

**CONSOLIDATING INTELLIGENCE ANALYSIS:
A REVIEW OF THE PRESIDENT'S PROPOSAL
TO CREATE A TERRORIST THREAT
INTEGRATION CENTER**

HEARINGS

BEFORE THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
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FEBRUARY 14 AND 26, 2003

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FRIDAY, FEBRUARY 14, 2003

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:32 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coleman, Sununu, Lieberman, Akaka, Lautenberg, and Pryor.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order.

Good morning. Today the Committee on Governmental Affairs will review the President's recent proposal to create a new Terrorist Threat Integration Center. The President's announcement of this new center is the latest in the series of actions taken by the administration and by Congress to address the government's serious failure to analyze and act upon the intelligence it gathers related to terrorism.

Some of these failures have become well known. For example, in January 2000 the CIA learned of a meeting of al Qaeda operatives that was taking place in Malaysia. The CIA knew that one of the participants in this meeting, Khalid al-Midhar, had a visa to enter the United States. It failed, however, to list his name on the terrorist watch list and he entered the country just 2 weeks later. Al-Midhar returned to Saudi Arabia and in June 2001 he received yet another U.S. visa. Although 1½ years had passed, his name was still not on the watch list.

The CIA did not conduct a review of the Malaysian meeting until August 2001. Following that review it finally placed al-Midhar on the terrorist watch list. By then, of course, it was too late. He was already in the United States and within weeks would participate in the September 11 attacks on our Nation.

Failures such as these were not unique to the CIA. In July 2001, an FBI agent in the Phoenix field office warned his superiors that Osama bin Laden appeared to be sending some of his operatives to the United States for flight training. The agent recommended a number of actions the Bureau should undertake, but his recommendations were ignored.

One month later, agents in the FBI's Minneapolis field office detained Zacarias Moussaoui, a former student pilot, based on suspicions that he was involved in a hijacking plot. FBI headquarters denied the Minneapolis agents permission to apply for a court order to search Moussaoui's belongings. According to the joint inquiry conducted by the Senate and the House Intelligence Committees, this decision was based on a faulty understanding of the Foreign Intelligence Surveillance Act.

These are only a few of the most publicized and notable examples of the government's failure to analyze, share, or act on critical intelligence information. The Joint Congressional inquiry into the September 11 attacks lamented that the U.S. Government does not presently bring together in one place all terrorism related information from all sources. While the Counter Terrorist Center does manage overseas operations and has access to most intelligence community information, it does not collect terrorism related information from all sources domestic and foreign.

In addition, the Congressional inquiry found that information was not sufficiently shared not only between different intelligence community agencies but also within individual agencies, and between intelligence and law enforcement agencies.

Now some steps have been taken to address these problems. The FBI has begun to place greater emphasis on developing its analytical capability. It has expanded its joint terrorism task forces and it is attempting to improve its relationship and communication with the CIA. More FBI personnel have been assigned to the CIA's Counter Terrorist Center and more CIA agents now work at the FBI's Counterterrorism Division.

In addition, Congress took significant action aimed at improving the analysis and flow of intelligence information by creating the new Department of Homeland Security. One of the Department's directorates will be devoted to information analysis and infrastructure protection.

In addition to these steps, the President has announced that he believes a new independent entity is needed. The proposal advanced by the President would create a Terrorist Threat Integration Center that is the focus of our hearing today. The center would ensure that intelligence information from all sources is shared, integrated, and analyzed seamlessly and then acted upon quickly, to quote the President. The new center would include staff from the Department of Homeland Security, the FBI, the CIA, and the Department of Defense.

As of yet, however, we know few details about the proposed integration center. We have many questions regarding its structure, the scope of its authority, how it will interact with other agencies in the intelligence community as well as law-enforcement agencies, and even where it should be located, in which department?

I believe that there are three principles that should guide the center's creation. First, the integration center should not be duplicative. Many government agencies currently conduct intelligence analyses. We should be working to combine these efforts, not duplicate them.

Second, emphasis must be placed on sharing the integration center's analytical product. Good intelligence collection and analysis

currently exists. Too often, however, the information does not get to those people who need it in a timely manner or in a form that is useful. The integration center needs to focus on sharing its product with other Federal agencies and, equally important, with appropriate State and local agencies.

Third, the integration center must be structured in a way that breaks through the bureaucratic barriers that exist still among intelligence agencies and not hide behind them.

I hope that today's hearing will help the President achieve those goals. We will review what we now know about the integration center, and we will ask our very distinguished witnesses today to discuss the elements that are necessary for this new entity to be the successful and efficient center that our President envisions and our country needs.

I would now like to turn to the distinguished Ranking Member of the Committee, Senator Lieberman, for any opening remarks that he might have.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thank you, Madam Chairman, for holding this hearing, and also for your excellent opening statement.

I consider the topic of the hearing to be one of the more important offensives, if I can put it that way, in the war against terrorism, which is the consolidation of information and intelligence regarding the threats that are received daily from an array of sources available to our government. The intelligence disconnect, some of which you described in your opening statement, Madam Chairman, that in part led to the September 11 terrorist attacks are an embarrassment that should never have happened in the first place and we must never allow to happen again. I appreciate your leadership here in calling this hearing, the first, I believe, on the President's State of the Union proposal to overcome some of our intelligence failures which is, of course, a matter of urgency.

I also want to join you in welcoming our witnesses, Senator Rudman, particularly, our colleague, our never-ending source of wisdom, even good humor, who has proven, as my wife keeps telling me, that one has ample opportunities outside of public service to continue to serve the public and he has done it really well.

Governor Gilmore, thank you for being here again. Mr. Smith and Mr. Steinberg, the same.

I am disappointed that we are not going to hear from an administration representative today. I gather they could not make it today, but I am hopeful that we will have the opportunity soon because we have a lot of questions for them.

We are now in the midst of a Code Orange, as everyone knows, a high terror alert. That combined with warnings from the directors of the FBI and CIA that another terrorist attack might be imminent, perhaps as early as this week, along with official suggestions that citizens create safe rooms in their homes and stockpile food and water, has understandably created widespread anxiety throughout our country. We must take this moment to allay the fear, but also to galvanize our government and to motivate all Americans to help make our country safe again. Creation of an effective intelligence analysis center is a vital step in that direction.

The disastrous disconnects among our intelligence agencies, the culture of rivalry rather than cooperation, turf battles rather than teamwork that have plagued the intelligence community have been well-documented elsewhere. For some time, a large number of people inside and outside of Congress have been advocates for a central location in our government where all the intelligence collected by the various agencies that make up the intelligence community, as well as open source information and information collected by Federal, State, and local law enforcement agencies can be brought together and analyzed, synthesized, and shared.

The idea is, in the familiar metaphor, to connect all the dots to create a full picture so that we have a kind of early warning on what our adversaries are up to, where they are planning to strike so that we can stop them before their plans are carried out.

Last year, as part of the debate on the Homeland Security bill this Committee approved the creation of such an office. We were greatly aided in our work by Senator Arlen Specter and by the co-chairs of the Senate Intelligence Committees, Senator Richard Shelby and Senator Bob Graham. In fact after investigating the September 11 attacks, the Senate and House Intelligence Committees called on Congress and the administration to use the authority provided in the Homeland Security Act to establish an all-sources intelligence division within the Homeland Security Department. And the Intelligence Committee went on to lay out several criteria for this analysis center which I will include in the record, Madam Chairman, rather than reciting here.

