

**Bipartisan Policy Center**  
**Congressman Lee Hamilton and Governor Tom Kean**  
**Testimony before the House Homeland Security Committee**  
**May 19, 2010**

I. INTRODUCTION

We are very happy to be before this committee this morning. We are grateful to Chairman Thompson and Congressman King for the invitation to discuss the challenges the serious and evolving terrorist threat poses to our nation.

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

NSPG includes the following membership:

- Mr. Peter Bergen, CNN National Security Analyst and Author, Schwartz Senior Fellow at the New America Foundation
- Dr. Bruce Hoffman, Georgetown University terrorism specialist
- The Honorable Dave McCurdy, Former Congressman from Oklahoma and Chairman of the U.S. House Intelligence Committee, President of the Alliance of Automobile Manufacturers
- The Honorable Edwin Meese III, Former U.S. Attorney General, Ronald Reagan Distinguished Fellow in Public Policy and Chairman of the Center for Legal and Judicial Studies at The Heritage Foundation
- The Honorable Tom Ridge, Former Governor of Pennsylvania and U.S. Secretary of Homeland Security, Senior Advisor at Deloitte Global LLP, Ridge Global
- The Honorable Frances Townsend, Former Homeland Security Advisor and former Deputy National Security Advisor for Combating Terrorism
- Dr. Stephen Flynn, President, Center for National Policy
- Dr. John Gannon, BAE Systems, former CIA Deputy Director for Intelligence, Chairman of the National Intelligence Council, and U.S. House Homeland Security Staff Director
- The Honorable Richard L. Thornburgh, former U.S. Attorney General, Of Counsel at K&L Gates

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

Over the course of 2009 and 2010, our group met with Obama Administration officials and former senior officials from the Bush Administration, including:

- Director of National Intelligence, Admiral Dennis Blair (July 2009)
- CIA Director Leon Panetta (July 2009)
- Secretary of Homeland Security Janet Napolitano (July 2009)
- FBI Director Bob Mueller (September 2009)
- Former CIA Director Mike Hayden (September 2009)
- Former DNI Mike McConnell (September 2009)
- John Brennan, Deputy National Security Adviser (January 2010)
- Mike Leiter, Director of the NCTC (April 2010)

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

Recent events have reminded us, especially the failed attempts on 12/25 and in Times Square, that the country needs to continue to improve its defenses and strengthen governmental institutions designed to fight international terrorism and other threats to the United States. At the Bipartisan Policy Center, our National Security Preparedness Group has been studying the implementation of the 9/11 Commission's recommendations, especially those regarding intelligence reform, and new threats to our national security.

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

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Today we would like to discuss with you two ongoing projects that have a direct bearing on the important work of this committee.

First, as we testified in January, the threat from al Qaeda, remains serious. What we and other experts are studying is how the threat of terrorism is evolving. The conventional wisdom for years has been that al Qaeda's preferred method was a spectacular attack like 9/11. But the defining characteristic of today's threat seems to be its diversity.

Second, the 5 year anniversary of the Intelligence Reform and Terrorism Prevention Act recently passed. Our group marked this anniversary by hosting a conference on the State of Intelligence Reform. The Director of National Intelligence and host of other former intelligence officials participated in the conference and I will share with you today some of the conclusions from the discussion.

### **The Terrorist Threat**

The defining trait of today's terrorist threat is its diversity. As you well know, the Attorney General has stated that the Times Square attempted attack was directed by the Pakistani Taliban. The attempted attack in December was the work of al Qaeda in the Arabian Peninsula. In both of these cases, al Qaeda affiliates thought previously as regional or local threats demonstrated their ability to reach the United States. We're well aware of the threat emanating from the tribal regions of Pakistan. We've also come to appreciate the increasing threat of homegrown terrorism as some Americans have become radicalized.

As we have come to recognize the evolving nature of the threat, we as a country need to consider what policy recommendations should follow this new assessment. Our National Security Preparedness Group is studying this issue. Professor Bruce Hoffman from Georgetown and Peter Bergen of the New America Foundation are leading a series of interviews and meetings with terrorism experts to take a fresh look at the nature of the threat in light of the increased activity. We will work over the summer to complete this work and draw conclusions and recommendations that Congress and the Administration can utilize. We have already arranged for Bergen and Hoffman to testify on this assessment in September, along with homeland security experts Fran Townsend and Steven Flynn. We look forward to working with you on this study and the opportunity to return in the fall to your committee.

### **State of Intelligence Reform**

The determination of terrorists to attack the homeland remains unabated, reminding us of the need for viable and agile governmental institutions to counter

the threat. To us, these episodes further suggest the importance of creating a Director of National Intelligence and a National Counter Terrorism Center in the first place. At their core, the problems evident on September 11, 2001, reflected failures of information sharing among the federal partners charged with protecting the country. No one in the federal government was charged with fusing intelligence derived from multiple foreign and domestic sources. The DNI has been charged with breaking down bureaucratic, cultural, technological, and policy barriers to the sharing of information among federal agencies and the NCTC has been successful in thwarting a number of potential terrorist attacks.

