn't hear you.

MS. GORELICK: Let's assume the answer is no.

MR. DEUTCH: Let's assume the answer is no.

MS. GORELICK: But why don't you continue with your rhetorical question?

MR. DEUTCH: Does the Director -- who's actually an excellent, excellent individual, a person who's the head of this -- does that person -- can he pick up the phone and say, I want you to shift \$10 million from this activity to this activity? It's a reprogramming, we'll have to inform Congress but I want to do that right now and the director supports this. No. Does the Director of this agency have the ability to say, You know, we got to think about this over the long term. The way you get good intelligence is to follow a target for a long time. This idea that you just could drop in one day and collect a lot of good agents is wrong. You really have to pursue a target for a long period of time. That's when you really develop good sources and understand what you're dealing with.

Because we want to develop a collection strategy over several years in a certain region of the world. Does the director of this center have the ability to set such a plan for several years and make it stick with the different agencies? That's another question I would ask. I don't think you can fix that around the edges.

MS. GORELICK: At our very first hearing I examined the chairs and ranking members of the intelligence committees on one of the subjects that you addressed, which is whether they did or whether even under the current construct they could perform effective oversight of the intelligence community. One of the advantages, I presume, of this organizational structure is that there would be oversight across the board throughout the intelligence communities. Their response, roughly, was we can review budget items line by line but we don't have effective means to look across the intelligence community to match up the threat with the capacity that is supposed to address that threat.

You have been overseen by the committees that oversee defense and the committees that oversee intelligence. And having been overseen by two of the three committees, the other relevant committee being judiciary, what are the upsides, if you can identify them, of the shifts that you proposed from an oversight point of view?

MR. DEUTCH: If I were able to see this realignment take place, I would suggest that you would have a separate budget category in the defense accounts, the national security accounts, the 050 accounts just like we do today -- for example, for atomic energy defense activities -- I would set one up for the intelligence activities which included NFIP, JMIP and TIARA, and associated budget for the domestic intelligence service. And I would create that as a separate budget category in the overall National Security Budget 050 accounts. I believe that that would eventually lead Congress to establish a single committee to follow those set of functions. If you could have a single authorizing committee, you would do much, much better with respect, in my judgment, I think, to congressional support and knowledge, informed judgment about these activities.

So I think that this naturally leads to a single congressional committee oversight and one which would be better informed and basically more supportive of intelligence activities.

MS. GORELICK: Thank you for that response. One last question. I was following you all the way through your presentation where the thrust of it was, we need to give responsibility and authority to the same person, and we need to hold them accountable because we've given that person -- whether it's the DCI or the DNI -- authority over budgets and resources and programmatic efforts. With regard to the Defense Department, you say let's keep the executive authority over there because they have operational capacity that is well placed there. Nevertheless, you say let us give this authority to this DCI or the DNI, but the Secretary of Defense has to concur -- now, concur in the exercise of the authority by this DCI or DNI.

Now, in my experience, when the secretary of Defense, given his powerful position in the cabinet, given his stature, given the resources that he has at his disposal has to concur in anything, that's the end of the story. That concurrence becomes all the power that is needed to maintain the current status quo. So I will ask you, having sat in both places, with all of the honesty you are capable of mustering in a public setting - (laughter) -- to tell us whether the concurrence you suggest undermines the thoughtful proposal you've put on the table?

MR. DEUTCH: I may need help on this, Mr. Chairman. You, of course, have raised a very excellent point here, but I want to make really two remarks about it. The first is, I did not say that the executive authority lay with the Secretary of Defense with these defense agencies, I said the day-to-day management authority. I would say the principal planning and resource allocation authority for these agencies lies with the Director of Central Intelligence. That's different. And I don't want to see a parallel structure run by the financial side of the Office of the Secretary of Defense redo all the budget analysis to get into the kinds of bureaucratic problems that Mr. Fielding also alluded to.

Basically, in my heart I don't think you can tell the Secretary of Defense use these agencies for combat support, and to support troops that are deployed abroad, and not have the Secretary of Defense happy with that -- with what the program is. There's also an element of trying to keep Mr. Fielding on my side by saying without this proposal from the Secretary of Defense having concurrence at the last analysis, this proposal goes nowhere. It goes nowhere. You must give the Secretary of Defense that last -- as I can tell you by speaking with several of them. Without that, you can't possibly get the additional oversight, the additional authorities within the Director of Central Intelligence.

So there is an element of it that just says this is the best way of keeping the legitimate military concerns on board. So that's why I came on it.

MS. GORELICK: Thank you very much.

MR. KEAN: Commissioner Fielding.

MR. FIELDING: One follow up question on our analysis. It has been suggested that we also consider a structure similar to MI-5. I would appreciate any comments you could give us and your thoughts on that as we look at this whole structural issue.

MR. DEUTCH: I know the MI-5 very well and its operation. The MI-5, as you know, reports to the Home Office, so presumably the comparable suggestion here would be to put the domestic intelligence service in the Department of Homeland Security. And that, it seems to me, goes in the wrong direction because it fragments two groups into three. On the other hand, I believe that the Secretary of the Department of Homeland Security has a tremendously important role to play in intelligence analysis, because remember the domestic intelligence service is principally concerned with collection activities, so the Department of Homeland Security has a tremendously important role to play in intelligence analysis and analyzing information from all sources, just as the Department of State does today, or the Department of Defense does today.

And so the intelligence community has the Secretary of Homeland Security as a principal customer, but I do not believe that you should establish a collection agency away from these others. I think it's going in exactly the wrong direction.

MR. FIELDING: Thank you very much.

MR. KEAN: Commissioner Roemer.

MR. TIMOTHY J. ROEMER: Thank you, Mr. Chairman, nice to see you again.

MR. KEAN: Good to see you, sir.

MR. ROEMER: We appreciate your time today. You've talked a lot about the relationship between the DCI and the SecDef, the Secretary of Defense. I'm more interested, given the fact that you've given that a lot of thought and a lot of time today and our commissioners have zeroed in on that, I'm more interested in coming back to some of the mandate that we have on this 9/11 commission, both at what happened on 9/11 and prior to it, and the relationship between the DCI and the National Security Advisor. You were a DCI in 1995 and 1996. There were, in the 1997, 1998 time period, there were a couple of Presidential Decision Directives that Mr. Steinberg talks about in his open testimony, that one created the position of a coordinator for national terrorism, another set forth -- as Mr. Steinberg's open testimony talks about -- set forth ways to protect the critical infrastructure in the United States of America.

Given that this commission is supposed to look at not just the technical failures in the intelligence community -- and the Joint Inquiry found several and numerous failures -- you said we're at a crisis position with respect to the intelligence community. We're also supposed to look at policy, and were there policy failures? Let me put this question directly to you. Who within the government is responsible for enforcing a Presidential Decision Directive? Is it the DCI? Is it the National Security Advisor? Is it both? And how do we

improve this nexus in this relationship in the future so that we can formulate policy to react to these transnational threats directly against the people and the interests of the United States of America, and formulate effective policy through the venues of government?

How would you directly answer that question?

MR. DEUTCH: Well, Congressman, I would say the National Security Advisor is responsible for that in the national security area absolutely. That's certainly the way it was in my time and there was never any difficulty in my experience in either the Defense Department or the intelligence community. On the other hand, in law enforcement you have a much more complex question. If you have the National Security Advisor breeze in and say, please let's do this, with respect to some colorable law enforcement activity, you may end up with a huge problem on your hands.

And indeed, there were plenty of occasions where that came up in domestic and international matters where the ability to enforce executive branch views on the law enforcement community came to quite a set of loggerheads. And so I would say to you it's quite clear in the national security area, a little less clear to me about how you do it when it's involved in law enforcement.

MR. ROEMER: And along those lines of enforcement of PDDs by the national security advisor, given your time there, do you think that those were adequately -- was there that adequate enforcement at that time? Was there an aggressive tendency to go back to the agencies and see that they enforced that new PDD?

MR. DEUTCH: The PDDs you've mentioned, the two you've mentioned, occurred after my time.

MR. ROEMER: They occurred in '98, '97, '98, you were there in '95, '96.

MR. DEUTCH: Right. I can't comment on that. I will tell you that we had many struggles, many struggles about infrastructure protection. That's another very complicated subject. And also there, regarding infrastructure protection as a law enforcement matter is in my mind -- as opposed to a national security matter -- a separate problem, related but separate problem, was not resolved happily in any way, but also didn't lead to a PDD.

In other words, because it wasn't resolvable the President didn't promulgate a decision memorandum on it because it wasn't resolved but it still, I think, has its problems. Infrastructure protection.

MR. ROEMER: Two of the top three recommendations made by the Joint Inquiry were regarding the structure and the performance of the National Security Council. The first one you've addressed significantly today, the DNI. Number two and number three addressed the National Security Council. Do you have specific recommendations as to how we better structure the National Security Council in relation to the current ongoing threat that we have?

MR. DEUTCH: I do not. I did not find in my time that the National Security Council was part of the problem of anything, so I do not have a specific recommendation on that. And a little bit to echo my boss, Jim Schlesinger, prior boss Jim Schlesinger, I'm not sure how much you really want the White House to get into the management of these kinds of issues.

MR. ROEMER: Thank you, Mr. Chairman.

MR. KEAN: Senator Cleland.

MR. CLELAND: Yeah, Mr. Chairman, thank you very much.

Mr. Secretary, this is such a clear and cogent and well thought out proposal I fear for your future in the federal government.

MR. DEUTCH: You don't have to fear for it, sir.

(Laughter.)

MR. CLELAND: Let me just say, Secretary Schlesinger mentioned something that peaked my interest. He mentioned the phrase, "turning point of history," or turning points of history. And yet I still desire to have a coherent picture about future developments. As a history guy I'm fascinated with one of the Winston Churchill quotes that, "How do you know where you're going unless you know where you've been?" One of the things that's been fascinating to me was looking a little bit about where we've been, when was the last attack on this country, it was Pearl Harbor.

And my father was stationed at Pearl Harbor after the attack, so I've been fascinated with that period of our history. It does seem that right after Pearl Harbor there was an immediate critique that it was intelligence failure, that information was stove-piped not disseminated and certainly not available in a clear picture to decision makers. If that all sounds familiar that was the conclusion right after 1941, and about four commissions went into this in depth over a period of about four or five years.

You mentioned that this sounds a little bit today like the debate about creating a Secretary of Defense, well, that whole structure apparently came about in 1947, the Defense Reorganization Act, which among other things not only created the Secretary of Defense but created the CIA, the Central Intelligence Agency. And one of the things that was fascinating to me too was your testimony that back in those days, in the days of the Cold War, there were bright lines. There was a line, there was a barrier about where our power ended and the Soviet power began.

The Berlin Wall, the various lines along -- the hundred divisions behind the Warsaw Pact and so forth. Those bright lines are gone now, we're in another world. And I think that's what you're at. Doesn't it seem to you that in the wake of the 9/11 attack we're at another one of those turning points in history where we have to adapt and adjust, particularly in terms of the way we read the tea leaves and making those estimates of where the tea leaves carry us to the decision makers.

I think your chart moves us in that direction and I think you're right, doing nothing maintains the current mess. One of the things I always noticed was -- being on the Armed Services Committee for six years here in the Senate -- was that the intelligence community was always referred to as the intelligence community. I always tried to find out who was accountable. In many ways more than 12 different agencies under six different cabinet officers were part of the intelligence community. But who was accountable?

And in the intelligence failure of 9/11 I've been trying to find out who was accountable. And this government did have a lot of information but it wasn't shared, the tea leaves weren't looked at appropriately, and obviously not enough to get to the decision makers. So I agree with you. We've got to adjust to this turning point in history to a new kind of threat and that is the terrorist threat that doesn't acknowledge bright lines. They don't acknowledge the bright lines between domestic and foreign intelligence. They hit the seams, so to speak.

And so I'd just like for you to elaborate a little bit more maybe on the history that you're aware of maybe in the former discussion about creating a new organization to connect the dots, back in those days of 1947 in the wake of Pearl Harbor and World War II and what we needed in terms of centralizing intelligence. Can you share a little bit and just some of that information, is some of that information relevant to us now?

MR. DEUTCH: Senator, let me give you a very brief answer because I know our time is short here. But Roberta Wohlstetter wrote a book on the failure, the intelligence failure of Pearl Harbor, which has stuck in my mind because it explains not only Pearl Harbor, it explains lots of these intelligence failures. And when I say intelligence failures I don't mean to disparage the community, and certainly not the people who work in it.

But successful intelligence requires three steps. Collection of information, analysis of that information, and then transmission to a policy maker who is willing to listen. And when you look in detail at these events, always there is something which was going wrong in part of those three steps. Sometimes the policy maker is not willing to listen, and that was in part the problem in Pearl Harbor, military commanders there and here. Often it is inadequate analysis and it always is better to have more information rather than less.

But the heart of the matter is to have a set of dedicated and capable intelligence analysts who have access to all available information and who can objectively give you their unvarnished best estimate. It doesn't guarantee you successful intelligence because the policy maker may still not listen, but you have to have the elements, collect the information, do fabulous analysis and have a policy maker who's willing to listen.

MR. CLELAND: Thank you, Mr. Secretary, that was a powerful statement. Thanks very much.

MR. KEAN: Thank you.

I'm curious, if the recommendations that you are now proposing had been in effect some years ago, do you think it would have changed what happened on 9/11?

MR. DEUTCH: Governor, I can't answer a question like that, it is too hypothetical. I think it is a catastrophe what happened to this country, and I think it signals the need to do something. But I could not possibly give you a fair answer to that question.

MR. KEAN: Okay. I understand that.

Yes. Slade, then Commissioner Lehman.

MR. GORTON: Dr. Deutch, as fascinating as this is, it reminds me -- you mentioned a book about Pearl Harbor. It reminds me of that wonderful title of a tragedy in World War II, "A Bridge Too Far." And so my question to you is, if you took out the blue lines and didn't get yourself into a fight with the Secretary of Defense, and perhaps only had what you have here as CIA and the Domestic Intelligence Service under a single head, would that be a significant improvement over the present situation?

MR. DEUTCH: Senator, it would be a significant improvement. And I'm well aware that this is a bridge too far. My effort was to try and clearly describe what I thought the necessary changes were. But you are quite right. If you let the -- if you leave the Defense stuff out, you've got lots of big things you've given up, especially the connection between human intelligence collection and signals intelligence collection. It would be a big step but I don't think it would be a sufficient step.

MR. GORTON: Thank you, Mr. Chairman.

MR. KEAN: Secretary Lehman.

MR. JOHN F. LEHMAN: Dr. Deutch, one of the critiques of the current intelligence community is that, as a result of the tremendous technical breakthroughs of the '60s, '70s, and then the political assaults of the Pike Committee and the Church Committee during -- on the intelligence community as a whole that this drove a total domination and the creation of a completely technical culture in the intelligence community. If it wasn't measurable, if it wasn't countable, then it had -- it was dismissed as anecdotal. And this has been applied even to subjective analysis, having to have a mathematical probability assigned to it before it could be passed forward.