We had a bit of a debate during the last session on this. Our Committee originally proposed something very similar to what the Intelligence Committee was asking. The administration originally argued that the Department of Homeland Security's role here should be limited to analyzing intelligence primarily to protect critical infrastructure. The final legislation created a division within the new department that would be a central location for all threat information. Now I take the administration's proposal to have created a broad consensus and common ground that many have been fighting for all along, which is to create an all-sources intelligence analysis center.

There remains a matter of structural disagreement, which I hope this Committee can consider and shed some light on, and hopefully extend the consensus. The President, obviously, would have the new center report to the Director of Central Intelligence rather than the Secretary of Homeland Security. I would like, in the weeks ahead for the administration to tell us how they think, if they do, that this center that they are proposing differs from the one created by the Homeland Security Act and why they have chosen to move in this direction rather than implementing that provision of the act.

It needs to tell us how the so-called TTIC—as an entity reporting to the Director of Central Intelligence—will overcome the institutional rivalries to information sharing that has already hindered the Counter Terrorist Center at the CIA, and other agencies in the intelligence community—from becoming truly all-source intelligence analysis centers.

It must answer questions about the center's role, if any, in the collection of domestic intelligence, and about the wisdom of expanding the role of the Director of Central Intelligence in domestic intelligence.

The administration needs to let the Congress know why the center's director should not be confirmed by the Senate. I am also interested in understanding what the center's role will be with respect to disseminating intelligence analysis to other Federal agencies and to State and local law enforcement, and how it proposes to collect information from them.

As the witnesses and my colleagues on the panel know, States local officials complain to each of us that they have not, up until this time, been kept in the loop by Federal law enforcement and intelligence agencies. And there are many questions about the proposed budget of the TTIC; the number of analysts it will have and the administration's timetable for getting it up and running.

I know that we have extraordinary witnesses, very able and experienced who can help us illuminate and answer some of these questions and as I say, Madam Chairman, I look forward to discussing them directly with the administration's representatives at the earliest possible date. But for now I thank you for holding this hearing and for moving as expeditiously as you have to examine what is clearly one of the most important issues we face in the near term in shoring up our homeland defenses. Thank you.

Chairman COLLINS. Thank you, Senator Lieberman. We will be having a second hearing at which administration witnesses will be called to testify. I, like you, look forward to hearing more from them on the details and the answers to the many important questions that your statement raised.

We are now going to move to our first panel. We are fortunate this morning to have two extraordinary public servants who have given a great deal of their time and energy and thought to analyzing our Nation's intelligence needs. We are very fortunate to be joined by former Senator Warren Rudman, and former Governor James Gilmore. I am fighting with Senator Sununu for the honor of introducing Senator Rudman. I, too, consider him to be a constituent since he does have a home in Maine. But I think that your claim, Senator Sununu, probably goes back further so I will yield to you to introduce Senator Rudman.

OPENING STATEMENT OF SENATOR SUNUNU

Senator SUNUNU. Thank you very much, Madam Chairman. It is an honor to serve in the Senate, and despite having served in the House for 6 years, as a new member of the Senate you come with some deal of trepidation. We all know that we walk in the shadows of our predecessors and we are prepared to deal with that, but it does not change the fact that sitting here in this Committee room for our first hearing I was a little bit surprised to hear Senator Rudman's name invoked a half a dozen times before I even got a chance to talk. And now we have a hearing scheduled, and of course he's here to provide his perspective on such an important topic.

But rather than be discomfited by this, I fully understand the reason. It is an honor to serve in his footsteps but it is also an

honor to be a part of this Committee and to be able to bring him forward to provide his wealth of experience.

He has served as a Korean War veteran, as Attorney General for the State of New Hampshire, as a U.S. Senator, and as a leader of this Committee during an important time in dealing with questions of intelligence, oversight, and foreign policy, that being the hearings on Iran-Contra.

He has remained dedicated to public service even, as Senator Lieberman has pointed out, after leaving the U.S. Senate. He has been a member of the President's Intelligence Advisory Board, a winner of the Presidential Gold Medal for his service, in particular in acting as an adviser and a resource on questions of intelligence. The reason his perspective has been so important in that regard is because he has worked with local law enforcement in the process of gathering and providing intelligence from that grass roots level.

He has, of course, worked in a great capacity in the U.S. Senate dealing with Congressional oversight and our role in understanding how intelligence is gathered and used to provide for national security. He has served in the executive capacity as well, offering advice on the consolidation, use of intelligence, and sharing of intelligence.

I cannot imagine someone who is more qualified to provide an important perspective on the challenge we now face, but I also cannot think of a challenge that is greater for the new Department of Homeland Security. Consolidating our intelligence resources, breaking down some of the cultural barriers that have existed to effective intelligence sharing in the past has been identified by this Committee and by others looking at the new Department of Homeland Security as one of the premier challenges this organization will face.

Being able to rely on the expert perspective of Governor Gilmore and my friend Warren Rudman is essential to us doing this right the first time. Warren Rudman has been a great friend to me and a great friend to my family. There is always a wealth of pride that comes from that kind of a long-standing personal relationship, but in New Hampshire he is also regarded as a great citizen and a great public servant and that is why it is really a pleasure to be able to introduce him here today. Welcome, Senator Rudman.

Chairman COLLINS. Thank you, Senator Sununu.

Our other panelist, James S. Gilmore, served as Governor of Virginia from 1998 to 2002. Since 1999, he has been the chairman of the Congressional advisory commission on terrorism and weapons of mass destruction, which everyone calls the Gilmore Commission. In December 2002, the Gilmore Commission issued its fourth report which focused in part on the creation of an intelligence fusion center. The Gilmore Commission recommended the creation of a national Counter Terrorist Center as a stand-alone agency outside of the FBI, CIA, and DHS. It also recommended that this entity be an independent agency with a leader appointed by the President and confirmed by the Senate.

Gentlemen, I am very grateful to have you join us this morning. I look forward to hearing your opening statements. I would ask that you limit them to about 10 minutes and your longer written

statement, if any, will be submitted for the record without objection.

Senator Rudman, we will start with you. Again, thank you for being here.

TESTIMONY OF HON. WARREN B. RUDMAN, CO-CHAIR, U.S. COMMISSION ON NATIONAL SECURITY/21ST CENTURY

Mr. RUDMAN. Good morning, Madam Chairman, Senator Lieberman. First, let me thank my friend John Sununu for that very gracious introduction. I must tell you, though it is very elevating to be back in this hearing room where I spent so much time, it is a bit depressing to look at Senator Sununu and realize that he was 16 years of age when he and his father and I campaigned against each other in a Republican primary for the U.S. Senate. That tells me how young he is and how old I am, and that is a bit depressing.

I am also delighted to see my old friend, Senator Lautenberg, and glad to meet for the first time, Senator Coleman.

Madam Chairman, you and the Ranking Member have really asked a number of questions that are the questions that have to be answered. I doubt very much either Governor Gilmore and I can answer all of those questions because, although I am very familiar with this proposal and how it has come to be, it is still very much an embryonic proposal. I think one of the reasons you do not have administration witnesses here today is they wanted to be prepared to answer those very searching questions which I think are key.

I think maybe the most important question that you both referred to in your opening statements is simply this: We are all very familiar with the Homeland Security Act. Senator Hart and our commission proposed that department and testified many times here before the House and the Senate. It finally evolved in pretty much the shape that we had hoped it would, but I have never really quite understood how the intelligence function within the Department of Homeland Security will be discharged. I am even confounded more with the creation of this new department, or this new joint venture if you will, which I fully support, but there has to be some sort of sharp delineation between the mission of the intelligence unit mandated by the Congress within the Department of Homeland Security and this new threat integration center which will be an all-source, all-agency unit.

