

**Prepared Statement of
former Chairman Thomas H. Kean,
Vice Chair Lee H. Hamilton and
Commissioner John F. Lehman
National Commission on Terrorist Attacks Upon the United States
before the Senate Select Committee on Intelligence
September 7, 2004**

Chairman Roberts, Vice Chairman Rockefeller, distinguished members of the Senate Select Committee on Intelligence: We are honored to appear before you today. We want to thank you and the leadership of the United States Senate for the prompt consideration you are giving to the recommendations of the Commission. We thank you for your support.

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

Reviewing the past several weeks

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

- We believe we have made important progress. From the outset, we have had statements of support from the President, and from Senator Kerry.
- We testified 16 times during the summer recess. We appreciate full well how unusual it is for Congress to hold hearings in the month of August. We welcome the opportunity to speak with respect to the whole array of recommendations we have made.
- We thank the Congress for the opportunity to explain our work to the American people.

Legislative Efforts

Mr. Chairman, we recognize that several Senators and Committees are now working to draft legislation to address Commission recommendations, and we are deeply grateful to them for their work.

Mr. Chairman, you put forward a proposal a few weeks ago entitled the "9-11 National Security Protection Act." We commend you for your leadership. You have reflected on the work of the Commission. You have been unflinching in your own examination of the Intelligence Community. We commend you for preparing a far-reaching, ambitious proposal for reform.

Mr. Vice Chairman, you have conveyed your own views on reform to the Senate Governmental Affairs committee. We have studied your suggestions. We found them to be important, thoughtful, and constructive.

We see a clear convergence in these proposals toward:

- The creation of a powerful National Intelligence Director, with control over the budget, and with hire-and-fire authority;
- The creation of a National Counterterrorism Center; and
- The creation of additional National Intelligence Centers.

Both you – and we – find the status quo unacceptable. We studied the 9/11 story. We explained, in chapter 11 of the report, the significance of management issues both large and small.

Our basic premise is that good, strong management of an enormous enterprise so central to countering terrorism is necessary. Good management opens the way for many particular reforms, including improved collection of human or signals intelligence and improved analysis. The results of good management cannot be specified with precision in advance. Innovation and creativity cannot be legislated. But good legislation can create the conditions where better things can happen.

You have the benefit not only of our work, but also the superb report of this committee on intelligence assessments of weapons of mass destruction in Iraq. We saw your work on Iraq before we completed our report. It reinforced our conviction that the time has come for fundamental change.

We know that there are some differences between the Commission's proposals and those you have put forward. We will be glad to discuss some of those specifics with you. We welcome the refinements of the legislative process. What impresses us most is that there is a consensus for change. We want to work with you to seize this opportunity for reform.

We know that organizational changes are not a cure-all. The quality of the people is more important than the quality of the wiring diagrams. Good people can overcome bad structures. But why should they have to?

Americans should not settle for incremental, ad hoc adjustments to a system designed generations ago for a world that no longer exists.

Executive Orders and Directives

On August 27th, the President issued 4 Executive Orders and 2 Homeland Security Presidential Directives.

President Bush has come a long way. As the White House said, these orders have “strained the limits” of the President’s authority. The White House has stated plainly that its actions on intelligence reorganization and on the National Counterterrorism Center can thus only be interim measures, and that they await further work by the Congress. For example, in its briefings on August 27, White House spokesmen emphasized, in very strong terms, that the National Intelligence Director must be an office separate from the head of the CIA. But only Congress can take that step.

We appreciate that the hard work ahead is now the task of the Congress. We appreciate that the Commission did not address every detail, and that the Commission does not have a position on every question. Some of your questions will go beyond what we as a Commission decided. Several matters we must leave to your discretion and good judgment.

We want to return to some key themes. We want to make clear here what we support, and what we do not support.

The National Intelligence Director

We believe strongly that the National Intelligence Director should be created by statute, and should be a Senate-confirmed position. An Executive Order strengthening the current Director of Central Intelligence is not sufficient to the task.

We believe that the National Intelligence Director should not be the head of the CIA. It is an impossible task for any single individual to run effectively both the CIA and the agencies of the Intelligence Community. The head of the CIA should report to the National Intelligence Director as one of his deputies.

The National Intelligence Director must have clear legal authority over budget, personnel, information technology, and security procedures within the intelligence community.

- He must have the authority to prepare and execute budgets.
- He must have reprogramming authority.
- He must have hire and fire authority over the key senior officials within the Intelligence Community.
- He must have the authority to set uniform standards for security and classification.
- He must have the authority to create common standards and the application of new network capabilities to foster information sharing.

We cannot solve the problem of information sharing within the Intelligence Community unless there is a National Intelligence Director with the legal powers to compel sharing and create the structures so that sharing can take place. The National Intelligence Director needs these authorities if he is going to be able to transform the Intelligence Community to meet the challenges of the 21st century.

If the National Intelligence Director does not have these strong authorities, we oppose the creation of such a position.

The National Counterterrorism Center

We believe strongly that the Director of the National Counterterrorism Center should be a presidential appointee, confirmed by the Senate. The Director should be a high-ranking official at the Deputy Secretary-level (Executive level II).

We do not believe that the National Counterterrorism Center can carry out its mission successfully if it is part of the CIA or part of any existing Cabinet Department. In this regard, we believe the Executive Order making the NCTC subordinate to the CIA is a mistake. The responsibilities of the National Counterterrorism Center include actions across the government; they are not confined to any single agency.