Given that not much in the war on terror, not much of the enemy target base is countable, do we have too much investment both in hardware and in culture, in the technical dimension of intelligence today.

MR. DEUTCH: Mr. Secretary, it's a very good question. I would first of all argue that if you look in detail at even the most far-reaching human collection possibility you might think of, that there are elements of technical intelligence which can support that and make it more effective. So first of all, I sort of resist saying we have

human intelligence, then we have, you know, satellites, and they're kind of disconnected. I think that, in fact, if you look in detail, you can see occasions where if you work them closely together, and I think that's happening more and more, that it's really a very good thing.

There's no question that human intelligence capability, especially in the CIA, suffered dramatically in the early '90s. No question about it, including during my time. But the overwhelming reason for that fact, Mr. Secretary, had nothing to do with technical or non-technical. It had to do with one thing, and that was Aldrich Ames. If you go back to 1991 and this town -- 1992, '93, the one thing which was quite clear was what had happened to Soviet and Russian penetration of our intelligence services and the FBI. And so if you say to me, why was there such, you know, declining budgets, yes, all these other things, everything would have been okay if it hadn't been for Aldrich Ames. I believe that the history of the Director of Operations would have been much smoother sailing.

And I'm very, very pleased that my deputy, who is now Director, has managed to build up and strengthen that Directorate of Operations. But please would you describe what has been the great decline and then coming back up of the Directorate of Operations. Remember, it was Aldrich Ames that caused the problem, not anything else.

MR. LEHMAN: Thank you.

MR. KEAN: Last question from Commissioner Ben-Veniste.

MR. BEN-VENISTE: Dr. Deutch, I am intrigued with something which was mentioned in your prepared remarks with respect to recruitment of foreign assets. I sit on another commission which is charged with declassifying millions of pages of documents from the post -- World War II and post-World War II period. And the focus there is on

MR. BEN-VENISTE: Could you turn on the microphone?

MR. BEN-VENISTE: I'm sorry. Did you hear --

MR. DEUTCH: I heard, yes, sir.

MR. BEN-VENISTE: Okay. The focus there is on the recruitment of those with Nazi war crimes histories in the post-World War II period as a matter of expediency to get up and running against a Soviet threat. And I notice that you have discussed the question which has been raised broadly in the post-9/11 period of whether restrictions on recruitment of foreign assets who have histories of crimes against humanity make sense to continue in the post-9/11 period. In having seen the result of the compromising of the West German Intelligence Organization from the recruitment of those with that kind of tainted past and noticing your remarks on the subject, I wonder if you could elaborate.

MR. DEUTCH: Could you tell me where these remarks are, Mr. Ben-Veniste?

MR. BEN-VENISTE: This would be on page three of five --

MR. DEUTCH: Three?

MR. BEN-VENISTE: -- in an article which you wrote.

MR. DEUTCH: Oh, I see. It's not in my testimony?

MR. BEN-VENISTE: I'm sorry. It was in the materials which our very diligent staff had collected. It was an article which you wrote with Jeffrey Smith in Foreign Policy Magazine fairly recently.

MR. DEUTCH: I don't have the article in front of me. If you read that article with care, it also has a proposal similar to this but less -- thank you. But let me just say that you absolutely have to recruit individuals with the worst kinds of backgrounds, the worst kinds of criminal and humanitarian deficiencies. You absolutely have to do that. The question is the procedure that is used for a case officer in the field to recruit such individuals. But let there be no doubt about it, we can have no barriers on the kind of character, criminal record or personality of agents that are case officers try to recruit in the field. That is essential.

How they get approval for that is what is at issue, I think, in the article that you refer to. And it is my judgment that case officers of the field are best protected and best able to take those risks if there's a procedure that validates their decision to recruit a bad person. But let me be clear about it so there's not a moment of doubt. If you cannot -- you must be able to recruit the very worst kinds of people in order to pursue our national interests.

MR. KEAN: Dr. Deutch, thank you very, very much.

MR. DEUTCH: Thank you.

MR. BEN-VENISTE: Thank you.

MR. KEAN: Thank you very much.

Our final witness this morning is James B. Steinberg, Vice President and Director of Foreign Policy Studies at the Brookings Institute, and former Deputy National Security Advisor. We're going to hear from Mr. Steinberg about the question of terrorism, about how the policy process works and perhaps should work at the senior levels of government. We look forward to his recommendations as to how the national security structure can perform better.

Mr. Steinberg, your prepared statement will be entered into the record in full, and so please proceed with your testimony.

MR. STEINBERG: Thank you, Mr. Chairman, and thank you for the opportunity to appear today before the Commission. The subject of this morning's hearing is crucial to developing an effective strategy towards homeland security, and it's clear from the discussion already that you all have given considerable thought and attention to this, which I think is a great service to the country. There's little dispute about the central role that information plays in combating terrorist threats to the United States and to our interests.

And similarly, there is a broad consensus about the need to adapt the way we handle the collection, analysis and dissemination of information to meet these new threats. This consensus is reflected in the Congressional Joint Inquiry, in the enactment of the USA Patriot Act, the creation of the Department of Homeland Security and the broad range of institutional changes adopted by the Administration since 9/11. The question is not whether we should act, but whether we have gone far enough in thinking about the systematic implications of this challenge.

My overall judgment is that while Congress and the administration have taken important and positive steps, we need to think more boldly. The basic tact taken thus far has been based on an incremental adaptation of existing institutions. Even the Department of Homeland Security to date has not fundamentally changed the way we handle the information challenge. This is perhaps not surprising given the deep institutional inertia that provides obstacles to change, and the legitimate fear that disruption at a time of great risk carries its own risks.

But as is often is the case, the short run imperative to get on with the urgent task at hand can stand in the way of making the changes we need for the long run. And as Director Deutch and you have discussed already, the post-World War II history of adapting our national security structures is instructive. Not until the Goldwater-Nichols Act of 1985 did we really move effectively to integrate the military services, and even today important challenges remain.

On the intelligence front, the concept behind the creation of the Director of Central Intelligence in 1947 has never been realized. In my statement I identify seven features of the counterterrorism challenge that, when taken together, constitute a powerful argument for a systematic rethinking about the way we do business. At the core is a realization that the community that is key to the counterterrorism task is much broader than the Cold War model of the national security and intelligence communities.

Today state and local governments and the private sector play a much larger role than the federal government, and the prevention task extends far beyond the law enforcement community. Therefore we need an approach that reflects this far flung, highly decentralized universe of critical actors, both in the United States and abroad. These features of the new challenge have direct implications for policy, which I have identified in my written submission. I want to just touch on a few of them here.

First, we must give greater priority to information sharing. There's no question that there have been important improvements since 9/11, but they still do not fully reflect the sea change that is needed. A critical portion of the community of collectors and users of information related to homeland security are outside the corral of cleared personnel, and the solution cannot simply be to increase the number of people with security clearances. Similarly, the core concept of need to know, which is so fundamental to our current structure, is difficult to apply and often counterproductive in counterterrorism. Sometimes we don't know who needs to know, as the 9/11 experience itself demonstrates.

We need an approach where the priority is to get the information out to those who could make effective use of it. The burden should be on those who want to classify and restrict to justify the restriction, rather than presume that information needs to be closely held, particularly when the originating agency that often makes these decisions has the greatest stake in protecting its sources and methods, but little accountability for the failure to share.

I can illustrate this point by drawing on the story of how the scientific community ultimately tracked down and identified the SARS virus. The key to this effort was not a predetermined community of experts closely holding information among themselves. Instead, all those involved were encouraged to post their speculations and their research results on the Internet, where anyone could access and build on them. In some cases, insights came from unexpected quarters, and this was in clear contrast with the process by which scientists uncovered the cause of AIDS, in the pre-Internet world.

In that case, researchers worried as much about gaining credit for the discovery as with sharing with other researchers. In the case of AIDS, the process took a decade, compared to several months for SARS. Now, of course, advances in biological research also helped speed the SARS identification process, but the comparison and the nature of the network that was used is instructive.

The issue of balancing risks between sharing and protecting information is also illustrated in the debate over open source code versus proprietary source code in the cyber security world. Those who favor keeping source code secret argue that opening them to the public might expose security holes to potential hackers. Proponents of open code argue that by making the code public, more minds can be brought to bear to identify and patch potential security problems. More and more of this argument for openness is winning the day. The second major point is that we need to examine the two key walls that characterized our intelligence community during the Cold War, the line between law enforcement intelligence and the line between domestic and foreign intelligence.

I won't repeat the arguments made so articulately and eloquently by Director Deutch in his testimony to you, but suffice to say I largely agree with his recommendations. We do need a Director of National Intelligence to integrate domestic and foreign counterterrorism efforts, and a domestic security agency which is separate from the FBI and law enforcement. While Director Schlesinger and others rightly warn that reorganization isn't everything, the example I cited of the 1947 National Security Act and Goldwater-Nichols also illustrates that at times nothing short of organizational reform will change the incentives to change the way the individuals act in the system.

I know that some have expressed fears about the civil liberties consequences from creating a domestic security agency. I believe that the civil liberties issues, while real, exist today in the current system as the debate over aspects of the USA Patriot Act make clear. Moreover, the best way to address this problem is to tackle it head on rather than rely on imperfections in the existing system to safeguard civil liberties. It would be unfortunate indeed if the only way we

could protect civil liberties was at the expense of protecting our security. I think this is a false choice, and I'll return to this issue in a moment.

The third major point is that we need a parallel integration of the policy apparatus to mirror the proposed changes on the intelligence side. In particular, we need to examine how to integrate better the domestic and foreign policy dimensions of counterterrorism. And to accomplish this, as I state in more detail in my written submission, I suggest that we strengthen the role of the Secretary of DHS in the interagency process, and integrate the Homeland Security Council better into the NSA.

Finally and most important, we need a system that will be effective in taking on the counterterrorism challenge while sustaining the support of the American people. As a result of the controversies over intelligence collection and analysis programs like the TIA and CAPPS II, and the recent revelations concerning JetBlue's provision of personally identifiable information to an army contractor, today we risk creating the worst of two worlds.

The public thinks that the government is guilty of massive invasions of privacy, while government officials may become so gun-shy about collecting information that they refrain from legitimate activities that could be vital to stopping terrorists. We can avoid both dangers by developing a clear, transparent approach to information gathering and use that empowers government officials to do their jobs while providing reassurance the public that the information is being used in appropriate and tailored ways.

Guidelines that set out the rules and procedures, backed by effective accountability practices, serve both goals simultaneously. As a member, along with Senator Gorton, of the Markle Foundation Task Force on Security in the Information Age, we've been working to help develop in more detail a strategy that would integrate advances in information technology with the necessary policies to achieve these two goals. We issued our first report last fall under the able leadership of Phillip Zelikow, and we plan to complete a second report later this fall on this issue of guidelines and accountability, and look forward to sharing our results with the Commission.

Establishing a system of guidelines and accountability should be a priority for Congress as a part of its overall oversight responsibility. Although I believe that the guidelines themselves should be issued by the Executive Branch rather than enacted by Congress. This will allow a learning experience as we move into relatively uncharted and technologically fast moving waters. These guidelines should be developed in close cooperation with the private sector, with as much public transparency as possible, consistent legitimate security needs. Thank you for your attention and I look forward to your questions.

MR. KEAN: Thank you very much.

Secretary Lehman.

MR. LEHMAN: Thank you.

Mr. Steinberg, I found your testimony very compelling and it goes right to the heart of the issues. I would like to start by asking your views about the role of the National Security Council, because as you know it was envisioned to solve all of the problems that we're worrying about here. It was supposed to have the ability to coordinate differing views on priorities on budgets and to resolve differences between the cabinet barons. In my own limited experience, on the NSC staff, I found that it worked pretty well doing that, particularly on issue of priorities on intelligence. There was a thing called the Forty Committee where differences of views between State, Defense and individual elements of the intelligence community were resolved, and money moved against the wishes of certain of the players around the table.

And they came to every meeting because if they didn't, they knew Kissinger would move the money anyway, so it functioned pretty well. And what in the intervening time between the establishment of the NSC and its initial implementation by President Truman, which was very different than what Forrestal had intended. What's gone wrong? Why is that mechanism no longer sufficient to resolve these kinds of budgetary priority targeting and personnel issues?

MR. STEINBERG: I think you've raised a very important question, and I think the answer is that within its traditional ambit I think the NSC still does work well. There is a community that is part of the NSC community, the traditional one, the Secretary of Defense, the Chairman of the Joint Chiefs, the Director of the CIA, the Secretary of State, occasionally the Secretary of the Treasury, who are familiar with the system, work within the system. But what we found moving into the 1990s with these new set of challenges, which was very different than dealing with a foreign state adversary, was that there were a set of actors who didn't function with the ambit of the NSC system.

The most important was the Justice Department and particularly the FBI, and for the reasons that we've been discussing this morning, there was a deep reluctance to submit the FBI to the overall responsibilities of the NSC, questions about the role of the White House, questions about whether the independence of the law enforcement function would be compromised. And while there were considerable discussions throughout President Clinton's term about trying to reconcile these differences, we were unable to reach an agreement that was comfortable on both sides and had the imprimatur of the broader support that would be needed, I think, to make those kinds of changes.

And this similarly is true with respect to aspects of the economic and domestic policy system which were not traditionally part of the NSC. And so I think that the basic model that you've described can work and can work very effectively. But we need to rethink what that community is and who ought to be part of it. And one of the reasons why I believe, along with Director Deutch, that we do want to separate the law enforcement in the domestic security function is that I think it is -- it will remain uncomfortable to bring the FBI in its law enforcement capacity under the NSC system, but it's imperative that we bring this domestic counterintelligence and counterterrorism function into that system and integrate it what we're doing.

So I think that's why I would favor basically returning the NSC to its traditional role but with a new concept of what national security is about. If that is the function -- and we understand the national security challenge to be different than the challenge of dealing with the Soviet Union or with foreign states -- then we want to think about the composition and the interaction among the agencies in a different way.

MR. LEHMAN: So how would we structure the role of a DNI or DCI along the lines you're recommending into that NSC structure? I mean, there always has been one National Security Advisor. Now, in effect, there would be two. How would you divide the functions of a DNI, a DCI and the NSC, the National Security Advisor, and, of course, I'm presuming that you're not recommending that a DCI enhanced or DNI be a member of a cabinet.

MR. STEINBERG: That's correct. I don't think there'd be two National Security Advisors, because I think that the DNI would still be providing intelligence input into a policy process. In effect, they're an advisor to the NSC system rather than a member of the NSC system. I think that I have, in my testimony, not wandered into the perilous grounds that John Deutch did about the relationship between the DNI and the Secretary of Defense, he knows it better than I do. I've certainly observed it and I think that both points that he made about some desirability and the points that you've made about the practicalities are both real. But what I think -- what the key issue now is for domestic security isn't this question about the role of either the DCI or the DNI over domestic intelligence collection and analysis, over which now he does not have appropriate authority.