If you are not careful you will start having some crosstalk here between these two agencies, and the last thing you need in either collection or analysis is not only competition but confusion. So I hope that when the administration comes here, and I am sure they will, they will set out for you precisely what that is. I tried to find out for the last several days by talking to some of my friends and, frankly, I do not think that has clearly evolved, and that is understandable. This proposal was only evolved about a month or so ago, presented by the President in the State of the Union. I think when you finally have those witnesses here you will probably get a clear understanding. But I think that is one of the most important questions.

When I look back at my 9 years on the President's Foreign Intelligence Advisory Board and chairing the board and looking at all sorts of all-source, raw, sophisticated, non-sophisticated, signals

and human intel, two things occur to me. That the massive intelligence that is received by both U.S. foreign intelligence agencies and the FBI and domestic intelligence is daunting. The amount of reporting—I sometimes think we have too much reporting, not not enough.

A good example, for those of you that have had experience on the Intelligence Committee, or in the Armed Services Committee, is the amount of information received by the National Security Agency. The amount of signal intel received there, and how it gets analyzed, and how it get compartmentalized, and how it gets separated is truly a daunting task. Now we are faced with a new issue, which is why I think this proposal has been made.

We have two distinctly different kinds of intelligence that this government receives. One, foreign intelligence based on threats that are non-terrorist, that are state-sponsored as opposed to non-governmental organizations which are terrorist organizations such as al Qaeda, Hamas, Islamic Jihad, and many others. It is very easy, or easier, to target state-sponsored terrorism, or if you will, state-sponsored military action, which is what the CIA and the NSA and all the other agencies have done well over a long period of time.

It is far more difficult to try to direct intelligence, both signals and human intel, against people who you do not know who they are sometimes. They do not have an address. We do not know where they live. We do not know how they are organized. So first you have to figure that out before you know how to collect.

So what they are now going to do, from what I understand, is to take and put together a joint venture, to put it in corporate terms. This is not going to be a new department or a new agency. It is going to be a joint venture of the CIA, the FBI, the State Department, the Department of Homeland Security, and all of the Defense Department intelligence agencies, from the NSA to the NRO, and all of them. They will be all located together and their job will be not collection—they will have nothing to do with collection. They will depend on traditional collection, foreign from CIA and all of the DOD agencies; domestic from the FBI, and all of their resources around the country. What they will do is to analyze in one place and collect in one place all the reporting on terrorism as opposed to the myriad of other things that the CIA does.

Now one thing that has to be clearly understood by the public is that there seems to be an attitude out there that the CIA and the FBI are only concerned now with terrorism. That is hardly the case. There are a lot of issues in this world involving Asia, Europe, involving the Middle East that the CIA must report to policy-makers on important intelligence. So this is not the only thing they have to do. The problem we have had is that it has all been amalgamated in one place even though the Director of the CIA and the Director of the FBI have labored mightily through the creation of Counter Terrorist Centers and joint terrorism centers to try to get it consolidated. Although that has worked, it probably has not worked well enough, so this proposal is before you.

As I understand this proposal will be a group of individuals that will be solely charged with being the focal point for gathering collection, both foreign and domestic, on all matters of terrorism. Now

curiously, although the number is classified I can tell you this, that the overwhelming amount of collection on domestic terrorism is collected overseas, which I think, Madam Chairman and Senator Lieberman, is probably the reason that the administration has decided, and I think wisely, that the Director of the CIA should be the person to whom the head of this new joint venture reports, because they will be dealing in the main with foreign intelligence. The domestic intelligence will be collected by the FBI, but since most of our adversaries in the area of terrorism are located overseas, although we certainly have some of them in this country, it is not surprising that the overwhelming amount of intelligence that is gathered on domestic terrorism is not gathered within the continental United States, Hawaii, or Alaska. It is collected in other places.

So I think the structure is good. The problem will be, as someone once said, the devil is in the details, and I do not think any of us have enough detail now to be able to comment with any real accuracy on how it is all going to come together. My sense is that they have staged it about right. They are going to start small, and they believe they have anywhere from a 2 to a 4-year time line to get it fully functional, although it will be functioning as early as later this year. It will have representatives from the Bureau, from the Agency, State, and all of the DOD agencies. Their information technology will be unique in that it will connect with everyone else that is in this business. The Department of Homeland Security will do some collection through the Coast Guard, through the INS, or through the Border Patrol. It will also, I expect, report in to this unit.

So I think that all I will say in this opening statement is that there are more questions right now than there are answers. I think the concept is very sound. I think we need a single place, not located at the FBI or the CIA, but a group of people from various parts of this government who form a team to analyze the kind of information that the Chairman referred to, which may have slipped through the cracks in the past. I think it is a sound proposal and I support it, but there are a lot of questions you are going to have to ask when you get the administration before you.

Thank you.

Chairman COLLINS. Thank you, Senator Rudman. Governor Gilmore.

TESTIMONY OF HON. JAMES S. GILMORE, III,¹ CHAIRMAN, ADVISORY PANEL TO ASSESS THE CAPABILITIES FOR DOMESTIC RESPONSE TO TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION

Mr. GILMORE. Thank you, Madam Chairman, Senator Lieberman, and Members of the U.S. Senate. Thank you for the opportunity to be here to carry out our advisory function on your behalf.

I am the chairman of the advisory panel to assess domestic response capabilities with terrorism involving weapons of mass destruction. This is a panel that was created by law, by statute of the U.S. Congress at the initiation of the U.S. Congress.

¹The prepared statement of Mr. Gilmore appears in the Appendix on page 76.

It was initiated by Congressman Curt Weldon, who saw the need for this, and then it was concurred with by the U.S. Senate as we moved forward. This discussion went forward at the end of 1998. The commission was stood up in January 1999. I was approached as Governor of Virginia and asked whether I would chair the commission. It is staffed by the Rand Corporation. The commission is now and has been in the past made up not by people from inside the Beltway, but instead the Congress in its wisdom decided to set up a committee that was different. The advisory panel that we have is heavy on fire, police, rescue, emergency services, health care, epidemiologists, including retired general officers and people from the intelligence community. So it is a bit of a different mix.

In the first year that we met, in the year 1999 we did a threat assessment, and by statute every year we report on December 15 every year to the Congress and to the President. In that year, December 15, 1999, our first report was a threat assessment. We assessed the question of a genuine threat of weapons of mass destruction in the United States, and considered at the end of the day that it was much less likely that those weapons could be acquired and delivered in the homeland than a conventional attack. We believed that a conventional attack of major proportions was much more probable.

But we also refused to rule out the possibility of weapons of mass destruction as we had basically a 3-year commission and wanted to explore it further. We did say that we thought there was a need for a national strategy.

In the second year when we reported in December 15, 2000 we did probably our most important policy work. At that time we reminded all authorities there needed to be a national strategy. We proposed the creation of a national office in the Office of the President to create such a national strategy. We defined that national strategy as not being Federal, but instead being Federal, State, and local all together.

We were concerned about the issues of intelligence. At that time we recommended tossing out the rule that said that the CIA could not recruit bad guys overseas as being a fairly ridiculous rule. We recommended and pointed out the concern about stovepiping and the fact that intelligence was not being shared laterally across Federal agencies, and was absolutely not being shared vertically between Federal, State, and local authorities.

In the third year, our closing year, we focused on certain areas where we thought the national strategy could be furthered by the work of the advisory panel, and that included health care, the concern about border controls, the use of Federal and locals, the use of the military and areas like that.