The Director of the National Counterterrorism Center should report directly to the National Intelligence Director on everyday issues and intelligence matters. On policy matters beyond intelligence, the Director would report to the President and the National Security Council.

The National Counterterrorism Center needs strong authority to influence relevant intelligence collection. It should have primary responsibility for net assessment and warning.

The operational planning responsibilities of the Center should not be limited to broad strategic plans. They should extend to daily oversight of particular joint operations and explicit authority to monitor implementation of joint plans.

Vice Chairman Rockefeller's letter to Senators Collins and Lieberman offered a constructive suggestion to be sure that the Secretary of Defense retained his proper place in the chain of command for military operations. The Vice Chairman's suggestion is consistent with the Commission's approach.

The National Counterterrorism Center should have authorities giving it influence over budget planning and leaders of the government-wide counterterrorism effort. The National Counterterrorism Center should be able to hire its own personnel and not be totally dependent on detailees from other agencies.

We believe the creation of a National Counterterrorism Center must rest upon a firm legal foundation. New legislation is necessary to achieve this purpose.

Designing Network Capabilities for Information Sharing

Our report emphasized that no single agency can construct the network capabilities needed to bring all the agencies together and extend information sharing beyond the federal government.

We commended the work of the Markle Foundation task force, which has recently offered suggestions to this and other committees about how to translate these ideas into legislation.

We also wish to reemphasize that our recommendations for intelligence reorganization will enable action on this front as well.

Declassifying Budget Numbers

Mr. Chairman, we strongly believe that the overall budget of the intelligence community – as well as the top-line budget numbers for the component agencies of the intelligence community -- should be declassified.

Making these numbers public will improve accountability. There is much skepticism, even cynicism, about the intelligence community among the American people. Declassifying the budget is a step toward increased public understanding of the challenges facing the intelligence community, and the manner in which they are addressed.

We believe making these numbers public will help the Congress in its oversight responsibilities. Oversight doesn't get any harder than it does on the question of intelligence. Nobody else has access to the information. You don't have the press to help you. You don't have watchdog organizations.

- Opening the door – even a little --will help spark public interest, engagement and support for you in the difficult work you must conduct.
- Opening the door will also enhance the kind of hardheaded cost-benefit analysis that is necessary to ensure that the intelligence community uses its resources effectively.

Congressional Oversight

Mr. Chairman, we have been critical of the Congress on the question of oversight. Let us be clear here. You, the Vice Chairman and Members of your Committee have worked hard and long on intelligence questions, with great devotion to the nation's security. The current structure of Congressional oversight has made your work more difficult.

We believe that the Congress needs to change its structures so that they help you, not hinder you, in the conduct of oversight.

We are encouraged by the creation of a bipartisan working group on congressional reform by the Senate leadership, and we commend them for that important step.

We believe that the Intelligence Committees need to be strengthened considerably in the performance of their oversight work. We suggested the option of a joint Senate-House Committee. We also suggested, as an alternative, the unity of the authorization and appropriation process for the Intelligence Committees. We note that Senator Rockefeller endorsed this option in his recent letter.

The point here is a straightforward one: Whatever course the Congress chooses, we believe the committees of Congress charged with oversight of the Intelligence Community must be made stronger, with power over the purse strings.

Each of you knows that the Intelligence Community resists providing you information. Each of you knows that when the Intelligence Community doesn't like the answer they get from you, they go to another Committee for another answer.

We advocate a strong National Intelligence Director. We believe that stronger Executive branch powers must be balanced by stronger Congressional oversight. The case for stronger Congressional oversight – already powerful – becomes overwhelming once a new National Intelligence Director is created.

The Commission is asking the Congressional Committees to do a lot to make the Intelligence Community better. We are asking you to provide the long-term oversight in order to improve management and analysis. We are asking you to provide oversight over the improvement of human intelligence, especially the development of a diverse workforce with knowledge of the regions, language and cultures that we must understand.

We recognize that you cannot do the many things we ask you to do, unless you have the tools to do the job. The Committees charged with oversight of the Intelligence Community need, above all, control over the money. If you control the money, then we believe you can get the job done.

Closing Comments

Mr. Chairman, we do not want to get too fixated on charts, on boxes or the location of boxes. We believe that the creation of a National Intelligence Director and a National Counterterrorism Center are important. Indeed, our testimony this afternoon is about why these reforms are so important.

Yet reforms of executive branch structures, in the absence of implementing the other reforms and recommendations in our report, will have significantly less value than the value of these reforms as a complete package.

Reforms in Congress, as well as the many recommendations we did not present in detail this morning— on foreign policy, public diplomacy, the cooperative threat reduction program, border and transportation security, and national preparedness – can make a significant difference in making America safer and more secure.

In short, we welcome each step toward implementation of our recommendations. But no one should be mistaken in believing that solving structural problems in the executive branch addresses completely, or even satisfactorily, the current terrorist threat we face.

The first part of our recommendations dealt with substantive policy -- the ingredients of a global strategy. We hope those suggestions will get some fraction of the attention that has understandably been given to our ideas to reorganize the government. Our purpose in reorganizing the government is so that we can implement the ambitious, long-term substantive agenda spelled out in our Report.

We thank you again for the opportunity to testify before this distinguished Committee.

We should seize the moment and move forward on reform.

With your counsel and direction, we believe that the nation can, and will, make wise choices.

We would be pleased to respond to your questions.