So I don't see this as a significant change of the role of either of the DNI or the DCI in the NSC system, I do think it is an expansion of the role with respect to counterterrorism intelligence collection and analysis within the United States and vis-à-vis U.S. persons, where his responsibility will be functioning the same but will cover set of activities.

MR. LEHMAN: Thank you. There are people who believe that the greater blame in intelligence failures over 9/11 lies not necessarily with the intelligence community but with the lack of the proper prioritizing given by senior political decision makers, and this is part of a larger issue that's always been debated about should the policy maker take a much more active role in directing the priorities of what is to be collected, and direct the intelligence community to find a way to collect it rather than taking a more passive role and saying okay, tell me what's happening, giving no priorities as to what hypotheses should be collected against, and I think in the reading of recent post World War II history, that's a pretty strong case that the intelligence community has not been given the kinds of priorities of targeting and the hypotheses to collect against that would have made their focus and their collection and analysis much more effective.

In your time as Deputy National Security Advisor, was there an effective prioritizing of the assets or was it more driven by capabilities? We have these wonderful satellites that can count things, so let's count camps, and if we can't count camps then they don't exist sort of thing. Would you comment on that?

MR. STEINBERG: That's a very good question. I think during the time that I was in the White House, we began to move in a direction that increased the role of the policy, community and setting priorities. I don't remember the number of that PDD, but we instituted a process by which there was a formal involvement of the policy community in identifying collection and analysis priorities which was then fed into the Director's own tasking responsibilities. And I say, it was formal process that was led by the NSC and Directorate of Intelligence to, in effect, solicit from the policy agencies and to develop a ranking or categories of ranking of different levels of priority which would then -- to be turned into tasking.

I would say it was a step in the right direction but I do agree with you that the policy community is ultimately responsible for setting those priorities, that the Director can provide advice based on what the intelligence community sees as the threats, but the policy community is ultimately accountable for those allocation of resources and for protecting the national security. So what I think we need to do is to take that one step further, which is to make sure that that input, which the policy community now provides, is actually reflected in the decisions that are made by the tasking done by the DCI and the Secretary of Defense, and that there is a feedback loop in that so that those decisions are again reviewed in a timely and effective way to make sure that the policy community is not only having a chance to say in a front end what it thinks the priorities are, but really meaningfully engage with the results that come out of that process when those general priorities are translated into actual operational allocations of resources.

MR. LEHMAN: I have two more questions related. Jim Schlesinger earlier testified that much more important than moving around the blocks on the chart are recruiting and supporting the right kinds of people, and I'd like to get your views on what kind of people are we recruiting. And I'm more talking about analysis than the operational side. First, at the top, what kind of person should be the CIA Director? And then at the analytical level, are we recruiting -- I mean, Kissinger used to say that one of the problems with CIA analysis is the way they recruit people. They can have nothing in their past and hence can have nothing in their future. That's obviously not very fair. But the point of self-recruiting is true in any bureaucracy. You end up with the same round pebbles, smooth and edgeless, and so what they produce is smooth and edgeless.

And the related second question is how in that kind of a community and in the community you now want to centralize under a DNI do you keep diversity and competition of hypotheses and of interpretation?

MR. STEINBERG: On your first question, the leadership, it's hard to make a broad statement because you really depend on very uniquely qualified special individuals, and we've had a couple of them here today. I think what we've seen from both previous speakers is that individuals who've had experience both in the analytic world and the policy world I think tend to make good Directors of Central Intelligence, simply because they understand the policy process and how intelligence and information fits into it, but they need strong

analytic backgrounds of their own so they're not simply translating the policymakers' process. And I think if you look at the history of recent directors, we've had a number of enormously talented people.

The more important question in terms of trying to figure out a process is the one that you've raised, which is who do we bring in? And I think I'd make a couple of points about that. First, we do need diversity. And while I believe that we need a Director of National Intelligence, I don't think we should get rid of all of the intelligence -- the components of the intelligence community. I served in INR at the beginning of the Clinton administration and have enormous respect both for the analysts there and for the fact that there is an intelligence component which is closely connected to the State Department, because I think it brings insights and perspective into the broader intelligence community that would be absent if it were really centralized, as had been proposed for a number of years, to have one intelligence community. And I think the same is true about DIA and other components, the service intelligence components and the like. So I'm not for creating a single entity to do the analysis. I think there should be somebody who's responsible overall for that.

The INR experience is instructive because one of the things that brings strength to the INR analysts is many of them have served as foreign service officers in foreign posts. And there's a tendency for exactly the reasons that you said in the core parts of the intelligence community, and particularly in the analytic part of the CIA to be leery of people who've ever been anywhere and who may have been part of those things. They want people who come in from university, who have strong educational backgrounds, but who can sort of make sure that there aren't any risks. And so what happens is that they tend to be very strong analytically trained but not a lot of experience in the world. And there is -- and then once they become part of the community, it's even harder to send them out because of fears of compromise and the like, and so they don't rotate out into the field.

And while there's clearly a place for strong academically trained individuals, I think we need to have a much more diverse sense of who we want to bring in, people from the business community who offer enormous insights into these problems, people from different walks of life, from religious communities and like missionary groups who've been abroad. And sometimes they won't be people you want to have full time on the intelligence community staff, but we need to have a much more diverse array of expertise. We need to let people in the analytic community get out into the world some. Let them serve with state and local governments if we're dealing with counterterrorism to see the perspective from the cop on the beat or the public health worker.

I think it's that sense of rather than having a very cabined off community that fits in with my broader sense of what the more decentralized, more open sense of what the intelligence community ought to consist of.

MR. LEHMAN: Thank you.

MR. KEAN: Commissioner Roemer.

MR. ROEMER: Thank you, Mr. Chairman, and nice to see you again. And on behalf of the Commission, we all thank you for your valuable and very capable public service throughout the 1990s.

I want to ask, as somebody who was there, as somebody who was on the National Security Council during the 1990s, that there was an important event that the Joint Inquiry looked at and that we will certainly look at on this commission when, in December of 1998, the Director of Central Intelligence, George Tenet, issued a memorandum to senior CIA managers, the Deputy DCI and others, and he said this, and I quote. He said, "We must now enter a new phase in our effort against bin Laden. We are at war. I want no resources or people spared in this effort, either inside the CIA or the community." End quote.

Now, despite his exclamation there or his memorandums, the Joint Inquiry concluded that the intelligence community was not on a war footing prior to September 11th. Do you agree with that, and if not, why not?

MR. STEINBERG: I think you have to look at that period during the 1990s in an evolutionary way. I think that throughout the period there was a growing and growing sense of the urgency and the priority that needed to be given to the counterterrorism task, particularly the specific threat that al Qaeda represented. I cited in my testimony since statements from the President in the mid-1990s, I think there was a clear awareness of this being of growing importance, and certainly by the time of the bombings in August of 1998 on our embassies, about the absolute first priority.

And I can tell you, having had a chance to watch Mr. Berger close up, that this was by far and away, without even a shadow of a close second, his most dominant priority, as I said, growing throughout the 1990s but certainly following the August 1998 bombings. It was the first thing he worried about every day and the last thing he worried about every night before he went home, which was never very often.

And I think that the memorandum that you identified reflected the fact that particular in the CIA, which was dealing with what was most known about al Qaeda and its operations, that is its overseas activities, that at least what I saw, which is in the senior level of the CIA, a real appreciation of just how important and how urgent this was.

And, frankly, I think if you look at what took place in the period post-1998, and you obviously will have access to the details, and there are some that I can't go into in specifics here, there was an enormous amount of activity that led to significant disruptions of terrorist cells in a number of countries abroad, as I mentioned in my testimony the significant activity that took place in the run-up to the millennium, some of it from just outstanding casework by officers, some by alert border agents and all the kinds of things, the combination of both good work and good luck that you need to have in these things.

So I think there was clearly a movement in that direction and it's obviously, I think we would all say in retrospect that more could be done, that there were aspects of the community that resisted change, that there's enormous inertia. And I think that was a fundamental

problem on the domestic side because it was simply outside the ambit of what we had in the authority over it. This was -- there was a very, very thick wall between the NSC process and the White House and domestic related activities that involved the Justice Department and the FBI. And for the reasons we discussed, there were good reasons for aspects of that, but it created a system that made it harder to integrate the overall effort.

MR. ROEMER: Given the fact that it was the DCI and it was a memorandum, a piece of paper. Given that former DCI Deutch said that he thought that responsibility should go to the National Security Council, in retrospect, should there have been something else coming, especially after 1998 and the embassy bombings? Should it have elevated to a different set of actors? Should it have been through a different set of policy directives? What might have changed this from, as you stated it, evolutionary status to a war footing?

MR. STEINBERG: Well, I think if you look at the activities of the NSC principals in the post-August 1998 period, you would see something that looked pretty much like a war footing. And particularly in the period in 1999, as we became concerned with the millennium, there were practically daily conversations by the NSC principals about this problem. And certainly in the fall of 1999 there were daily and sometimes multiple times a day meetings of the NSC principals about this. So I think at the highest levels there was a recognition that this was a challenge the likes of which we had not seen in a very long time. Because even during the height of the Cold War, this was not a kind of a tactical day-to-day crisis with the exception of periods like the Cuban Missile Crisis or the Berlin Crisis.

So people understood that. I think that the problems with changing the way the system as a whole worked, as opposed to what individual cabinet members and sort of principal deputies were doing was that we hadn't thoroughly taken apart the system. What we did was to create a focus at the NSC, both through the National Security Advisor and through the Director of Counterterrorism, who I think did an extraordinary job, and I think, as many of you know, I think Dick Clark was an enormous civil servant who provided a considerable amount of energy and drive into action to that. But I think that what is clear and clearly what I've advocated here is that we try to work it through an existing system. We made the changes in PDD 62, but we still relied on the lead agency concept and we still weren't able to deal with the two barriers that I talked about which is the divide between foreign and domestic and the divide between law enforcement and intelligence.

We had endless discussions with the FBI and the Justice Department about how to solve these problems. But without, I think, direction not only from the President, but also from Congress and from leading voices such as the Commission, I think that the public support for the kind of changes that are needed now is possible. But that's why we have to, I think, have the kind of leadership that you all can show in making that happen.

MR. ROEMER: Given what you learned in the National Security Council during the 1990s and given the fact that you said that you learned more and more, especially after the African bombings,

especially after the Millennium threat, what specifically did you tell the Bush administration when they came into office about how to organize the National Security Council, so that it could respond quickly in a transition period to this imminent threat?

MR. STEINBERG: I can only speak for myself. I know that Mr. Berger had extensive conversations with him as well, but since I've also talked about this in some of my public writing since then, I think I can feel comfortable in saying, which is that I felt very strongly that the counterterrorism and the law enforcement intelligence connection needed to be brought explicitly into the NSC process. I wrote a short op-ed in the Washington Post in January of 2001, suggesting one model to do that because I think the theme that struck me most clearly was the fact that we were very much hampered by this divide and that this was something that the NSC had to get a hold of, that we could not simply allow that piece of what is crucial for our security to be held at arm's length from the most effective process of integrating these functions.

And then I thought that, while the President would need to have independent advice from the agencies, there needed to be a stronger role for the NSC to integrate all of those aspects. It goes beyond the law enforcement intelligence function. I also felt there was a need to integrate better the economic and political security side of our work because we're moving in a seamless world, where these lines that we built up over the years that have been mirrored in the bureaucratic institutions that we've created simply don't correspond to what we now have to deal with and that in order to have accountability for these things, we needed to have a place in which all these pieces came together rather than through separate stovepipes up to the President who, obviously, ultimately has all the accountability but who can't really manage it unless he has got a process that can help integrate these things better.

MR. ROEMER: And finally, Mr. Steinberg, you've been very helpful. When I was on the Joint Inquiry, we expressed our concern about getting access to the Presidential Decision Briefs. I think they are important for two reasons, one because not only do they inform the President about -- and other policymakers about what intelligence they've gathered from different kinds of sources and methods about what the threat might be but maybe even more importantly, how a certain group of people in the bureaucracy and the organization are able to put information together to inform and advise and warn policymakers. So it's very, very important, I think, as informative to policymakers, informative about the bureaucracy. What do you feel about PDBs?

MR. STEINBERG: There's certainly a very strong reason why, first, the dissemination of the PDB is very small and that the President and the executive branch has been very reluctant to share that more broadly. And I think that's appropriate. I think it is an important fact itself as to what the President and his advisers are focusing on in addition to the fact that, as you well know, some of the most sensitive information available to advisors is in that in ways that's just not available in almost any other intelligence product.

MR. ROEMER: Including the SEIBs?

MR. STEINBERG: Including the SEIBs. Absolutely. I do believe in the unique case that you are facing here when we really need to think about this process. We are being asked to make such core and critical decisions about the future of the way we do business to deal with this new threat that it is appropriate for the Commission to have access to this. But I take that on the basis that the Commission will treat it as a very special exercise and one in which -- with the sensitivity to why it is, as a general matter, that the PDB should not be generally available, because I think otherwise we would just undercut the PDB as the instrument that it needs to be of dealing with the way the President and his barely most senior advisors learn about the things that are most important to their job.

MR. ROEMER: Thank you. Thank you, Mr. Chairman.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: Thank you very much, Mr. Chairman.

Thank you, Mr. Steinberg, for being here and for your very helpful testimony. I would like to follow up very briefly on Commissioner Lehman's questions to you about priority setting and Commissioner Roemer's question to you about the operational role of the National Security Council.

You had -- it was PDD-35 -- the PDD-35 process, the ability to set priorities across the government for the collection of intelligence. But, as you just described with regard to the millennium, when you had warning that something was going to occur or might occur, the NSC had the ability to surge, to bring everyone to the table many times a week, often many times a day to break through the barriers among the different agencies, including the big barrier that you have alluded to, the barrier between domestic and foreign intelligence.

So this is my question to you. Absent the kind of structural reform that you have suggested and others have suggested where you literally tear down the wall between domestic and foreign collection and put someone in control of both, what is the role of the National Security Council in breaking through those barriers in a period of heightened warning as we had when Director Tenet made his statements in February of '01 that we're in a crisis period and need to be at our most wary? What is the proper role of the National Security Council in those circumstances?

MR. STEINBERG: To think about it, you have to think about the two different roles that the NSC generally plays, which is, one, their overall policy coordination and policy setting process and the other, what I could call a crisis management function. Both of them are critical but they're very different. The policy-making process is a deliberative process. It tries to set long-term goals and priorities. It tries to look at how you meld the different claims on time and resources and tries to think forward in a pro-active way about what needs to be done. It brings everybody to the table but the debates are important and they provide guidance for the decisions that agencies are going to make and to reconcile conflicting claims.