Now we were basically done about the first week of September and sent the report off to the printer and got ready to go out of business a little early in October when the September 11 attack occurred. At the time, the Congress extended our commission 2 years. So we have finished our fourth report in December 15 of this year. This is our fourth report which we have submitted to the members of the Congress, the Senate and the House, and to the President.

In this fourth report we go over a number of key issues. My admonition to the panel has been to try to stay ahead of this debate

so that we could be of useful advice to the Senate and to the House. I think we have done that. I think we have stayed ahead of the debate as we have gone along.

I might point out several crosscutting issues in the fourth report that I want to emphasize. Of all of our analysis, the crosscutting issues we have tried to emphasize is the importance of the civil liberties of the American people, because we are deeply concerned that we will overreact and fix problems structurally in such a way that we will imply dangers to the civil liberties of the American people.

The second is the importance and the value of the State and local authorities, their need for funding, financing, strategizing, and exercising.

The third is the implications of the private sector and the fact that most critical infrastructure is in the hands of the private sector, and the need to find a method by which the private sector is drawn in.

And then fourth, intelligence, and the concern of all these crosscutting issues.

Senators and Madam Chairman, the fourth report focuses on a broad range of areas. These are comprehensive reports, each of them that have come forward. They are extensive and detailed in a broad range of areas as I have laid out. The fourth report—I will just focus for a moment on the National Counter Terrorist Center that we proposed.

On the intelligence section of this commission's report we expressed and focused our attention on the intelligence area. We saw a need for a fusion center. We have recommended it as the National Counter Terrorist Center. We called it the NCTC. Everybody in Washington has acronyms. That was ours. We recommended December 15 of this past year that there needed to be a fusion center to draw together information.

The President announced in his State of the Union address the Terrorist Threat Integration Center (TTIC), which seems to be a parallel concept. We congratulate the President on his initiative. We believed in our recommendation that it needs to be a stand-alone agency. We spent the better part of the year discussing the issue of whether it should be in the Department of Homeland Security or in another agency. We recommended that it be in no other agency or department; that it be a stand-alone agency, an independent agency like the EPA or FEMA or the General Services Administration.

We recommended that the head of it be with the advice and the consent of the Senate. This parallels the recommendation that we had on the Office of Homeland Security in the year 2000 where we recommended that it be at the advice and consent of the Senate in order to make the national legislature a full partner in all of these processes in the Executive Branch.

We recommend that it not be in the Department of Homeland Security because the customers of this new agency, this new fusion center will not just be the Department of Homeland Security, but in addition, the Department of Justice, the Health and Human Services, Departments of Defense, State, and Agriculture. We be-

lieved that this structure of independence would make it a better and honest broker than having it in one particular department.

We see the need for the States and localities to be tied in, and that this creates a vehicle for the fusion of information with the States and locals also, which is, by the way, where a broad mass of the information on law enforcement issues across this country is located. The Federal Government is poorer if they do not have the benefit of that information, and the States and locals are surely poorer if they do not have the benefit of the national collection information that is at the Federal level.

The information we have is that it is still not a two-way street in terms of information going up and down the line between Federal, States, and locals but it is improving. In fact I had a meeting with Admiral Abbott, the President's homeland security adviser and they are instituting processes to facilitate that type of information.

Ladies and gentlemen of the Senate, within our commission this is not controversial. This was, other than the fact that we debated some of the structural issues, the creation of a fusion center was easy; not a controversial proposal. I will not dwell on it, but I will point out that our commission, on the other hand, addressed the issue of the collection function, the gathering of counterintelligence information in the homeland. This was highly controversial within our commission. That debate is set out in its entirety in the report.

There was a strong debate about whether or not to rely on the FBI to continue this counterintelligence function or whether a new organization should be set up. The debate was quite intense, quite a long discussion. I personally believe that we should require the FBI to carry out this function in its most effective way and hold them strictly accountable and build on their processes. That view was rejected by the commission. The commission has instead recommended very strongly that there be a new agency for the collection function here in the United States; a separate organization. I can discuss that in more detail as necessary, though it is not strictly, Madam Chairman, the subject of your discussion today.

We did in our report recommend that the Congress must concentrate its oversight function. That it is too disparate. We have been saying it for years and continue to say it. We believe that the oversight function for this fusion center should be concentrated in the Intelligence Committees of the two houses.

We do see this as different from some of the other proposals that are similar that have come forward. Senators Graham and Edwards have each suggested a fusion center also, although I believe they place it within the Department of Justice. Also there have been some suggestions that the intelligence gathering organization would look like the British MI5. We believe that while it is a similar concept, the American system probably would not tolerate a British organization quite like that.

We believe the Department of Homeland Security should have the authority to directly levee intelligence requirements on this new fusion center. That is our recommendation. And we recommend that the Senate and House strongly urge or require the Attorney General to gather together all legal authorities in this country, which at this point are disparate and confused and mis-

understood in broad measure, in order to make sure that everybody knows what everybody is doing and what they should and should not do, so we make sure that we protect the liberties of the American people.

That I think, Senator, sums up your official advisory panel's recommendations. We are here at all times, naturally, at your disposal to continue to provide advice and counsel.

Chairman COLLINS. Thank you very much, Governor.

I was very pleased to hear your emphasis on protecting the civil liberties of the American people as we seek to have that organizational structure that will allow us to do a better job of connecting the dots. The administration is not planning to submit legislation to create the new center. Do you think it would be advisable for Congress to legislatively create the center in order to have the kinds of legal protections to ensure that civil liberties are not infringed upon?

Mr. GILMORE. It would depend upon the way that the Senate and the House decided that they wished to define this. It is clear the administration believes that they have the administrative authority to, as Senator Rudman says, to create a joint venture and bring these organizations together. I suspect that what is at work here is an effort to try and experiment with this, and to draw together the people into one located place, as opposed to going into a legislative process at the beginning, which then at that point involves a great deal of bureaucracy and setting structures into place by statute. My suspicion at this point and belief is that the administration thinks that they would like to try it administratively, see how well it works. Then I would think at that point the option would be open to the President and the Congress to more institutionalize it by statute.

Chairman COLLINS. You mentioned in your testimony that you did not think that this new entity should be part of the Department of Homeland Security because DHS will be a customer of it. You also said the commission recommended that it be a separate entity. What do you think of the President's plan to have the entity reporting directly to the CIA Director.

Mr. GILMORE. That is a very interesting concept. I have been trying to analyze that as I have thought about it and I am aware of the Senate's concern about it.

I believe that the commission's feeling would be that we strongly approve of the separation of the CIA's function and to not try to turn them into a domestic intelligence gathering organization. I do not know though that the reporting to the Director of Central Intelligence, who I think at the inception of his position was designed to be a gatherer of information in one place, would necessarily cross that line. Just because the Director of Central Intelligence is aware or is in a supervisory capacity for the fusion center does not necessarily mean that would then implicate the CIA with activities within the homeland.

But there is, of course, this outstanding issue of how do you gather counterintelligence information in the homeland. But I do not think there is any proposal that the CIA should cross that line, but I do not think that reporting to the Director of Central Intelligence would cross that line.

Chairman COLLINS. Thank you.

Senator Rudman, you are very familiar with the Counter Terrorist Center that already exists within the CIA, and indeed, last year at a hearing Director Tenet described the Counter Terrorist Center as being created to “enable the fusion of all sources of information in a single action-oriented unit.” Do you see the President’s proposal for a Terrorist Threat Integration Center as duplicating the work that is already being done at the Counter Terrorist Center at the CIA, or do you see it as adding value and an improvement over what we have?