There has been good work done since September 11, 2001, but we need to continue down the path toward further integration and insist on a greater level of effectiveness within the intelligence community. To further these goals, we hosted a conference on the State of Intelligence Reform in April with Director Blair, General Hayden, Admiral McConnell, Fran Townsend, Jane Harman, John McLaughlin and Steve Cambone. The conference was a success in highlighting the importance of the issues this committee is dedicated to, including information-sharing and improved counter-terrorism policy within our borders.

Today, we are releasing a brief summary of the proceedings, and we would like to offer you several key observations.

First, the President needs to be very active in defining roles and responsibilities within the intelligence community. We think the conference showed that the DNI has achieved a meaningful measure of success in its first years – that has made it worth the inevitable turmoil – but that the successes relied too heavily on key personalities within the executive branch. We want to continue to look closely at the authorities of the DNI to make sure he has the authority to do his work, but it is our sense that the success of the DNI in the short term is not dependent on additional statutory adjustments to IRTPA.

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

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

Second, the nature of the domestic intelligence mission demands greater clarity. The Intelligence Community must become more competent in obtaining and using appropriate information on people who cross borders and may have nefarious intent, including Americans. The failed attack of 12/25, cross-border drug violence, and other events last year highlighted the challenges we face due to our porous borders and the rapid mobility of modern society. In addition, we have seen that some of our practices, such as no-fly lists, must be more dynamic and responsive, capable of triggering quick action, including warnings based on incomplete information. Our procedures for collecting and using US person data must adapt to these new challenges. Lastly, the Attorney General's guidelines for intelligence agencies operating domestically needs to be updated and harmonized so that the IC can perform its mission successfully.

It was clear in the conference that in many ways, "domestic intelligence" has not received enough attention especially in light of the evolving nature of the terrorist threat. The 9/11 Commission placed great emphasis on the need for the FBI to reform itself and build an organization that placed more emphasis on preventing attacks. To refocus attention on these issues, we will host a conference in the fall with top government officials and other experts to ensure we are taking the right steps along the path of reform.

Third, as evidenced by the reviews following the failed attempt on 12/25, the DNI needs to be a leader in managing and improving analysis in an Intelligence Community awash with data. In an age when we are collecting more information than ever before, a major challenge is understanding, managing, and integrating a huge amount of information. The DNI needs to develop ways of dealing with intelligence information overload. The good news is that the technology to do the job exists. We need to continue to push forward on policy innovations to ensure

that we manage the data properly and that the right people get the information they need, while protecting civil liberties. We're cosponsoring a series of events with the Markle Foundation to continue to push for innovative policies, including making information discoverable and building interfaces that allow for its efficient exchange while at the same time protecting civil liberties. Making progress on these issues is critical to mounting an effective fight against increasingly sophisticated terrorists.

## **PRIVACY AND CIVIL LIBERTIES**

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

However, the Board has been dormant since that time. With massive capacity to develop data on individuals, the Board should fight to ensure that collection capabilities do not violate privacy and civil liberties. Mr. Chairman we support the sentiment expressed in your letter to President Obama, supported by many members of this committee, that he should quickly appoint members to the Board. We continue to believe that the Board provides critical functions and we urge President Obama its swift reconstitution.

## **CONGRESSIONAL OVERSIGHT**

Third, the DNI and IC must provide greater transparency, foster greater trust with the American people, and avoid over-reaction during troubled times. While much intelligence must remain classified and out of public view, the Intelligence Community still needs support from the media, Congress, users of intelligence, and foreign partners, among others, to successfully pursue our national goals. The DNI

should work to promote a robust relationship/partnership with Congress, which serves as the proxy for the public in overseeing the IC and affirming its direction.

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

The 9/11 Commission also called congressional oversight over intelligence dysfunctional. We made recommendations to strengthen the oversight committees which were not accepted by the Congress, though some progress has been made. Today we want to emphasize the enormous importance we attach to rigorous oversight of the intelligence community.

Congress is the only source of independent advice to the president on intelligence matters. Such oversight requires changes in the structure of Congressional committees, specifically the creation of powerful oversight committees in both the House and Senate. Today, the appropriations committees' monopoly on the provision of funding weakens the ability of the intelligence authorization committees to perform oversight and wastes much of their expertise.

Congressional oversight can help ensure the intelligence community is operating effectively and help resolve disputes about conflicting roles and missions. We urge the Congress to take action to strengthen the oversight capabilities of the intelligence committees.