But, inevitably, those things don't touch on the operational side and for the day-to-day operations, we do rely on the agencies. One of the reasons why, I think, where we are now, I believe we should strengthen the role of the Secretary of DHS is because I think for many of the day-to-day responsibilities of Homeland Security, it would be important to have a Cabinet level operation official who is accountable and responsible for this set of activities and that responsibility should not reside at the NSC.

However, for crisis management -- and this is as true for dealing with crises abroad as it is with this particular crisis -- there are times in which you need to accelerate and intensify the focus of actors around the problem that requires high-level decisions and doing not business as usual, however good the business as usual is and business as usual can be quite good. I'm not meaning to disparage it. And there is a function there in which the NSC process continues to focus attention and make sure that timely information is brought to the table, decisions are being made in a timely way and there is an ability to review the way those decisions are being implemented.

But just as though we've talked about this as being a war, this is not an acute war. It has acute phases where we have particular heightened periods of warning. But it is simply unsustainable to think that we're going to solve the problem by having NSC principals meet every day to deal with this challenge. There are other things they have to do. We need to build a system that can embody as part of its business as usual a better way of handling this, understanding that in periods of crisis, we're going to have to surge and use this mechanism of crisis management in the NSC to deal with these extremely heightened periods.

MS. GORELICK: So if you were still Deputy National Security Advisor, I take it your advice on structure within the White House, obviously acknowledging that the structure within the White House is the prerogative of any individual president and has to mirror the way that person and his key advisers feel comfortable operating, but you would bring within the ambit of the National Security Council the Department of Homeland Security and the domestic intelligence capacities of the FBI, whether it's as the FBI or as some new entity. And I take it you would not then have a competing additional Homeland Security Council. Is that correct?

MR. STEINBERG: And I think the problem right now is we've ended up with what is arguably the worst of both worlds, which is -- I think it was possible to say at the beginning that we're going to have a very strong Homeland Security Council and a homeland security advisor who has the same role, clout, responsibilities that the national security advisor did. There'd be problems about the foreign and domestic scene, but you'd at least have a strong and dynamic process.

Under those circumstances you would not have a strong Secretary of Homeland Security. Alternatively, we could have a strong Secretary of Homeland Security who has large responsibilities for all the domestic functions, both within his agency and the broader domestic community, and then the NSC to bridge that gap. I think given the fact we've now created DHS, that latter model is the better model. It allows some of the domestic functions which the NSC is not particularly

connected to, particularly the FEMA-type connections, not to be something that the NSC has to worry about day-to-day, but allows us to both get the strength of an executive agency with implementation capability in a strong Secretary of Homeland Security. And the coordination across the foreign and domestic scene to the NSC with the deputy as exists now and is very capably by Fran Townsend, who has a full time responsibility for this job.

MS. GORELICK: Thank you for those clear and incisive answers.

MR. KEAN: Senator Gorton.

MR. GORTON: On the seventh page of your written testimony, Jim, I think in one paragraph you summarize as cogently as I've ever seen it the case against combining law enforcement with these preventive activities in the FBI, and in that, of course, you have many allies, at least outside of the FBI and the Department of Justice. But you go on to say with further reasons as you outline that a separate domestic security organization is needed for prevention. And then say that they are three possibilities for that agency.

In Justice but separated from the FBI, in the Department of Homeland Security or as an independent agency. Unless that latter is an awfully broad definition, aren't there more than three? Is it not at least conceivably possible, and I'd like your critique on it, to simply merge this function with the present CIA, or to do what John Deutch recommended, to have both the CIA and this domestic entity under a DCI, which from -- I think that's sort of a modest DNI, it isn't as broad as your recommendations on it, these backed off from that.

And wouldn't either of those be a superior response or way to respond to this because of this divorce, this present divorce between domestic intelligence and intelligence coming from overseas?

MR. STEINBERG: Maybe I wasn't clear enough in my written testimony. When I talk about an independent agency I had in mind reporting to the DNI. I mean, not as something separate from the entire system. I meant independent only that it would not be in any cabinet level agency. And so I completely agree with you.

MR. GORTON: Let's say, you know, this DNI idea has been around for years and the political objections to it from -- or at least the policy objections to it from Secretaries of Defense have always prevented it from being seriously considered. Even if we regarded a DNI as the ideal solution, my backup question to John Deutch, would it not be an improvement to have it married more closely somehow or other with the CIA, even if we don't have an overall DNI?

MR. STEINBERG: Absolutely. I completely agree with that. The only thing I would be careful about is I would not want to see this merged with the DO. I mean, I think that there is -- Justice, there is an MI5 and an MI6, it's a slightly different model because it reports to the Home Secretary. I would not want the -- I think it's important that the DO have its distinct functions from what this domestic intelligence service would be doing, and particularly in the collection function.

But I have no problem in saying that the model that you've suggested, because the very fact of giving the DCI that authority creates a mini DNI, in my view. I mean, it creates a broader spectrum of integration over the whole counterterrorism function, and the prevention function to the DCI. So whether we change the name or not, I think we've accomplished an important part of what needs to be done through the model that you've described.

MR. GORTON: Thank you, and thank you for a remarkable analysis.

MR. KEAN: Commissioner Ben-Veniste.

MR. BEN-VENISTE: Good afternoon, almost, Mr. Steinberg. And thank you for coming, it's good to see you again. I would like to turn from the theoretical to the historical, as you have ample experience in both of those areas. Secretary Schlesinger today testified that, and I think it's consistent with the general public perception, that there was an insufficient sense of urgency in the intelligence community prior to 9/11 about the terrorist threat, and particularly the potential for a domestic event.

That seems contrary to the testimony which you have given here today, which indicates that there were frequent conversations at the highest level within the intelligence community about terrorist threats, and so can you explain whether there was some sort of disconnect once there was a change in administrations, or was there a communication of the sense of urgency which you have testified about as our administrations transitioned from one to the other?

MR. STEINBERG: I think one of the hardest things to do from somebody who has been inside and now is outside is to pretend that we know what was going on in the administration that you're not serving. And so I'm very reluctant to make a judgment about what has been going on within the current Administration. I think we all rely on second and third-hand accounts, and I think we need to hear -- and I would certainly be uncomfortable with making judgments until I heard more from the current administration itself.

I want to go back to my main point, though, which is that I think that one of the problems, again, nobody disputes that one can always do more and in retrospect, post 9/11, there are things that one could say should have been done, indisputably that's true. But I want to convey the sense that there was a profound sense about the change in the nature of the world and that the absolute priority that the counterterrorism mission and particularly the al Qaeda threat represented.

I think one of the problems is that we could see at the NSC, a lot about what the CIA was doing. We got briefed all the time, we had access to learning about what their activities were both on the DO and the DI side. We had no transparency vis-à-vis the domestic side. There was a wall, and it was, as Ms. Gorelick said, the curtain was slightly raised during the millennium, when the rules were kind of bent, but for the most part that was not true. And so it's very hard for me to make a judgment, frankly, about how well things were being done on that side, because we didn't have oversight and were not thought appropriately to have oversight over that part of the process.

And I think that what we have learned from that is the need to establish accountability somewhere in the system so that when you say, well, was enough urgency given, were enough priority, you can say, here's where the responsibility lies. And I think that there are two dimensions to that. Where is the responsibility on the intelligence collection and analysis side, and where is it on the policy side? And I think the American people are entitled to know that short of the President, who do we look to for these things?

And we must structure ourselves in a way that creates the incentives, where somebody has their authority and their accountability match up, and you can say, yes, they had the ability to make the decisions, and if they didn't make them then they're accountable, and if they did then they deserve the credit for what was done.

MR. BEN-VENISTE: Perhaps I was imprecise in my question. Let me go about it in a more direct way. You indicate that there was a high sense of urgency in your administration, particularly as you got to the millennium, with respect to the terrorist threat. It was, as you have said, the number one priority of the National Security Council. My question is whether that sense of urgency was communicated to the incoming administration.

MR. STEINBERG: I think undoubtedly yes. I mean, indisputably yes. That is, it was -- you could not have been sitting where we were sitting and spending our day-to-day and trying to describe to our successors about what we were doing day-to-day and not have that be the priority, because it was in fact what we were doing and it was transformative in terms of the way we did business, the focus that we had, and the activities that were the preoccupation of the most senior people not only in the NSC but in all senior levels.

MR. BEN-VENISTE: Thank you.

MR. KEAN: Mr. Steinberg, thank you very much for your articulate testimony. We appreciate it very much, it's been extraordinarily helpful. We will take a break now, I would remind commission members we have a very important meeting now so if you have any business to do, personal or otherwise, if you could do it as fast as possible and join in the back for our meeting. Thank you very much. We'll reconvene at as close to 1:00 as we can.

(Recess.)

MR. KEAN: Okay. I'll call the hearing back to order and I want to apologize to the witnesses and to those of you here. We're way behind schedule and it was because we had some extraordinarily important committee business, something that has come up very recently, in fact, today. But I thank you for your patience and the panel is on the topic of warning. Should we change the way the government prepares and issues warnings of terrorist attacks? We've asked three witnesses with long experience in the intelligence community to address that particular questions. Mr. Richard Kerr, former Deputy Director of Central Intelligence, Dr. Mary McCarthy, visiting fellow at the Center for Strategic International Studies and former National Intelligence Officer for Warning, and Mr. John Gannon, Staff Director, House Select

Committee on Homeland Security, and former Chair of the National Intelligence Council and Assistant Director of Central Intelligence for Analysis and Production.

We will hear the panelists' views on questions such as what are the essential methods or principles for analyzing and preparing warnings of surprise attack. Were they properly applied before 9/11? What is right and what is wrong with our current system of warning? What needs to be done to improve our ability as a government to provide better warning of catastrophic terrorist attack? Your prepared statements already are being entered into the record, and I think, Mr. Kerr, if you would begin.

MR. RICHARD KERR: You want to change the order?

MR. KEAN: That's fine with us.

MR. RICHARD KERR: Well, thank you. I appreciate your inviting me. It's a very important subject to address and I thought I would -- I have one important thing that I need to say at the beginning, just for full disclosure. I about a month and a half ago, two months ago, was asked by the Director of Central Intelligence to review the organizations in the intelligence community responsible for counterterrorism, which included the CTC, Counter Terrorism Center, and the new Threat Integration Center. And that report was due on the 15th of October, and we will provide it to the Director tomorrow -- we need our deadline -- but because of that, and because of the fact that he has not seen that report yet, I'm a little reluctant obviously to talk about the details of it, but still are quite willing to talk about the larger issues and the issues surrounding it.

On Warning, I was in the analytic business and involved what I thought was the warning business for something like 35, 40 years now at this point in time. And I tended to think of Warning as an integral process to the fundamental intelligence process, not as an offline business. The main objective, it seemed to me, in warning and looking at the threat was to look for -- understand first of all, country problems and issues that extended beyond countries' trans-national issues -- but try to identify the key threats and fundamentally to look at discontinuity. Trying to understand what might change that would make a significant difference, or have a dramatic impact.

Intelligence is quite honestly very good at continuity, as most of us are. Things usually happen the way we think they're going to happen. Events turn out the way we -- nine times out of 10 the way they have turned out in the past. It's that small amount that turn out differently, the discontinuity that becomes incredibly important and those tend to constitute the failures, if you will, in intelligence or policy or in the full dimension of national policy.

Warning in my view -- I spend a lot of my life, as I said, working on intelligence and working on warning, but warning that was relatively static. It was strategic warning on the Soviet Union. It was looking for large changes in military capabilities. It was looking for changes in emphasis, changes in different strategy. But it was strategic. It was while there was current intelligence and short-term

threat analysis. It tended to be the minor part of that larger Cold War kind of intelligence that I was involved in.

Clearly terrorism brings to the problem, as do some other areas like weapons of mass destruction, an immediacy -- not only a strategic problem but an immediate tactical problem. It seems to me both require, as did the larger problems in the past, the same fundamental things. They require first of all clear understanding of the problem. They involve a good deal of research and in-depth analysis. Before you can put pieces and make sense out of them, you need context. You need to have some place to put them.

There is a premium I think in this area of terrorism and counterterrorism, a premium on structuring information. One of the most difficult problems is to identify the problem. My experience in intelligence is the areas where I've made mistakes, and I can tell you I've made enough of them on my own or with others -- the help of others. The problem was not so much in many cases that we did not have information; the problem was that we did not understand the appropriate question to address, and therefore missed a key element.

I think that one point I would make here today is that I think it's terribly important for a commission like this, and I think you probably do at this stage, but it's terribly important for the American people to understand the limitations of intelligence. It is not an all-seeing, all-knowing organization. We had that impression for a number of years, an omnipotence, that was useful in some cases, but it is no longer a useful label to have on it. We deal with uncertainty, we deal with fragmentary information, we deal with supposition. We do not often have a full array of information. It's terribly important to understand that.

I was talking to a reporter the other day who was saying, "Well, you could do a lot better. You're paid to do a lot better." And my reaction to that was, "Tell me who's going to be the Democratic nominee in 2004. Tell me who it is? You have perfect information. You have polls, you can talk to all the people, you have history with you." It should be an easy problem, right? Well, then try to deal with Saddam Hussein who protects his information, who's 3,000 miles away in a culture we don't fully understand. I mean, there is I think too much of a view that says that this is a kind of all-knowing complete understanding that intelligence has.

In fact, in my view we're doing rather well in the foreign intelligence area and in some other areas. In my view we will have another terrorist attack and it will be a successful attack, and that attack will show another intelligence, if you will, failure. More than likely it will show an inability to get the right information in the right place, in the right hands, with the right understanding of the problem. And that is the challenge of the counterintelligence elements today.

One last statement. I would say that if I were in 9/11 -- prior to 9/11 if I came to -- if I was the Deputy Director for Central Intelligence and I came to the Hill and I said I wanted to increase -- "I've identified a strategic threat," and there had clearly been a strategic threat identified prior to 9/11. "I have identified a

strategic threat and I want to increase my budget five or six or seven times. I want to put billions of dollars into it. I want to increase my manpower by the hundreds." I'm sure the reception I would have gotten from my own comptroller, from the organizations within my own organization, from the Congress, from the executive, from OMB would have said, "Wait a minute. Wait a minute. We know this is a threat, but that is a rather -- an overreaction to a problem." And I think that's important to put that in some context. We have increased significantly -- it would have been very interesting to look back, and maybe you've done that, at what the budget requests were prior to 9/11 and how those were responded to. How comptrollers and budget people deal with new ideas, with radical significant increases. Usually not favorable because somebody loses in that process. It's not just a full gain. Let me stop there and look forward to your questions in our exchange.

MR. KEAN: Okay, thank you.

Ms. McCarthy, you may.

MS. MARY O. McCARTHY: Okay, thank you. I don't have this on. Is it on now? No. Well, Mr. Chairman and commissioners, it's my honor to be here today. As you know, I have been a CIA officer for almost 20 years and have held positions in the intelligence community as a national intelligence officer for warning, amongst other things, and in the policy world on the National Security Council staff in two administrations. I'm here today to share with you some of what I learned about intelligence warning in the course of that experience, and from my own research and teaching. Thus, the views I express here will be my own and as a current CIA employee, I'll have to say they are not necessarily those of the Central Intelligence Agency.