Mr. RUDMAN. Madam Chairman, I think it is a broadening of that concept by bringing more people into it in larger numbers. That is essentially, as I understand it, unless it has changed in the last year, FBI, CIA, and a few other people. This involves a lot more than that. This involves those two agencies plus a number of other places such as State, such as all of the DOD agencies which are not all contained there now. So I think it is a broadening.

My understanding is that they are going to try to co-locate that with this new TTIC. That is my understanding, because they believe that the functions will be complementary. I agree with Governor Gilmore when he said that they are working their way through to find out how this will finally look. It will may be that a year or two from now you might want to create a whole separate unit.

I think right now the administration feels, because of the criticality of the information we are trying to put together, that we ought to take the corporate model and have a joint venture, or if you will, take the model of DOD when they have got an action that is going to take place in a place that requires Army, Navy, Marine Corps, and Air Force and put together a joint task force to accomplish a particular mission. I think that is the concept here. So, no, I do not think it is a duplication. I think it is a broadening and probably an improvement.

I want to make just one comment that is kind of tangential to your question. I understand the Gilmore Commission’s position. It is a terrific report and I have followed their work very closely. I think you have got to think long and hard when you start separating collection from analysis. That’s the problem I had with their proposal. There have been debates within the Gilmore Commission about that. I do not know how Jim personally feels about that, but as we go down the line here we know that the TTIC will do no collection. We know collection will stay exactly where it is now.

The question then becomes, if you were to legislate and create a separate unit with a Cabinet-confirmed officer for a national threat integration department, the problem I have with that is, and knowing this government as I know it, at that point they are separated from the people who do their collection. I just wonder, knowing what we know over the last 20 years, how much attention the FBI and the CIA pay to people, who even though they are mandated by law to do a particular job, are not part of their own team. The advantage of the joint venture is that you have got everyone there in line authority to the people who run the key agency.

So it is an interesting proposal. I think you would have to give a lot of thought to separating collection.

I also agree totally, we ought not to change the law upon the CIA's authority and its lack of authority in terms of collecting against U.S. citizens. We ought to keep that just the way it is.

Chairman COLLINS. Thank you, both. We are doing 6-minute rounds and my time has expired so I will call on Senator Lieberman.

Senator LIEBERMAN. Thank you, Madam Chairman. Thanks again to both of you.

Let me read you both a statement from the *New York Times* which I believe was on the day after the President made this proposal. The *Times* article quoted an unnamed administration official as stating that while the information sharing between the FBI, CIA, and other intelligence agencies has gotten better—and here is the quote—“it has been by brute force.”

You both have had some experience in this and maybe the first question seems like a naive one but I think we ought to put it on the table. What is the problem here? Why do the intelligence and law enforcement communities have trouble cooperating in something so critical? And apparently even still after the horror of September 11, why do we need brute force to get them to do it?

I hesitate to repeat rumors you read in the media but one of the news magazines published a story that the original plan for the Terrorism Threat Integration Center was to announce that there would be co-location of FBI and CIA personnel, apparently out at Langley. And then both objected. So for now that has been—I do not know if that is true—held in abeyance. But talk to us a little bit about the human—not the human intelligence but the human problems, the cultural problems that we face to get this job done, because it is so critical. Senator Rudman.

Mr. RUDMAN. That is an excellent question, Senator Lieberman, and the answer is fairly complicated. Let me say what it is not. I do not believe from my experience, now which goes over a 20-year period dealing very intimately with these two groups of people, that this is a matter of obstinacy or stubbornness or turf. I think these people are patriotic, hard-working Americans who are trying to get their job done.

Senator LIEBERMAN. Agreed.

Mr. RUDMAN. So I do not think that they are saying, I am not going to share this with the FBI because I won't get credit for it or vice versa.

I think the problem is far more significant, and no one has yet figured out how to deal with it, although I think this new agency, this joint venture if you will, might help.

The FBI and the CIA have total different missions. Until September 11, if you were to do a pie chart of the responsibilities of the FBI you would have a narrow sliver that would be counterterrorism or counterespionage, which they did very well during World War II. The big part of it would be law enforcement. Several thousand statutes comprise the U.S. criminal code, passed by this Congress, and the FBI is the primary enforcer of those laws. So their mission, in their own minds until that date was to investigate, go before grand juries with U.S. Attorneys, get indictments, and help in prosecution. When you look at all the corporate scandal

over the last 2 years, who is it that is doing all the investigating? It is the FBI, and well they should. So that is their mindset.

The CIA, on the other hand, has a far different mindset. Their mindset is, even if they are aware of crimes being committed, their job is not to go out and “prevent crime in the short-term.” Sometimes that would be counterproductive to getting the kind of the intelligence you want by connecting the dots, if you will, and connecting the people. So the agency would prefer to take a lot of time to get off the information to help protect infrastructure and people, whereas the FBI as soon as they have got enough information they want to go to a grand jury and get an indictment. So that is a very basic difference.

Now I think equally important, part of the problem has been the inability of these two agencies, which I have personal knowledge of, to share information. My point being that if the information is in drawer A at the FBI and drawer B at the CIA and information ought to come together, the information technology has not allowed it to come together. With all due respect, I would say to the Chairman that although I fully agree there were oversights, I would like someone to go back and look at the reporting for the month before and the month—for 2 months before, 60-days reporting on terrorism at the FBI and the CIA. I would be willing to hazard a guess, Madam Chairman, there were thousands of reports. The problem was, how do you pick out the right ones. I mean, 20/20 hindsight is great. Now we look afterwards and we say, sure, they should have looked at it. But what were they looking at? How much paper were they looking at?

Senator LIEBERMAN. I think this may be one of the more interesting activities and findings of the September 11 commission.

Mr. RUDMAN. I think it is key and I hope they will look at that. But I would answer your collective question that if anything will help, this will help. They will all be together. They will be sharing the same information from their respective agencies. So that would be my answer.

Senator LIEBERMAN. Governor Gilmore, my time is running out. I would just like to ask you a related question based on your experience here which is, particularly in light of the proposal for the new Terrorism Threat Integration Center under the DCI, whether you think it is time to separate the Director of Central Intelligence from the Central Intelligence Agency? In other words, to create a separate DCI and then a separate head of CIA under that person? Whether that will, in any measure, contribute to the evenhandedness of the DCI, or the perception of it, which will help to bring these two communities together better.

Mr. GILMORE. We know, Senator, there has been some suggestion of there being an intelligence czar actually set aside and put in the Cabinet separately. We have not, in our commission, addressed the issue of whether the Director of Central Intelligence should be separated out from the CIA. I think that would be a dramatic change which I do not think that certainly as an individual would want to recommend or that the commission would want to recommend.

I do want to rifle-shot in on your question to Senator Rudman. You basically suggested that by brute force some of these people have come together. I do want to share with you several things.

The commission has spent a lot of time on that topic, and we do believe that it is primarily cultural. It is based upon the long-standing tradition that knowledge is power. If you have got it, you have more influence than if you do not. That there is a fear of the violation of security, and in fact serious legal problems if there is a violation of security.

I was asked a few moments ago what I thought the administration was doing and I answered that. But that is not the same thing as what the commission has recommended. The commission has recommended there be a separate agency established, a separate agency institutionalized in order to be a fusion center.

We think also that there is good faith by all people but we do believe absolutely that there are turf battles and that there are cultural challenges back and forth between people fundamentally. We believe that there are cultural, historical difficulties that have been set up that we are trying to find an institutionalized way of overcoming. We think the fusion center is a clear way of doing that.

Senator LIEBERMAN. Thank you, both. Thanks, Madam Chairman.

Chairman COLLINS. Thank you. Senator Sununu.

Senator SUNUNU. Thank you, Madam Chairman.

I want to talk a little bit more about the practical limitations, the practical hurdles in not just setting up this organization but overcoming some of the obstacles that Senator Lieberman just spoke about in getting information shared.

I want to talk about the personnel, the practical question of who these people are, and where they come from. There are a number of different options but one is obviously to staff the integration center with personnel from FBI counterterrorism, from CIA counterterrorism. The other choice would be to have an independent staff that works only for the integration center and doesn't rotate back and forth between intelligence organizations and the integration center. I would like each of you to talk a little bit about which kind of an approach you think might be better: Permanent staff or a rotating staff, and why. Senator Rudman.

Mr. RUDMAN. The current plan, of course, is to bring in people from their current positions at all of these agencies who have the analytical skills and experience to analyze data. Now frankly, it takes so long to get someone to know how to do that and to do it well that I do not think there is much choice. There is no other place in the government.

Now as to the real—underlying your question is the issue of independence and I think that is a very interesting question. Over the long run, if you could evolve into a group of analysts who essentially resided there for their entire careers that would probably be, in my view, much better. But you cannot do that right away, but maybe over a 5- or 10-year period you can.

If they are going to get this thing stood up in the next year to at least have some function they are going to have to get some fairly experienced analysts from the Bureau, from State, mainly from the Agency, who are used to looking at masses of data, correlating it, and being able to reach intelligence conclusions.

Senator SUNUNU. You want a system though where those individuals, even after a long period of time, 5 or 10 years, at some

point return back to the Bureau or to Central Intelligence. Does that foster a stronger relationship, or do you simply want them to spend their career at the integration center knowing full well that you have got to work to make sure that the ties, and relationships between the integration center and the collection organizations remain strong?

Mr. RUDMAN. My personal view is that there is a certain advantage to have people come from their parent agency and go spend a few years doing something else at another place, or similar work in another place, then go back to their agency. I think it tends to give people a better idea—a good example would be the Congressional fellows you have here. I know I had several that spent several years up here from various agencies. They went back to their agency with a far better understanding of the U.S. Congress and we had a better understanding of what they did. So I think there are advantages to that.

Senator SUNUNU. Governor Gilmore.

Mr. GILMORE. The position of the commission is it should be a separate agency. That it should have its own analysts. They should be employees of the new agency and that is where their institution should be. There is a big challenge here, a cultural challenge that the commission has devoted all of its 4 years to trying to address. This particular function that we are describing here, intelligence analysts on the counterterrorism side, has not been the historic career path in the FBI. This has been very influential in the thinking of the commission, particularly this year as it has gone on. It is a big challenge to try to break the institutional boundaries. To loan them would not be our recommendation.

To devote them, to send them over there is our recommendation. The question we addressed as a practical matter is, how do you set something like this up on day one? How do you do that? You do not just do a standing start and bring in analysts and train them from the very beginning. You go to the places where the analysts exist and they have been trained, particularly the CIA which has made in fact its profession to do this work through its history. But to bring people from the other agencies as well, and to form them into one place, but to not loan them, but to make them part of that new permanent staff.

Senator SUNUNU. Thank you. A second area that concerns me is a practical argument, I think a very practical one, that has been made against or raised as a concern when setting up new intelligence organizations, but also a concern that has been put forward when the question of sharing information comes up. Senator Rudman, you talked about the two drawers, information systems. You need a system or a process, whether it is technology-based or not, to actually get people to share that information.

But in some cases there is an argument raised, we are concerned about providing this package of information to another independent group because they may then go out and compromise methods or sources, or share that information with someone that we as a different organization might not want them to share. They might provide it to local law enforcement when that is not really an appropriate consumer of this information. That can be willful. You can

have organizations that are prone to leaks. But it could also be a lack of understanding of the sensitivities.

My question is, in your experience where do those problems most often occur, are they well-founded, and are there different parts of an organization that are more likely to leak information, unfortunately willfully, or simply misapply information or share information with the wrong customer? Where might those problems occur in the chain?

Mr. RUDMAN. The major problem on information sharing over the years has been the Bureau's deep concern that criminal investigations would be compromised by furnishing information outside of the Bureau. And the CIA's great concern, that by sharing information with the Bureau it might get somehow into hands inadvertently that would compromise sources and methods. So there have been cultural reasons. When Jim uses the word cultural, I agree, but the culture has got some basis in reality. These are people that have been burned on a number of occasions.

Now you did something here in the Congress that I thought was very good last year in the USA Patriot Act. As you probably recall, the CIA was barred until very recently from keeping files on Americans. Not only could they not collect on American citizens, they could not even have access to the information on Americans. That, thankfully, has been changed. That might have been fine 30 or 40 years ago but it is not fine now. So now at least people have access to the same kind of information—this is on terrorism I am speaking of. But I think the cultures, as Governor Gilmore points out, they have prevented it. But there has been a basis for it.

My problem with the fusion, and we have a friendly disagreement on this, my problem with that is how in the devil are they going to get the FBI and the CIA to give them all the information they ought to be giving them when they are not part of the same organization? You are talking about, I think, a very steep hill to climb.

Senator SUNUNU. I see that my time is up but Governor Gilmore if you want to address the same question, and again in particular how we set up this organization so that the concern of the FBI about compromising criminal investigations and the concern of the CIA regarding sources and methods are best addressed?

Mr. GILMORE. Warren is right in his analysis of what the concerns of the FBI and the CIA have been over the years and remain, in my judgment, to this day. The fusion center is something new. It is a new device. There is today no formal coordination body in existence. There are efforts between the different agencies to find some vehicle by which they share—they sit in each other's meetings and so on like that.

This is an effort though to break through some of these bureaucratic boundaries, create a fusion center, and now I want to come to the main things here. You have got to write the rules. The rules have to be defined. Everybody has to understand what the rules of the game are. And then you have to hold people accountable for whether they are going to do it or not. There is going to have to be an understanding that information of this type of sensitive nature is going to have to be shared. If it is not shared, then there should be penalties connected with the non-sharing. And if it does

not share and then information does not get fused and as a result Americans are injured, then there must be penalties or sanctions connected with all that. The rules have got to be written.

And furthermore, we have not even talked about the major barrier, and that is the supreme and total distrust of the Federal Government authorities for the States and locals. The idea of sharing sensitive information with a police chief of a major jurisdiction or the governor of a State is anathema. It has to be broken through. So far efforts are being made to do that. Progress is being made, but they are trying to break a cultural barrier and it is going to require dramatic leadership at the Executive and Congressional level to make that happen.

Mr. RUDMAN. Madam Chairman, I want to add, I agree with Governor Gilmore. One of the things that I would look at if I were still on this Committee, I know the administration said lawyers from Justice and the CIA and DOD have all looked at all of the statutes and say that everything is OK, this will work. I would want to maybe have a very intensive study done of all of the statutes that involve the CIA and the FBI on privacy issues, on sharing issues and other issues, to make sure that this new center operates under not only the rules, which will be written, but the laws that exist.

Now it may well be that they are right, that they do not have a problem with the current laws, but I surely would want to take another look at that.

Chairman COLLINS. Thank you. Senator Lautenberg.

OPENING STATEMENT OF SENATOR LAUTENBERG

Senator LAUTENBERG. Thank you, Madam Chairman, and to my friend. Senator Rudman said old friend. I would say friend of long-standing because the rest is apparent. It's nice to see Governor Gilmore here. We met on TV a couple of times, had some fun.