First, I'd like to say briefly what I mean when I talk about warning. I am talking about more than just sound an alarm to say that a bad thing is nigh. I am, rather, talking about warning analysis as a process by which analysts identify threats, develop or imagine possible outcomes than explore the relevant data and demand relevant data that are not at hand, and they keep the decision makers informed. The idea is to be able to provide these decision makers with a series of assessments or warnings of increasing precision regarding the likelihood and proximity of the unwelcome event.

Such a system of warning analysis must also entail an ensured flow of information across agencies, and more and more today to different levels of government. And it also must have a reliable access to the information by means of integrated information technology. There is no question that analysis of and collection on the so-called transnational threats, such as terrorism and proliferation, have made the warning job more complicated. The mobility and the small footprint of the terrorist groups, for example, present greater challenges to intelligence analysts and collectors than does the job of following large armies, or even traditional insurgencies, whose range of activities is more clearly understood. But it is still possible, indeed necessary, to apply the same system of meticulous conceptualizing, sorting of data and vigorous dialogue with collectors that form the basis of sound analysis.

Secondly, it is crucially important that this strategic warning analysis be conducted as a separate activity from that which produces the daily analytic reports and threat lists, and where the pace of work simply does not permit reflection, research or exploration of alternative hypotheses. But that near-term analysis or tactical effort is strengthened by the strategic analysis, which provides context for fast breaking events and because the process identifies the most dangerous intelligence gaps and stimulates collection, the likelihood that the relevant helpful intelligence for interdiction in disruption efforts, for example, will have been collected.

Also, it is important to recognize that we are mere human beings who are doing this work. What we need to do is develop systems that will help us do the work better, while minimizing the known human propensities for error. In my written testimony for the record I recount in some detail the history of intelligence warning failures since World War II. Previous reviews of those events by Congress and by the intelligence community itself have recommended that a national intelligence officer for warning be created or strengthened or empowered to provide advice to the Director of Central Intelligence and to be the substantive leader on the discipline of warning intelligence.

The one thing that I would like to underscore in my testimony today is that having such an individual is not sufficient. Rather, it is a system that is needed with expert analysts in each analytic area dedicated to the task of big picture analysis and the exploration of alternative hypotheses. And finally the Congress, with its budget and oversight authorities, has a role here as well. There is much that Congress can do to encourage the necessary reforms and establishing ongoing review mechanisms to ensure that these reforms endure.

Thank you, Mr. Chairman.

MR. KEAN: Thank you.

Mr. Gannon.

MR. JOHN GANNON: Thank you, Mr. Chairman. Mr. Chairman, in -- am I on? Okay. Mr. Chairman, in my written statement I argued that warning in my view is a subset of the rigor and discipline that should be characteristic of all intelligence community analysis. And while the administration and the general public may be disappointed to find out what we don't know, they should not be disappointed in the rigor that we apply to the analysis that we do on what we know and what we don't know.

What I argued for in my written testimony was greater emphasis on interagency training and interagency approaches to raise the standards with regard to warning and analytic trade path overall. There is a clear need to achieve connectivity among the analytic programs as electric connectivity and also collaborative technologies across those programs so that you can have the analytic programs work together, including on warning issues. Outreach. That is, recognition by all the intelligence producers that information we need to deal with the complex set of issues that are before us. The expertise and a lot of the information now resides outside the intelligence community is not going to be picked up in traditional collection systems and we have to

have ways of getting that information and to some degree our analysts have to be out there to get it.

I also stress the importance of accountable leadership in any of the changes that we make, and also the -- in my experience in the intelligence community, particularly in the last six years when I was Deputy Director for Intelligence and then moved on to -- at CIA, and then moved on to intelligence community jobs, I saw what I thought was a very discouraging lack of a capability on the part of Congress and of the DCI really to evaluate programs across the agencies, in a way that he and then the Congress could really make judgments in the budgetary tradeoffs that they are responsible for.

With those recommendations, I wanted to just use the remainder of my five minutes to say that it's easy to make these kinds of recommendations. You've heard them before. The question is how do you implement them? How do you get there from here? And in my experience of being involved in a number of commission studies, that was the essential problem. Sometimes very erudite, wise observations made about the community, but no direction on how you get to where the commissioners want to be from where we were in the intelligence community. And as a result, I think very often very little was actually implemented out of some very good work that was done in evaluating our performance.

I believe that intelligence community reform should not be seen as an exercise in major surgery. I believe there are a lot of smaller things, bite-size things that can be done that will I think help move us in a constructive direction. I would strongly argue that the analytic community is ripe for reform in ways that I think can be done. It can be done reasonably cheaply and I think with very positive effect on improving the quality of analysis and the discipline that goes into it. I also think that at times the community is burdened with the notion that intelligence community reform is a zero sum gain: either we do it all or we don't do any. I think we should remove that notion and identify those areas where we really can make progress and then proceed with the reform. Any reform needs to -- I think with regard to analysis, does need to be interagency in its scope, given the issues that we're covering today, and the interdependence of the community both technologically and with regard to the threat environment that we face. I think there needs to be accountability built in for the initiatives that we adopt. There needs to be sustained -- sustainability.

I presented to you, in addition to my written statement, a copy of the strategic investment plan that was produced by the analytic community of the intelligence community back in 2000/2001, and I cite this just as an example -- or a case study of how well the community can do when it is brought together. But also I wanted to bring it to your attention as something that I believe is not sustainable unless we approach these kinds of challenges in a more structured way.

The strategic investment plan looked out 10 years and we had the 11 agencies who produce analysis working together over a period of two years on this plan. And I believe what they said about the threat, if you skim it, it was right and I think the intelligence community needs to be given a lot more credit than it is given on understanding the

complexity of the integrated threat environment that we were facing in the late '90s and up to 2001.

It prioritized across those programs strategic goals for interagency training, which all the members thought and all the program managers thought was important. Having accessible interoperable databases, developing connectivity and a collaborative work environment, and a system that would enable us to prioritize not only the analytic issues that we're working on on a continuing basis, but collection. Having analysis much more involved in assisting collectors to understand priorities in a more complex world.

It also looked at outside expertise and how we could in our various programs avail ourselves more of the expertise that was out there. And also an open source strategy, which I believe the intelligence community really has not been able to achieve to the degree that it needs to, given the importance of open source information. I would say -- or would tell you also that I was Chairman of the National Intelligence Council at this time and we did a project called Global Trends 2015, which was an effort to show the intelligence community how engaging with outside experts could be done to enhance our understanding of the future and to improve our ability to prioritize.

The strategic investment plan also said very clearly that we need to expand the mandate of the intelligence community and warning organization to include a leading role for it in competitive and alternative analysis. That is, bringing technology to bear on the rigor that we apply to our analysis. It also recommended, just for your interest, the consideration of an intelligence community fusion center, recognizing that we needed to have a better capability to fuse data to integrate foreign and domestic analysis and so forth.

So let me just say in conclusion that there are pluses and minuses to this experience. I think the experience of the strategic investment plan showed that there is tremendous collaborative potential in the analytic community, and this was a part of the wisdom of Congress in establishing the Assistant Director for Analysis and Production and collection positions in the first place. Data was shared. A predecessor's study to the investment plan was actually an effort to understand how many analysts we have in the community, what their capabilities are, what their shortfalls are, what they're working on, what their priorities are. And while there was great resistance initially, the programs shared data and we were able to make some basic findings about the community before we moved into the strategic investment plan.

This was never an attempt to unify the budgets. Legally we couldn't do that. But it was an effort to show what the various programs are investing in and whether it was consistent with what we had identified as the objectives for analysis. And that -- I did participate with the Defense Intelligence Agency, for example, on their budget planning process, and I think it was a very constructive exercise. What this was about -- it was also not about consolidating programs. I think the analytic programs recognized that they are dedicated -- their analysts are dedicated to very specific and defensible missions, either operational, collection or whatever, and we

did not want to homogenize the effort. What we wanted to do was understand the differences, but find common ground for sensible strategic planning. What are the common needs and language training and understanding collection management and so forth.

My point to you finally is that this kind of exercise, however much work went into it, I don't believe is sustainable in the intelligence community the way it is now structured. I think the ADCIAP, the Assistant Director for Analysis Production for Collection, and actually the Deputy Director for Community Management, those positions were established by Congress but they were put in a staff, a community management staff. And I believe two things. If you really want these programs to be sustained in the kind of modest reform that I'm talking about, I think you have to do one of two things. They have to be given a program status within the intelligence community, or preferably in my judgment, they really have to be put into the resource base on top of which the Director of Central Intelligence sits, and that means CIA.

I think the -- if you want to sustain efforts, really build structure and resources around these initiatives, the DCI does have to be in charge and I think what this calls for is a return of Central Intelligence to CIA in the way that I think Walter Bedell Smith, the original director of Central Intelligence, envisioned it. I'll stop there.

MR. KEAN: Thank you very much, Mr. Gannon. The two lead commissioner questions will be by Senator Cleland and then Governor Thompson. Other commissioners will follow with questions after they've completed their questions.

Senator Cleland.

MR. CLELAND: Thank you very much, Mr. Chairman.

Mr. Gannon, you said that Walter Bedell Smith was the first Director of the CIA, wasn't he Eisenhower's Chief of Staff?

MR. GANNON: Yes, he was, sir, yeah.

MR. CLELAND: So there was a sense in 1947, after World War II and after Pearl Harbor and after four commissions looked at Pearl Harbor and looked at all of that, that there was a need for centralizing intelligence, where you had somebody like Eisenhower's chief of staff in effect pull it all together. Is that your reading of that period of time?

MR. GANNON: It is. I think what we was trying to do was a coordination function.

MR. CLELAND: Coordination?

MR. GANNON: Yes.

MR. CLELAND: Then we move to now, where the most recent book on 9/11 called, "1,000 Years For Revenge" by a guy named Peter Lance says, "The mass murders of September the 11th were the culmination of a plot

that had been in the works for seven years. The pathology that spawned it had begun to infect our country another five years before that. Twelve years. That's how far back I followed the trail to 9/11." That's the author here. "With all the dots on that line, why couldn't our government see it coming?"

He refers to 9/11 as the greatest failure of intelligence since the Trojan Horse. That might be a little bit exaggerated. In the sense that Pearl Harbor was looked upon as a tragic failure of intelligence as well. My question to each of you, starting with Mr. Gannon, is two-fold. Who is responsible for warning this country of an attack on this nation, and who's accountable?

Mr. Gannon?

MR. GANNON: Well, I believe the President of the United States is responsible for warning in that context, because he's not only dealing with intelligence but all the resources of the government and his responsibility for them. But I also believe that his major intelligence advisor should be and must be the Director of Central Intelligence, as a single focus on a warning.

MR. CLELAND: Ms. McCarthy?

MS. MCCARTHY: Yes, I agree with John. The President is ultimately responsible and the Director of Central Intelligence must have the apparatus to be able to provide those warnings to the President. As far as who is accountable, I think that's what the Commission is discovering, and hopefully what we will discover is that our systems were not adequate. I'm not talking about technical systems, I'm talking about our organizational systems, were not correctly configured to address these kinds of threats. And the systems that we had in place during the early Cold War period at least that developed the warning mechanisms had more or less atrophied, so that our direction was a little bit different.

Now, whether or not there are individuals in individual positions that were accountable, I leave it to the Commission to determine.

MR. CLELAND: Well, I actually asked you who was responsible for warning who? I didn't say systems, which systems or which agency, I deliberately asked the question, who is responsible for warning this country of an attack on itself, and who is accountable? I'm not pulling your chain here, I'm trying to make a point here. Are you saying systems are accountable?

MS. MCCARTHY: No, I'm saying that --

MR. CLELAND: Mr. Gannon says the President of the United States is accountable and then the CIA Director, or DCI, is responsible.

MS. MCCARTHY: Yes, Senator, I was saying that the systems were faulty, therefore they may be in part responsible, not accountable. I think accountability is a person, ultimately, but I'm not in a position to make that judgment.

MR. CLELAND: Well, after Pearl Harbor, two people were relieved of their jobs. The Naval commander at Pearl Harbor and the Army commander at Pearl Harbor. No one has lost their job, no one has been held accountable, no one has been fired for 9/11. I'll just throw that out. My whole point here is in this whole section on warning of transnational threats and this whole warning system concept, I thought that's what the defense system and the CIA and the intelligence community did.

See, that's been my point. I sat six years on the Senate Armed Services Committee, and I was always told about the intelligence community. But when I looked into it, the intelligence community was more than a dozen different agencies, stove-piped into a dozen different budgets, 12 different systems that were responsible or accountable to six different cabinet level secretaries. So my point is that if the community is responsible, then nobody's responsible. See, that's the whole point.

And shouldn't we have a centralized point of warning and accountability? Others have testified today about that need. Do you have a point to make about that? A real head of the intelligence community, call it the National Director of Intelligence, Director of Central Intelligence, empowered with budgets and authority. Do you have an opinion about that?

MS. MCCARTHY: I absolutely agree. I mean, what you have laid out, Senator, I think is necessary.

MR. CLELAND: Mr. Kerr?

MR. KERR: Well --

MR. CLELAND: Who's responsible, who is for warning this country, and who's accountable?

MR. KERR: Well, I would agree with John in terms of presidential accountability. It does seem to me that the Director of Central Intelligence has a very clear charter as the principal foreign intelligence advisor to the President. So certainly in that area. Now, to hold the Director of Central Intelligence responsible for information in the domestic arena, at least prior to 9/11, I think is a mistake. I don't think that's a -- that is not in his area of responsibility.

I do tend to -- you referred to Pearl Harbor. I think both of those were -- both of the ones court-martialed, as you mentioned, were wrong, in fact. And in history, in hindsight, we had strategic warning that Japan was a real immediate threat, strategic warning. So one can go back much further than those two officers, I think, and find responsibility. To try to find a focus of holding a person responsible or a single organization responsible for an action that occurs against the United States, I personally think is a mistake.

This is a complex country, the Congress has responsibility, the courts have responsibility, individuals throughout the executive have different responsibility. I think you need much better focus than we have now, I think you need a much clearer line of reporting and much

more clarity in that. But to say you need a, you know, as the military would say, belly button, I think is a simple answer to a complex problem.

MR. CLELAND: I don't think so. First of all, my Daddy served at Pearl Harbor after the attack. I'm well aware that Admiral Kimmell and General Short were not really responsible for Pearl Harbor, they were hung out to dry. And I voted in the Senate to reverse Admiral Kimmell's court martial, as a matter of fact.

My whole point here is this. A few years ago Senator Pat Roberts, who's a dear friend of mine and has a great sense of humor, was subcommittee Chairman on Terrorist Threats or Emerging Threats in the Armed Services Committee.

And he brought in people from all kinds of agencies, 20, 30 different people, and said, okay, sit in the order in which you're involved in the chain of command. And there was this musical chairs. And that was a powerful point that he made. What I'm suggesting here is that if we use the term intelligence community that means nobody's accountable, nobody's responsible. See, that's my whole point. We've got a committee here, and so we have to -- I think part of 9/11 is that somebody somewhere in the lexicon didn't connect the dots.

But it's more than that. Didn't see or wasn't able to read the tea leaves and put things together in this mosaic that we called intelligence information. And if nobody's in charge then, nobody's going to be pulling all this together. So I asked the question deliberately, since this is on warning. Now, we now know that the FBI was responsible, President Reagan made the FBI responsible for in effect terrorist attacks and this is a massive failure on the part of the FBI. But as we've discussed, the FBI is not culturally attuned to warning.

It's culturally attuned to prosecution. So, what do we do about that? Where do we pinpoint the accountability and the responsibility for dealing with the question of warning against the terrorist attacks that does come across the bright lines. The bright lines were there in the Cold War. That was their line and this is our line. No more bright lines.

Mr. Gannon, you have any comment to make?

MR. GANNON: On a solution, or --

MR. CLELAND: Yeah, on the recommendation. Now, we've had recommendations here --

MR. GANNON: Well, first of all --

MR. CLELAND: -- about strengthening powerfully the Director of the Central Intelligence --

MR. GANNON: Well, I think in my own view I guess I wouldn't be as hard on the FBI as you have just been or as the author of that book has been. I think the threat of 9/11 actually came from abroad, so I think it's the conundrum we face, that we had a challenge where a lot

of the intelligence and the planning of that operation was abroad, it was not domestic. And I would also say that going back to Dick's point about sometimes not having information, sometimes information is knowable but not retrievable. And an example I would give you is that the Hamburg cell in Germany where we know a lot of the 9/11 was planned, it would have been a real breakthrough for us to have known that that planning was taking place. And it didn't have to be HUMINT, it could have been SIGINT, it could have been any one of the INTs, it could have been any one of the INTs, but the point is we didn't know.

Why didn't we know? Was it an intelligence failure? I will tell you it had a lot more to do with the fact that the relationship between law enforcement and intelligence in Germany was very distant and that's exactly the way all of us wanted it because of Germany's particular history. There was also a legislation of the books in Germany that did not allow the government to go after organizations that were religiously based, and this planning was being done in the cover of a mosque. So what we have done since 9/11, we have worked with -- I think we have achieved a level -- or the intelligence community has achieved a level of collaboration that's unprecedented in not just intelligence but on the political and legal fronts where we have gotten those laws changed, not just in Germany but in the United Kingdom and Spain, so I think that we are recognizing that we were hampered not by intelligence but by a lot of other factors that prevented us from knowing what we needed to know.

To answer your question, I happen to believe working the Department now from the Homeland Security environment and having come out of the intelligence community that the domestic challenge that you're talking about, I think, can be addressed by a Department of Homeland Security that has major information collection responsibilities, as dealing with the 22 agencies that have come into the Department, and both training them to be collectors of information but critically providing them with threat assessment so they know what they should be collecting. This is just information, not clandestine intelligence, and there's a lot of information in our ports, our borders and our airports. I think the Department of Homeland Security could greatly improve our posture with regard to the analysis of the domestic threat, simply performing that domestic function.

I also happen to believe that FBI, whatever its failings or its case orientation, can do the intelligence collection effort if it is resourced and directed to do so.

MR. CLELAND: As one who --

MR. GANNON: It's a combination of the --

MR. CLELAND: As one who was an author of the Homeland Security bill, I understand that. We can get a lot of intelligence, shall we say, from the first responders, the policemen on the beat and so forth. I understand that. What I'm talking about is the national strategic responsibility for warning this country. This book says that -- we're talking about Germany here -- it says from the early 1990s, Osama bin Laden was running an active al Qaeda terrorist cell in New York City. The FBI had sufficient intelligence to capture the bomb maker before he even attacked the World Trade Center the first time in 1993.

The point being here, some have said that we don't need radical surgery, we don't need major surgery here, but we've had a major attack on our country, we've had a major intelligence failure and what I'm trying to ask you all is, what is your best way that you would recommend to us that we think about structuring warning? Ms. McCarthy? And who's accountable for that?

MS. MCCARTHY: I would go back to my initial remark, and that is I think that having a single individual below the Director of Central Intelligence level, who is the substantive expert on warning, is one solution but not the entire solution. The entire solution would encompass integrating the warning function into every single analytic unit in the intelligence committee and making sure that that's their mission.

MR. CLELAND: Can we follow up on that from some of the readings, some of the testimony here. I understand that the people who were involved in Warning were somehow separate or different than the people involved in normal analytical efforts. I thought all analytical efforts, all data, all information was out there to estimate what the threat to the United States was.

MS. MCCARTHY: Not everyone would agree with me on this, but I think that the conscious effort to do warning analysis on much of the community actually had gotten diverted to the exercise of producing the daily intelligence that needed to be produced for senior policymakers, and on the issue that you cited earlier about the early identification of an al Qaeda cell in New York, for example. That to me is an indication that the kind of warning analysis on the counterterrorism front was not taking place. In other words, we tended to look at individual cells and individual activities and actors rather than at the broad strategic cultural picture to identify the kinds of activities, the kinds of goals and missions that these groups would intend to have, and my fix for that would be -- and I don't have a notion that this is the only fix, but my fix for that would be to have -- on the counterterrorism issue, which I think is sui generis in terms of its complexity -- would be to have a central component.

I don't favor a new agency, because if you develop a new agency, you end up having to develop a new culture, and trying to fix the cultures we have already is difficult enough. But I would have a separate component that would deal with all of the information across the government including domestic intelligence, all the information including information from state and local levels and from the private sector, when available, to do the warning job on counterterrorism. I would not have that particular -- it's a difficult choice, because I think it's very dangerous to have that component involved in any kind of collection or operation.

Then you end up with -- as a citizen rather than as an intelligence expert, that would concern me. That you have a group of operatives, essentially, who are used to very proactive -- in a different kind of legal framework -- activity, undertaking domestic operations. So I think it has to be solely an analytic component. But it would also have to have some way of stimulating collection, which I think makes it very difficult to try to kind of visualize or legislate

such a component, because it's kind of a fine line sometimes between collecting -- particularly in domestic groups -- and interfering in their lives and First Amendment issues and so on. But that would be what I would favor.

MR. CLELAND: Thank you, Ms. McCarthy.

Mr. Kerr, a comment? In terms of how to enhance our warning capability and our accountability for warning in this country?

MR. KERR: Well, I think you do need to strengthen the position of the DCI, the authorities of the DCI in a number of areas. And I would agree with John. I think it's very important to go back to a concept that thinks more clearly about a Central Intelligence Agency. Call it what you wish, but one which incorporates those functions in a much clearer way.

I do think there are two other things that are worth looking at. One is there is nothing like information when it comes to analysis. You know, you can have a ton of analysis and an ounce of information and not get very far with it. We were information short. And I understand this concern about all these dots that needed to be connected. It's easier to do that in hindsight than it is at the time. It is the relationship among information that's not associated in anybody's mind or in the machinery, or have the analytic techniques or the analytic methodologies to do that.

There are ways to do that. You know, there are ways to mine databases that have unconnected information and apply logic to it and do some very sophisticated things. It still comes down to people, good research, good analysis and people committed to it. And quite honestly over the past -- in my view, and I think John and Mary would probably agree with me. Over the past several years, quite a few years now, our analytic base for research in-depth has been sacrificed to current intelligence and to other ideas. We've spread around people on staffs, and while John will talk about all these nice new community management staffs and the analytic staffs, those are staffs. Their value-added and my judgment is interesting, but not critical. So I think we need a lot more people who do the work.

I had this feeling at one point in time we were going to have an organization that was kind of an inverted pyramid. There was one analyst at the bottom and everybody was sitting on his shoulders, or her shoulders. And there is some truth to that. We need people to do the work, not just manage the resources.

MR. CLELAND: Thank you very much, Mr. Kerr.

Thank all of you for your service to our country.

Mr. Chairman, thank you.

MR. KEAN: Thank you very much.

Governor Thompson.

MR. JAMES R. THOMPSON: My question primarily is consisting of re-plowing plowed ground, so I'll keep it brief. But I'm struck by something that you said, Ms. McCarthy, and I'll use that as a lead off to the question that I'd like all three of you to answer as clearly as you can. We talked about this this morning with earlier witnesses, Mr. Deutch, Mr. Schlesinger, and for me it wasn't fleshed out enough.

You said, Ms. McCarthy, there ought to be an element or a component for analysis that took into account both domestic and foreign intelligence, but that you as a citizen sort of drew the line at collection. See if you can agree with me on this, in the old days, the Cold War days, where it was nation state against nation state, it was us versus the Soviets or their proxies and the issue was land armies that moved, or missiles that were manufactured and moved around. There was a clear difference between domestic intelligence and foreign intelligence.

Now we have private actors on the scene, al Qaeda and Osama bin Laden and their proxies around the world in dozens of countries literally, united perhaps by language if not by religion, so that national boundaries to them are less important. The ability to move money around this world through technology didn't exist back in the '40s and the '50s. Immigration has produced a different nation than we were 30 or 40 years ago, we now have ethnic enclaves which we sometimes suspect harbor planners or those who would aid terrorism if the indictments of federal prosecuting authorities are to be taken at face value.

Doesn't this argue for the elimination of this organizational difference between the collection of domestic and foreign intelligence? Doesn't this argue for taking the functions of both the FBI and the CIA and other agencies in that regard and putting them into a single agency which reports up to somebody who's got the ability to spread all of this combined information, not only before the president of the United States, but the analysts responsible for warning and would you favor the retreat from what our Cold War organizations were?

MR. KERR: Are you asking?

MR. THOMPSON: All three of you.

MR. KERR: Well, let me take a stab at it. I think what you've described as putting that person that does the -- that walks in with that final bit of information in a role that's pretty distant from the people that do the work, that take action on a daily basis that know how to respond to it. I'll tell you, I go -- I've gone in this job, I mentioned to you that I've been working for George Tenet in the last month and a half, I've gone to his 5:30 meeting which is a meeting of George and his principle officers that are involved in the clandestine services, someone from the Homeland Security, someone from the Bureau, his counterterrorism person, John Brennan from TTIC and a variety of others.

That meeting, I would guess, is the closest you can come to an operational meeting where someone says, I want to do the following, go do it, talk to somebody in this country and tell them not to do this tonight, because we're worried about it, do something else. It is an

operational role that is, in my experience, when I was in the Agency that the Director of Central Intelligence did not have, did not need to have, because we were not in that kind of immediate kind of situation. George Tenet, I believe, and I -- I've gone to some of the other meetings and no one else in government, other than perhaps George Tenet and his meeting with the President in the morning, does that kind of operational level detail.

Now, I don't know how to replicate that, and at what level you do it, but I know it needs to be done. And quite honestly, I've talked to some people about this and they'd say, well, you talk about micromanagement, that's the ultimate in micromanagement. The guy is the top of the Central Intelligence Agency, and Director of Central Intelligence, who's making operational decisions, but that's the way it works in fact. That's what you have to do, because the things that are being acted upon make a real difference. Liaison with other countries, with the Bureau and its case, with the Homeland Security and its action.

Now, can someone else do that? It's not obvious to me that someone more distant than George Tenet from the people who do real stuff, who send real messages and say, talk to foreign liaison and wrap those people up tonight, or talk to the Bureau and do a real action, if you get much farther away from that ability I think you're in a fair amount of trouble. So I don't know how far -- how much further you can centralize it? It does sound like micromanagement to me but from my perspective that's really damn good micromanagement, that's doing the hard work at the right place. So, you know -- I don't know that if I designed -- you asked me can I design a system that will be better? I wouldn't have come to that conclusion that he should do what he's doing, but having watched it and listened to it and seen it operate, I'm pretty impressed by how good it works.

And I'll tell you, if he wasn't there right now doing what he does at 5:30 to 7:30 every night, a lot of things would fall between the cracks. And so you know, how do you turn that into an institution, an organization? Right now, it's a leadership, because he's got the target on his back, he's the guy that feels he has the responsibility to do it, and he's doing it. Now, how do you institutionalize that and make that a part of the system? And over to you, that's a good question, I don't understand quite how to do, but I think it works reasonably well, not perfect.

MR. THOMPSON: It strikes me as ironic that you took some comfort from the fact that the laws were changed in the U.K. and Spain and Germany but we haven't changed the laws in the United States.

MR. KERR: Well, foreign liaison has always been in the system.

MR. THOMPSON: Ms. McCarthy?

MS. MCCARTHY: Well, I think there's a dilemma, and I don't know what the answer is, but I think on balance it's easier to modify the culture of the FBI to collect domestic intelligence and to use the departments -- the agencies in Homeland Security that collect a lot of intelligence that John was recounting, border patrol, customs and so on, and send that intelligence to a central place where it's -- it

along with foreign intelligence can be analyzed but does not, but the head of that component does not direct operations. The system that Dick has just described wherein the DCI takes some responsibility for orchestrating domestic and overseas operations at that level is probably a good one.

But again, we're dealing with a legal framework here that we've become accustomed to and which I think that doesn't mean we can't change it, but I think we take some comfort in the legal mechanisms to oversee the current domestic agencies that are not the same mechanisms, for example that our foreign intelligence agencies serve under. It's easier in my view to have a single individual to oversee that process than it is to change the cultures and the legal framework to sort of yank us around to have a new organization. That's where I come out on.

MR. THOMPSON: John?

MR. GANNON: As an analyst and a practicing analyst for most of my career, I think we have to distinguish between the analysis in integrating foreign and domestic and data fusion and so forth and then collection. I think it is in the collection area that you do really have the legal problems and concerns, domestic concerns about having \$40 billion worth of collection systems working against our citizens. I think that's a profound issue of concern. But it began, as an analyst, even 25 years ago when I was an analyst on the Caribbean, I didn't have to depend on a collection system which is a human brain, that naturally integrates foreign and domestic analysis.

When I was analyzing the Caribbean I knew what the trade implications were in the United States, I think I would have been a failure as an analyst if I didn't. So I think to some extent in the dialogue that's taken place today, there's an exaggerated notion in the analytic community about this distinction about foreign and domestic. I would also say that I don't believe you could structure any analytic program today that wouldn't integrate foreign and domestic analysis, that wouldn't use the best technology to fuse data, and that wouldn't share information. So again, a lot of I think there's a certain mythology that's grown up about that.

But I do think there are some real concerns that I think were addressed, and Senator Cleland was a part of it, went in the framing of the Homeland Security Act. You know, we recognized that we need to improve foreign collection on CIA's part, we recognized that the FBI had some work to do with regard to the intelligence function that we expected it to perform, but there were also some significant residual issues that related to the fact that we had new stakeholders now in our national security arena and they were the state and local governments and the private sector. They were the first responders to whom we needed to providing intelligence.