Senator Rudman comes with a remarkable record of confidence building and leadership from his years in the Senate. Universally respected and sought after by Senators regardless of party. The work that you did on your budget initiative helped us finally get to a point where we had a balanced budget in 1999.

Mr. RUDMAN. For a little while anyway.

Senator LAUTENBERG. A little while felt awful good, but that is what happens at times. When you sit down and you have a meal, it feels good and you know later on, maybe we should not have quite done it that way. But it is a pleasure to see you here, both of you, having left office formally and being called upon.

Now I was never called upon to add my service so I decided I better run again and here I am, and glad to be here and to try and help solve some of the problems that we are having. The enormity of problems has grown in these couple years and I do not think it has anything to do with my departure from regular service, but the fact is that matters and life have become far more complicated. The horrible benchmark of September 11 has left a permanent impact almost no matter what we do.

I wonder, Senator Rudman talked about, described a joint venture. When I was a CEO of a pretty good-sized company I liked joint ventures as long as we owned the joint. I think we have some-

what that problem here in government. To me, the best way to get an understanding of effective participation with an agency is the simplest way. I think you have talked about it, Governor. The fact is that you have to reach into these sources of trained people. Frankly, I would have hoped that between the FBI and the CIA that a task force of sorts could have been created with the authorities as delineated, to get the job done. Because one of the things that seems to be happening is we are adding—I do not want to sound critical, but we are adding acronyms because we are adding organizations and yet we still have that feeling of discomfort.

I can tell you this, that the kaleidoscope of color that we use to warn people is just scaring the hell out of a lot of people. And yet we have an obligation to say, life is not exactly as it was and you have to be especially careful. But that muddle of things really worries me because there is no confidence yet.

I respect the President's initiative here, and to think that this problem could be solved immediately and create this giant department, jurisdictions overlapping all of that kind of thing. I am very involved with the Coast Guard and I was on Intelligence after Senator Rudman left, and Defense Subcommittee on Appropriations. There is conscientious leadership there, but the fact of the matter is that to have this large safety net with the holes in it that we ultimately saw is a shocking thing. We cannot go back retroactively to pre-September 11 and say, should have, could have, would have, I think that is a dangerous and insignificant review.

But where we are now, still with people wondering who is where—the fact is that I hear from local law enforcement people, they are groping for information, searching for ways to be included in the loop. That has got to be a large part of the solution to the problem. That is to be able to get this data out to the communities out to the States so that they feel like they can do something significant if an alert does come.

So I supported the idea of the integration center, the fusion as you call it, Governor Gilmore, center where the data are collected in one place. But I for the life of me still have a problem trying to figure why we cannot, within the existing structure, create the mechanism to solve the problem. Should this be a direct NSA report or something like that? How does it get to the President? Does the President have at his daily briefings a review of terrorist activity? Or is it immersed in this whole melange of things that he has to be concerned about?

So I am not offering much by way of advice except to say that if we could only get this housed, done within the structure that we have, trained people, people who have knowledge and have a place out gathering data, and do it that way instead of creating a whole new structure because we cannot get through the bureaucracy.

[The prepared statement of Senator Lautenberg follows:]

PREPARED STATEMENT OF SENATOR LAUTENBERG

Madam Chairman, I'm glad you recognize the importance of holding a hearing on the "Terrorist Threat Integration Center" (TTIC) the President has proposed.

Let me first welcome and thank the witnesses for coming today, and giving us the benefit of their expertise on this issue. Senator Rudman and Governor Gilmore have provided a great service to the nation. Their efforts to identify and alert us

to terrorist threats and provide solutions to the vexing problem of defending ourselves from terrorist attacks are much appreciated.

Jeff Smith and James Steinberg have wide experience in dealing with our national security agencies and I look forward to hearing their insights on what this new Terrorist Threat Integration Center's role should be.

Madam Chairman, I'm disappointed the administration did not send a representative to inform us about its plans for this new Center. We need clarity and leadership from the administration on this question and, with all due respect to the President and Governor Ridge, we are not getting it.

What do I mean by this?

In the wake of September 11, it rapidly became apparent that an inability or an unwillingness of the intelligence community to share information played a role in our inability to prevent the attacks.

There was a reality that there wasn't any single agency responsible for gathering, analyzing, and disseminating the information in a way to prevent and counter terrorist attacks.

Many felt the creation of the Homeland Security Department would solve this problem. The notion was that the President would be briefed on potential terrorist attacks by the Secretary of the Homeland Security Department.

Well, we have created the Homeland Security Department. But we still have the CIA's Counter-Terrorism Center. We have the FBI improving its intelligence capability. And now we have this new Terrorist Threat Integration Center.

I think that the responsibility for determining the terrorist intelligence picture is becoming murkier, not clearer. Rather than reducing the number of agencies and bureaucracies with responsibility for this problem, they are proliferating: CIA, FBI, CTC, DHS, TTIC, etc. and so on.

We are not "connecting the dots," we are multiplying them.

I must also express some wonderment about how this whole process is unfolding. This new Center has been created by the President outside the Homeland Security law. It would have seemed more logical for the President just to create this Center or something similar within a short period following September 11. If this has been an urgent problem, why did we wait for well over a year to create it? If the only question involving improving our intelligence processes was to beef up the CIA's ability to do so, which could have been done shortly after the September 11 attacks, why did we go through all the trouble and disruption of creating a new Department of Homeland Security?

Between the proliferating number of agencies and the kaleidoscopic color scheme of threats, I worry that we are spreading fear and near panic in the country without materially advancing the protection of the nation from a terrorist attack or raising the comfort level of our citizens.

We now have the Homeland Security Department and the TTIC. Since I doubt we will dis-establish either, we must find a way to make them work together.

I look forward to hearing from these distinguished witnesses. I hope they will be able to indicate to us that things are getting better on this front—and, if they are not getting better, what can we do to improve the situation.

Thank you, Madam Chairman.

Mr. RUDMAN. Senator Lautenberg, let me just respond this way. I think that is what the administration is attempting to do. Now people may disagree with the form, but what they are essentially doing is saying we have had analysis of terrorism within the FBI, we have got analysis within the CIA. Most of the information that we get is foreign so the CIA is tasked with evaluating it and doing the analysis. But we have got all these other parts of the government that pick up bits and pieces, so rather than try to exhort people within the current boxes to do what they are doing, put together a joint venture, if you will, and have it report to the Director of the CIA, which answers your question, how does the President get informed? That is how he gets informed. He meets with the Director of the CIA, I am sure you know, mostly every day. This will be a major part of his reporting.

Now under Governor Gilmore's plan it would certainly work. The difference would be that the director of that fusion center would have a separate reporting line to the President. We do not have to

argue that here, but the concept—the only difference between the two ideas is one is independent and one is not. The basic reasoning and the need we all agree on. The administration has chosen to do it in a so-called joint venture. My view is that it is better to do that way than to try to do it within the current structure of the CIA and the current structure of the FBI, to try to move all of the people dealing with domestic terrorism based on foreign and domestic intelligence into one place. That is what the fusion center proposal was, so we do not really disagree on the need. We only disagree about the modality.

From your comments, I would think you would probably oppose the creation of a new department. That is their proposal, and it is a very sound proposal. But there is room for reasonable people to disagree.

Mr. GILMORE. A new agency. We did not even recommend the Department of Homeland Security.