And when you deal with those communities, there are very significant civil liberty and privacy issues that have to be addressed, it's a new model of information sharing as I said, both with the legacy agencies that are coming into the Department, making them really intelligence collectors, but then also sharing with the state and local government and the private sector the intelligence community I think it was correctly perceived, was not the agent to be doing that. I think

that was the justification for establishing the Department of Homeland Security Act, and I continue to believe if we sort of get back to that legislation called for, having a department that really can work with the legacy agencies of the state and local government and the private sector, developing a new model for information sharing, I think that is -- that will help us to address the problem.

At the same time, strictly on the collection side, I think we have to work with FBI to enable it, to resource it, to do a better intelligence collection on the domestic side. The concern, of course, among those agencies as I worked with them, both in the transition planning office and now on the committee, is who is responsible for actually articulating the threat? And there's been a real tension between the FBI and the Department with that regard.

But what has resulted and I said this in my written testimony, is that when we ask for a briefing on the domestic threat, we now have CTC, TTIC, the Department of Homeland Security and FBI which tend to come as a family which looks larger to us than it ever was, so I think we are at risk of at least creating a certain confusion or perception that we have divided accountability. Again, I think with the implementation of the Homeland Security, standing up a department that has the capabilities that that legislation calls for, having FBI strengthen its capabilities and the same on the foreign side, the President is accountable, he has three different sources of expertise and I think that is -- in my judgment, is workable and it will improve our posture both on the foreign and domestic side.

MR. THOMPSON: Thank you, Mr. Chairman.

MR. KEAN: Congressman Roemer, and then Secretary --

MR. ROEMER: Thank you, Mr. Chairman.

Nice to have all three of you here. We very much appreciate your testimony and I hope -- I know on our part it was certainly worth the wait, we apologize for the long delay and I hope, although I'm not claiming it will be, reciprocated on your part. Dr. McCarthy, I want to ask you a couple of questions, I've read some of your extensive writing on the National Intelligence Officer for Warning, and I want to be clear. You were Officer for Warning?

MS. McCARTHY: Yes, I was.

MR. ROEMER: And you were serving in that position when?

MS. McCARTHY: I served as the Deputy National Intelligence Officer from 1991 to 1994 and then '94 to mid '96 as the National Intelligence Officer for Warning.

MR. ROEMER: So, mid '96, so about five years you had experience in this position --

MS. McCARTHY: That's right.

MR. ROEMER: -- and then you've written extensively on this as well, too. I believe in your writing you have said that in 2001 when

the 9/11 terrorist attack took place, that the National Intelligence Officer for Warning did not have responsibility for terrorism, is that correct?

MS. McCARTHY: Well, I don't -- that's my understanding, that's correct. That some time after I left the position in '96 I think sometime around that time, it was decided that, and I suppose although I can't say this authoritatively, that the counterterrorism center would in fact have that responsibility. In any case, the National Intelligence Officer for Warning did not have terrorism as part of his portfolio.

MR. ROEMER: Explain to me and explain to the American people who may be watching this, how is it that the National Intelligence Officer for Warning at the Central Intelligence Agency tasked with telling the country when there's an imminent threat, and certainly through the Joint Inquiry hearings we heard of the alarm and the record chatter in the summer of 2001, that that person did not even have it in their portfolio? To warn the CIA nor the country about a threat from terrorism or al Qaeda?

MS. McCARTHY: Mr. Roemer, I really can't speak with first hand knowledge of how that decision was made, I was as you know, down at the White House by that time.

MR. ROEMER: But the decision was made and to the best of your understanding they did not have that in their portfolio, is that correct?

MS. McCARTHY: That's to the best of my understanding, that's right.

MR. ROEMER: And if that was the case in September of 2001, has that been fixed?

MS. McCARTHY: I don't know. I don't know, I believe that is still not the case, so if the follow up question then is who does have responsibility, I can't answer that but maybe Mr. Kerr can.

MR. ROEMER: Well, as I move on to somebody else, and I don't mean to hone too much in on you, it's because you have such good knowledge in this area. My next question would be, why hasn't it been fixed, and then who has responsibility for warning our country about terrorism? Mr. Kerr, before I ask you the question, you were the one that said in your very eloquent and helpful statement, that you would predict that there's going to be another terrorist attack, it's going to be successful, why haven't we fixed the system at this point?

MR. KERR: Well, I -- John may have the specific dates but my understanding is that the decision was made that because you had the Counter Terrorism Center, because you had both analysts in it and you had collection people in it, and it assumed responsibility for the judgments about the threat, that having the warning function performed where the bulk of the people, large number of people were working on the threat itself, was the most logical place. An NIO for Warning, you know, Mary will excuse me I'm sure, lives off the other organizations, they have very little staff, they fundamentally have to live off the

other organizations. What they can do, and this is a point that's legitimate I think implicit in your question, is they can ask questions in a different way, or turn the problem around slightly from what the analytic elements might do.

But I think the anticipation was that given the size of CTC, the collection, the counterterrorism center, the fact that the bulk of the analysts, in fact, many regional analysts had been transferred there, and their responsibilities that it would be a better organization to assume this larger role. And John may be able to help a little bit, but I think that's the logic behind it. And why they didn't recreate it, I think is the very reason that they moved it there in the first place. It is where the bulk of counter terrorism work is done today, and was done at that time.

MR. ROEMER: I'm still not sure I understand how that's going to be helpful post 9/11 in terms of getting warning out and fixing a system that had some real problems in it, but John can you -- Mr. Gannon, can you help at all in explaining why that officer was not responsible for terrorism and if it in fact has been fixed at this point?

MR. GANNON: Well, I think there were -- prior to 9/11 I think there were -- there was more than one officer who was responsible for articulating the terrorist threat. If you will pardon me, if I could go back to that point, and I left the intelligence community about that time and I think the major problem we were having and those officers were having was prioritizing the various threats we had. I recall going to the I think it was the Armed Services Committee with Director Tenet and Senator Levin at the time, did what he does so well, he said okay, you have laid out for us, a very rich and diverse threat assessment here.

We were talking about the ballistic missile threat, a growing threat now from Iran, Iraq, North Korea, a residual threat from China and Russia, we're worried about the military modernization in China, you're talking about more regional threats like in Bosnia, Africa, we just went through the crisis in East Timor. Terrorism in all its dimensions, so it wasn't just conventional, that we were talking about chemical, biological and biological was a major concern, because we didn't know what we needed to know about the biological threat. But radiological, nuclear and then you know, humanitarian disasters and refugee flows and all those other issues that intelligence officers are being required to deal with, how did you put -- Senator Levin said, well tell me one to 10, what are the real threats, what are the most important ones?

And the Director responded, if any of those happens, I'm accountable, I can't prioritize. I went back and got some analysts together and tried to prioritize and what we came up with was a terrorist threat, probably abroad. And this was just very close to the eve of 9/11. But I would also say that we were dealing with a stretch at the time of our resources to deal with what I would call conventional kinds of threats and then the new technology based threats. We talked for example, about terrorists or adversaries who might be able to get hold of laser technology and do damage to our satellites.

So here we had a community that was being forced to deal with the new technological threats, but at the same time, while we worried about lasers we still had to worry about the Palestinian who would throw a rock. Because of the political implications of that. So, we couldn't prioritize, the Congress could not prioritize either, and we were hit by a terrorist incident that we would not have ruled out, in any of the exercises we would not have ruled out that that could have happened, or it might even be probable, but what we would have needed was hard intelligence that it was about to happen. So we --

MR. ROEMER: Can I ask you a question on that light?

MR. GANNON: Sure.

MR. ROEMER: We saw Dr. Schlesinger this morning, hold up a graph with a bunch of dots scattered all over it, of equal size and difficulty of deciphering and reading. And then he held up one with some rather large red and green, yellow dots that were easier to find and hopefully analyze and decide what they meant.

What do we need to do to help our strategic analytical capabilities so that when there are clues, not clues that say X is going to attack New York City on such and such a date at 11:50 p.m., but clues that say -- like the Bojinka plot -- that say that a plane is going to be flown by terrorists into CIA headquarters in Langley, or other evidence comes in that we have a body of strategic analytical thinkers and people that come back with different kinds of controversial or disagreeing statements about something, that they could put that type of evidence together. The Joint Inquiry listed probably two dozen instances of planes being used as weapons. How do we restructure that so that those dots look bigger and that we have an opportunity at least to prevent that kind of terrorist attack from taking place.

MR. GANNON: Well, in my experience with intelligence community analysts, the best dot connectors are, in fact, people. It's brainpower that does it, it isn't systems. But you do have to have systems in place that enable the brains to come together. And this is really what the Strategic Investment Plan was all about. I think -- as the Assistant Director for Analysis and Production, I could not communicate with the eleven agencies that were doing analysis electronically. I had three different systems on my desk, one computer with two CPUs, and another system that enabled me to communicate with the CIA's CWE system, which was an excellent system.

So I could actually talk to a station chief in a remote station and get a response quicker than I could talk to the Director of DIA, because of the lack of connectivity and collaborative technology.

MR. ROEMER: Within CIA headquarters?

MR. GANNON: I was in CIA headquarters, yes. And so I think those -- bringing the analytic community together, and I'm not talking about homogenizing it and I'm not talking about reducing CIA's -- but recognizing that you have, for example, in the United States Air Force -- I think it's the major repository of science and technology

expertise in the community -- places like Fort Patrick have tremendous capabilities that can be brought to bear that could help us and bring tremendous brainpower to dealing with these issues.

So I think bringing the analytic community together, which again, this is not rocket science and it is not a very hard thing to do. But creating a collaborative environment where the director of Central Intelligence can call on the Air Force, the Army down in NGIC down in Charlottesville, for example, and have that expertise working the same set of problems together so that he can do -- advise the President really based on what the intelligence community as a whole and also that community's ability to leverage outside expertise can do, and not just be narrowly focused on what the CIA can do for him.

So I think the -- the analytic community I think did recognize how it could do better, but I think it struggles, partly because of the resistance within the community, to having those kinds of collaborative relationships developed.

MR. KERR: Just one comment I agree with John, although I would -- I think it's very easy to overstate the analytic connections. You can do an awful lot with a small group. The real key is in information. Hard insight, information coming out of penetrations of terrorist organizations, could foreign intelligence. You can have as good a collaboration as you wish. You can go around and talk to everybody, you can involve everybody in it, but if you're arguing about information that's ambiguous, unclear and imprecise, it will not carry you to the warning -- through the warning problem. You need hard, specific factual information out of foreign intelligence collected against the elements that are planning.

MR. ROEMER: You're talking about, Mr. Kerr, human intelligence --

MR. KERR: You need human intelligence --

MR. ROEMER: -- unilateral and foreign liaisons.

MR. KERR: -- or a full range of intelligence, but you -- but it has to be intelligence directed against, in my view, against the organizations that are planning. You can analyze all you want. And, I mean, we're all analysts here and we've done -- I've analyzed information that led you nowhere for years because we didn't know enough. We spent the first 15 years of our work on Soviet ICBMs, we never accurately identified where a Soviet ICBM was because we didn't have a picture of the site until we had satellite reconnaissance going over an ICBM site. We were misestimating where they were and that problem is compounded.

I mean, it's the same kind of problem, not the Soviets but the same kind of problem. There's nothing like hard information. And analysis will carry you so far but only so far. And if you're going to do your investment, that I would say -- if you're going to do an investment about where you spend your money, it would be very useful to think about where you get the biggest bang for the buck. And as an old analyst, it's not clear to me that it's in analysis.

MR. KEAN: Congressman Hamilton.

MR. LEE H. HAMILTON: Mr. Gannon, I was struck by your comment a moment ago about prioritization. And it always seemed to me that this was one of the key problems. And you're all from the intelligence community. Who has the responsibility to prioritize and how does it work? I mean, you have all of these threats out here that when we listen to the intelligence people, scare you to death. And any one of them could cause great damage to the country. Is it the intelligence people that have the responsibility to prioritize, or is it the policymaker that has that responsibility, or is it some interaction between the two? You have to prioritize threats.

There are dozens of threats against the United States and it makes an awful difference how you allocate resources as to how you prioritize those threats. You have thousands and thousands of targets in the United States. It makes a huge difference how you prioritize those targets. Now, the tendency, I can tell you, of the policymaker is not to make the decision, because it's too tough and because you could be wrong. And therefore you want to do everything, but you can't do everything, because you don't have the resources to do it. How do we get a better sense of prioritization of threats and targets in this system?

MR. GANNON: When it comes to actually doing something about a threat or developing policy, I think that is on the political side. But I think the development of an integrated threat assessment which explains what we know and what we don't know, is I think, the responsibility, and should be, of the Director of Central Intelligence. He has been --

MR. HAMILTON: When you were ticking off all of those threats a moment ago, I think, with regard to Senator Levin's question, did the intelligence community at that time respond to the Senator and say, these are the threats and these are the priorities of the threats?

MR. GANNON: We made an effort that I described when I went back with our analysts. But again, I think we have the analysts who are responsible for these accounts and --

MR. HAMILTON: Is it the responsibility of the analysts to come forward and say, okay, we've got a dozen of these threats and this is the order in which we see the seriousness of those threats? Is that your responsibility?

MR. GANNON: I believe it is the responsibility of the Director of Central Intelligence to bring the analysts together and to prioritize to the extent you can, and also to explain why you can't prioritize with regard to the intelligence issue. I'd say on the operational side that's the responsibility of -- and the policy side, the responsibility of others. But I think it's very important to hold the DCI accountable for that prioritization or for an explanation of why we cannot prioritize.

MR. HAMILTON: So the DCI then should make known to the President and perhaps his top aides, Mr. President, these are the threats the United States faces and we put this at the top of the list and we put this at the bottom of the list?

MR. GANNON: Yes.

MR. HAMILTON: That's their responsibility.

MR. GANNON: I believe so.

MR. KEAN: Secretary Lehman.

MR. LEHMAN: Thank you. I have two questions. The first one you're at liberty to duck, but I'd like to hear any of you who have a comment on it. It's a follow-up to Chairman Hamilton's.

We had testimony this morning that the NSC was totally mobilized after '98 to focus on terrorism, and specifically al Qaeda. The DCI had sent a memo shortly thereafter saying that we were at war with al Qaeda. Yet by the end of the Clinton administration and on into 9/11 itself, the sum total of that was that terrorism had to have been dropped from the NIO for Warning's portfolio, and there were only five people in the entire CIA who were assigned to al Qaeda. Who gets the blame? What went wrong? And don't say the system.

(Laughter.)

MR. GANNON: Well, I was in a position as Chairman of the National Intelligence Council and as Assistant Director for Analysis and Production to see a lot of what was collected and a lot of what was produced, and there was not a single day that went by that I didn't see UBL, Usama bin Laden, related traffic. So I believe it would be inaccurate to say that we did not have a major program in place to analyze and to collect against Usama bin Laden. I would also say that the major change I think -- I left the intelligence community in July of 2001, and I believe the date where the major change occurred in the intelligence community with regard to the approach to terrorism was 11 September, it was not 20 January.

I noted no difference in the approach in the change of the administrations.

MR. LEHMAN: Okay. Anybody else?

MS. McCARTHY: I'll just try to add something to what John said. The fact that the NIO for Warning no longer had the terrorism account I think points to my earlier statement, that sort of bureaucracies take over and the NIO for Warning turns out to be not always a popular person. And that's why I urged that the Commission, that they make a recommendation on the NIO for Warning, not just say that we need to have an empowered NIO for Warning because bureaucracies will win out again.

My perspective, however, was that there was a lot of work going on on al Qaeda, and I don't know where the information comes from that there were only five people, because I personally saw lots of people who were both analyzing and working on the collection against UBL during that period. What I think was missing was what I described earlier, and that was to Senator Cleland, which was the overall picture of al Qaeda, and the development of that picture from a strategic

perspective that had more to do than what individual actors were doing, but what the strategic picture was in terms of the cultural impetus and the networks and what was driving recruitment, you know, particularly.

We had a vague notion of what this was, oh, it's anti-Americanism, oh, it's the American presence in the Gulf, but a much more learned appraisal was needed of the strategic view of al Qaeda, and that's what was missing. And I know there certainly was an increased effort, but it was not probably proportional to what we perceived to be the threat at the time.

MR. KERR: I would respond by saying --

MR. LEHMAN: Dick, could I -

MR. KERR: Mr. Chairman, I regret that I have to excuse myself to make another appointment, and I'd be happy to come back or in any way assist any of the members.

MR. KEAN: Thank you very much, we appreciate your help.

MR. LEHMAN: Thank you.

MR. KERR: Secretary Lehman, in response to your question, I was asked in -- I don't know the exact date but sometime around probably '97, '98, with a couple of other people to come in and review the counterterrorism program as an outsider. And quite honestly, at that time as I looked at it, I thought the activities that were going on against al Qaeda and others were rather impressive in terms of the scope of their activities, the coordination with NSA and NIMA and the other organizations, a very focused attack on information and on activities.

But I would pose a larger response to your question, and that is, the relationship between the expenditure of money and the hiring of analysts does not very directly relate to the priority given to problems in the intelligence community or policy problems generally. Now, why? Because the system is very difficult to move around. So you say, this is my priority, the DCI I'm sure would have said many times that terrorism is my priority. But when you get down into the bureaucracy, when people start arguing, well, how about weapons of mass destruction? And how about what's going on in the Soviet Union? The future development of nuclear weapons or in Korea or in this and that?

Then the system tends to break down, and what you end up doing is spreading it around. You spread around the money, you spread around the analysts. So the relationship between priority and resources and expenditure of money is a hard one to come by. You know, if you're the DCI and you say, how much have we really increased in this area, you get a lot of fluff back, quite honestly, and a lot of dancing around. And my guess is that is -- the direct response to requirements is very hard to pin down in the intelligence community.

One thing the DCI does not really control, the resources of NSA, or the NIMA or DIA or the NRO, he has some influence, but he cannot say, this is your priority because it's my priority. You know, one might want to think about whether you should change that. But no one

can really say, this is our highest priority and by God we're going to have our resources and our manpower and our activities relate to that. And I personally think that's a mistake. I think the system should be more responsive. I think you can jerk it around too much and lose your place, but I think it needs to be, and as Lee Hamilton said, he's been through -- we had in my experience five or six major systems to get priorities.

They all involved the executive. They all involved we'll have a meeting at the beginning of this year and we'll bring in the Secretary of State or the Deputy Secretary of State and the deputy of this and that. You have one meeting and they say, you've got to be kidding, and I'm not going back to another meeting like that. So then you get somebody down in the system, pretty soon it's all intelligence officers talking to each other. And that's not all bad, because they have some idea of the threat.

But sooner or later those systems break down to the lowest common denominator, because other people have too much to do, they don't think it's that important, the system's not that good.

MR. LEHMAN: But that's letting the system do it. I can guarantee you there have been times when there have been decision-makers in these agencies who didn't let that happen. And we talked earlier about the way that the system worked at one period under Kissinger, where everybody came to every one of those meetings because they were terrified if they didn't he'd move the money where he felt like moving it and have the President sign an order laying off half of one analytic section and adding the bodies to another.

So you cannot blame it on the system, it is people making these decisions. And that leads to my second question, which was precipitated by my distinguished colleague, Senator Cleland, with whom I almost never disagree. But I must disagree today, and that was in the Pearl Harbor. I've studied a good bit of the Pearl Harbor aftermath, and as some of the evidence has come to light since, like the discovery of the mini submarine off Pearl Harbor, and I think they shot exactly the right people in General Short and Admiral Kimmell, and they shot them for the right reasons. Because they had succumbed to Groupthink in their intelligence staffs, who had accepted the view which became unquestioned in both commands, that though both of them knew there was going to be war within days, there was no lack of warning that the Japanese were going to attack. But the Groupthink had both accepted the fact that they were going to hit Singapore and the Malay Archipelago first. And so Short and Kimmell both sent the troops home for the weekend, closed down the radar on Sunday, gave everybody leave, and he was dressing for golf, Kimmell, when the report came in from the O'Kane that a Japanese sub was trying to get into Pearl Harbor and he dismissed it. So that is my question. My own short experience in the government in the '70s and '80s,

I encountered perhaps more Groupthink from CIA than any other agency. And they were all guilty of it, not the least being naval intelligence on their particular view of what the Soviets were doing. There was an unquestioned orthodoxy that didn't change for a long time. But two examples of the Groupthink that became dominant in CIA that screamed out warning, in my judgment, strategic warning of other things that did

then happen, were in Vietnam it became the house view in CIA that all the supplies for operations in the south came down the trail.

Now, there were dissident views from operating people actually operating within CIA, but the house view was -- and they defended it and got more entrenched as the war went on - when in fact, it turned out some 80 percent came in through Sihanoukville. We only found that out afterwards. And then Secretary Schlesinger earlier today testified about his rather famous fight with CIA over Soviet intentions on the SS18s, where CIA had a house view that the Soviets were not going to go beyond parity. They wanted to achieve equality and then that was it.

Of course, subsequent events proved that wasn't at all what they were doing but there was a -- any bureaucracy has a way, if the top guy or the top NIO on a subject has made the judgment on good and honest basis that everything was coming down the trail. It is not particularly career enhancing for some junior analyst to tell the boss that he's totally wrong. And so there gradually becomes an orthodoxy in any big bureaucracy and CIA is, I think, particularly prone to it. How do we break that culture as we proceed in this war on terrorism? Because it is a factor and some of it can be assisted perhaps by these organizational changes we have and some of it depends on the personnel and what kind of a culture you cultivate in the agency. Your views?

MS. McCARTHY: Well, it is a huge problem and it is one that I think cannot resolve just by organizational changes or by pronouncements that from now on, we want to see more alternative hypothesis, discovery by alternative hypothesis investigation. It's not going to work. We've tried that in the past. My own view is it has to be legislated and people have to be made legislatively accountable and there has to be continual oversight and I would suggest a continual review and I suggested that we may want to have something like the GAO take the responsibility under legislation for doing an absolute review of the strategic warning function within the intelligence community, not just CIA but the intelligence community at large or perhaps another staff that the Congress may wish to establish. But I think it has to be legislated.

We've been through this dance several times now with warning failures followed by investigation followed by recommendations to have more attention to warning. And we have more attention to warning for a short period of time and then the sort of culture, the dominant culture in the bureaucracy take over. So we have to say most of the time, it works. Most of the time, they are very bright people, they do very good work. And most of the time, they get away with it. But it's when they don't that the sort of warts of the system, if I may use the word, are revealed. So I think it's going to take more than just a recommendation to fix it.

MR. KERR: I would -- I mean, I understand your points about Sihanoukville and about the Groupthink. But I think, quite honestly -- and it will show my parochialism but even people who are parochial could be right occasionally -- I think the institution is much richer in dissent than you would -- I mean I found an organization where I could and I thought others around us could argue all kinds of issues and take them very high in the system, if you could make a good argument. I mean, you have to be careful with cranks who have an

argument but have no basis for it. But I think it was an organization that was quite transparent in that way and actually the debate within the organization is constant, always arguing. We argue at every level.

My analyst, when I started as a junior analyst used to argue with me about things I already published in the current intelligence. He would come in the next morning and rewrite it for me to show me how wrong I was. We would argue about everything. We had this sense about all kinds of things. The Navy is a very interesting problem too. We had a continual fight with the Navy on everything and quite often, we were right and not the Navy. Sometimes we were wrong. But it's a rich -- that's what I think you get out of an -- it's a matter of leadership. You don't always have it. Some issues, you do get caught up in a Groupthink, kind of thing where you're convinced you're right. Evidence just supports you so well.

You know, I would give the organization a lot more credit in looking at it historically. You want to look at Vietnam, apart from the trail down the Sihanouk, and you'll see a very strong story of dissent: dissent with NACV, dissent with Washington, dissent with all the people that said what was going to happen in the war was a very clear argument. Now it wasn't always right but if you are looking for one organization that was on the right side of it, you'd have to go to CIA, quite honestly. Very rich debate. Very rich argument. Lots of debate inside the organization. So I wouldn't sell it short on that. It's not big organizations that make mistakes but it's also pretty darn good on a lot of issues.

MR. LEHMAN: Point well taken. Just one follow-up. How do you preserve that diversity, that openness, that willingness to accept defeat --

MR. KERR: Leadership --

MR. LEHMAN: -- if you over-centralize, if you bring all of the agencies under one hierarchy, which to a greater or lesser degree is going to have an orthodoxy?

MR. KERR: I think that is an issue, a serious issue. I think one would have to be very careful about too big an organization that's too well organized, that doesn't allow dissent and I think it's still true in that -- when I was Deputy Director, people walked into my office on a regular basis and said, You don't know what the hell you're doing. You've got this thing so sprawled and so screwed up. Analysts, not some senior officer. Somebody coming in saying, You're all wrong. You're doing it wrong. I think that happens today.

You have to have that intimacy. It's a fairly intimate organization that works together rather well. And I think you need -- I don't know what would happen if you had a Director of National Intelligence and everybody was in this nice, neat structure and it was all kind of very well organized. Would it be better? I don't know. I'd like to think about it. I'm not an organizational person. I think you can beat any organization. You can go around it, run over it. You do it in if you're smart enough and clever enough. You can get the right thing out of it.

MR. KEAN: Final question for Commissioner Ben-Veniste.

MR. BEN-VENISTE: I would like to pick up on something that Mr. Gannon raised earlier, which is that one of our greatest assets is the brain power of the individuals who are performing the analytical function, something that I very much agree with just based on my own human experience rather than the kind of experience that you bring to us. First of all, we read in the newspaper about various individuals in key roles resigning their positions at a time now. I notice that nobody here on this panel is currently in the administration. Yet the collective investment in your intelligence, in your experience is very significant. And so that's one thing I'd like you to comment on and that is the recruitment and retention of individuals who are capable.

Secondly, the collegiality that we've talked about is obviously lacking in terms of the kinds of counter-indications of husbanding intelligence information, husbanding views within each of the many, many separate compartments and agencies which collect and analyze information.

Mr. Kerr, I must take issue with something which you said earlier and that is the fact that if you had a heck of a lot more money, maybe you would have gotten the kind of intelligence which was specific to the 9/11 threat. Yes, clearly, if you had known, if we had known that al Qaeda specifically was going to direct airplanes, hijacked airplanes into our buildings, that would have been very useful to know in interdicting. We are in a war against an adversary that recognizes the danger of penetration which is very insular in its make-up, is compartmentalized and so doesn't necessarily offer that opportunity. Yet, prior to 9/11, we knew that al Qaeda was planning a major effort against the United States within the United States. We knew, as is reflected in the Joint Inquiry report, that at least on a dozen separate kinds of plots, airplanes were considered to be used as weapons.

My goodness, the CIA itself was a target of a plot to fly an airplane into the CIA headquarters and you have, by the same token, an indication from CIA that al Qaeda operatives have entered the United States and you have from the FBI information that suggests that individuals from the Mid-East in the United States, in flight schools, in numbers, learning how to steer aircraft, disregarding landing or taking off. Now, isn't that enough information to get some collaborative group together and figure out maybe airplanes are going to be used as weapons in the next attack against the United States and provide sufficient information for warning and countermeasure steps?

MR. KERR: Clearly -- first of all, if I implied or I said that using more money would have solved the problem, I didn't mean it that way. I said if you're going to have more money, how you invest it would be important and quite honestly, I would invest it in clandestine -- getting secret information out of the inside of terrorists, not on other things. But so if I said other than, I misspoke.

In terms of the question that you ask, I don't know the details of the events leading up to 9/11 as well as you do. I mean, that's not something I'm expert on. I would say, however, what little I do know, that the way you put it, the neatness with which you described it does

not, it seems to me, reflect the situation as it really was. I said of disconnected events that while if you had all those on your desk neatly arrayed, one, two, three, four, a reasonably good group of analysts could have gone down and associated them.

When you're looking at a world of information and my guess is today, if you went to CTC and to TTIC and said, tell me information, the best information you have today and I assume you talked to John Brennan and the CTC people, they would say, Let me show you, give you some idea of the multiplicity of warning that we have. They're going to blow up a bridge. It's going to be a power station. It's going to be this, it's going to be that. It's going to be overseas. That information though doesn't come with enough specifics to allow you to do more than go back, try to follow up a source, follow up another source. The idea of then taking that and following it to action, that's what I was saying earlier. I think right now George Tenet is in the process of doing action each night, of taking action against things. That's the key.

Now, how we -- why we didn't do it, I just don't know enough about it. And the way you put it would suggest we should have known. But my guess is it's not that straightforward.

MR. BEN-VENISTE: I'm not suggesting it's simplistic. But with the billions of dollars that we spend in this country on intelligence, on safeguarding our security, the question is when two separate agencies of government have in their possession this amount of information and yet they are not talking to each other, would you not agree that there must be for the future, whether it has to be crammed down the throats of those who are protecting their turf, some kind of integration of information --

MR. KERR: No question --

MR. BEN-VENISTE: -- it breaks apart this historic inability to share information.

MR. KERR: There's no question and there's no question that the integration of domestic and foreign intelligence didn't exist except in a few areas, maybe counterintelligence and a couple of other areas and there was exchange at some level. But an integration of real and analytic integration, it's not clear to me that it exists completely today. It's better. People are doing better with that but that's a very challenging -- and certainly was not done prior to 9/11. I think there's no question about that.

MR. BEN-VENISTE: Thank you, sir.

MR. KEAN: Thank you very much, Commissioner. Ms. McCarthy, Mr. Kerr, thank you very much. It was lively, interesting and I appreciate very much the time you took to be with us and to help us today. The hearing record will remain open for 10 days, if anybody wants to add anything, correct anything.

And we will now be adjourned.

Thank you all very much.