But with respect to, I think the answer that I would want to provide to you, Senator is this. You have got to identify the problem. We have taken a lot of time to try to think through what the problem is, under no pressure from anyone. We have tried to think about this. The problem is that you just cannot find a vehicle in the present structure of government in our Federal system that is in a position to gather together Federal overseas information, domestic information, human intelligence, signal intelligence, State, locals, private people, private enterprise. There just is no vehicle for that. There is a vehicle for intelligence to be gathered and the President certainly receives his daily briefing every morning. There is no doubt about that.

But then as you analyze the problem that we saw in the past, it is not only that there is no vehicle for gathering up all that information, but that there are institutional and cultural barriers to the complete sharing. This is designed to be a vehicle to overcome those problems. It does not solve all problems, and it even creates new ones with additional bureaucracies. But this is the best solution that we can come up with balancing all the different pressures.

Senator LAUTENBERG. I thank you both. Madam Chairman, we are developing our mandate here, and that is, as you said, write the rules and decide how it ought to be. This is a very helpful discourse and I thank you.

Chairman COLLINS. Thank you. Senator Pryor.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Madam Chairman, thank you. I want the record to reflect that my father never ran against Senator Rudman. I am glad he did not. He is glad he did not, but he does send his greetings. It is good to see you again.

Mr. RUDMAN. Thank you very much. I appreciate it.

Senator PRYOR. Let me ask both of you a couple of big picture questions. How many employees are we talking about being necessary once the Center is fully operational?

Mr. RUDMAN. I think it is a better question when you have the administration witnesses. My understanding is it is going to be started in phase one with probably under 100, mainly analytical.

They will stage it on the basis, if you grow it too fast it will not grow as efficiently as it should. My sense is you are talking hundreds rather than thousands when they finally get to the final stage of where they want to get, which on my information is probably 3 to 4 years out.

Senator PRYOR. Do you agree with that, Governor?

Mr. GILMORE. Our commission has attempted to lay out what we think the issues are, the challenges are, and the best solution. To then place ourselves of the administrative people who would design the specific number of hires to do the job, we have not presumed to do. So the short answer is that we believe there needs to be a fusion center to gather this information together, and I am sure that the appropriate Executive Branch people who would come forward with a proposal to the Congress would lay out how many people they think they need to get the job done.

Senator PRYOR. Will this joint venture have its own budget or will the personnel, location, and overhead, be absorbed in other agencies' budgets?

Mr. GILMORE. We recommend that it has its own budget in order to continue to provide that type of independence, Senator. But the question of how you would actually fund it is an appropriations issue; a proposal from the Executive Branch and an appropriations issue from the Senate. We would not be surprised if you were to move funding for the analysis function from the different agencies into the new agency in order to begin its funding. But since it is an independent agency we believe it should have its independent appropriation.

Mr. RUDMAN. Senator Pryor, the administration's proposal as I understand it does not require a separate budget because it is not doing what the Gilmore Commission has recommended with an agency. It is essentially going to take people who are currently on the payroll of these various other agencies, co-locate them in one place, and make contributions to overhead.

Now as a practical matter, although many of them will be moving to a different location doing the same job and getting paid the same amount of money, inevitably there will be more money involved and I assume that will appear in the budget for the respective agencies who will make a contribution. That is the way the appropriation process normally works.

Mr. GILMORE. It does however raise an issue. If you co-locate people in that manner one might ask the analyst who he works for. I think his answer would be what everybody in the world would answer, the guy who writes my paycheck is my boss. Therefore, the fusion center will really not have employees under this proposal. That will create a management challenge, but I believe that there is a sense that once identified that the heads of the CIA and the FBI will be in a position to provide that management. But I think I have identified the management challenge to you.

Senator PRYOR. I agree, I think it is a challenge. However, I think we can overcome it. It seems like something we can work through and work out and come up with a very positive management structure and accomplish the mission.

I am aware you have a joint venture here where the employees come from different agencies. I am assuming that the creation of

this center does not relieve the other agencies from doing their own analysis and making their own determinations. In other words, they do not cede their responsibility to this new joint venture. But it is a little bit redundant, and redundancy in this case may not be a bad idea because theoretically this new center may be in a superior position to analyze data coming from a lot of different sources. Is that the way you understand it, Governor?

Mr. GILMORE. That is a very complicated point. It could create redundancies. I think that the sense of our commission is that the primary function for this type of analysis ought to rest in the fusion center. Now I guess that administratively it probably does not make sense to deprive the individual agencies of all ability to analyze information, otherwise how do they know what to give, and how do they know how to understand what they are getting. So I think I see that administrative point and I think that we would concur with that.

But I think we should guard against co-locating equal amounts of analysis capacity in both places because then the individual agencies I think would have a tendency to say, who needs that?

Mr. RUDMAN. Senator Pryor, that gets back to the Chairman's position on duplication. My sense is that, although obviously both the Bureau and the Agency will retain some analytical ability in the area of terrorism, I think the overwhelming amount of analysis is going to be done at this new joint venture, whether it be a joint venture or whether it be a fusion center. It just seems to me that is what is going to happen, because you do not have, unfortunately, that many people who are all that well-trained in this area. You are going to have to take a lot of them over the next several years and move them into this new co-located position.

Now you have a practical matter, knowing the way these places work, since the collection is coming through the eyes and ears of either the CIA or the FBI, it would be to me almost incredible if that would not be looked at, put in a sealed envelope and sent across the city electronically or otherwise. Obviously, people are going to be aware of it and contribute some analysis to it.

But that is not really your question. Your question is, is there going to be major analytical capability still at these places? I would hope not because then you get into duplication and then you get into some competition. I would hope this would be the place where the threat of terrorism and all intelligence thereto is analyzed.

Mr. GILMORE. Madam Chairman, may I add a point on that?

Chairman COLLINS. Certainly.

Mr. GILMORE. Because I want to address this issue of duplication which has emerged. I think that it is important to keep your eye on the ball. Focus on the issue. The issue is, what is the problem here? How do we share information? How do we get this information co-located in such a way that we share the dots. So that something significant from CIA combined with something from FBI suddenly has meaning where in the two pieces it may not. That is the issue.

The fusion center, the President's proposal, all these things are very much the same proposal. It is just a matter of administratively how you are going to shape it. They are intended to address that issue. Therefore, the question is does duplication become a dis-

qualification of the solution? It does not. It merely becomes a challenge that has to be worked through and minimized.

Senator PRYOR. I agree with you. I can live with some duplication if we accomplish the goal we are setting out to accomplish. The question is always how to do it in the most efficiently, and effectively manner possible. That is a challenge that we all wrestle with here every day and I know you will too.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Senator. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you, very much, Madam Chairman. I thank you for this opportunity and I welcome Senator Rudman and Governor Gilmore. Senator Rudman, I knew you when I was in the House, and I know of your work in the Senate and you have really served our country well as a Senator, and even after the Senate.

My concerns have been that we may have too many centers. The President in his State of the Union speech did add a new key component though which he called a Terrorist Threat Integration Center. I can see his intent there, and especially when we think that we have many centers. Yesterday I met with Dr. Cambone. He was nominated to a new position in the Defense Department and that position is undersecretary of intelligence. Now here is another effort in facing the threats of our country, not only domestic but foreign threats. So my concern is there may be too many centers trying to do the same thing.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

Thank you Madam Chairman for organizing today's hearing. I am pleased that the Committee is continuing to focus on critical issues relating to our national security.

I am disappointed that the administration could not be with us today. The President's proposal to establish a Terrorist Threat Integration Center was one of the key components of his State of the Union address and the administration has issued several briefing papers on the concept.

Yesterday I had the opportunity to meet with Dr. Steve Cambone who has been nominated to the Defense Department position of Undersecretary for Intelligence. This is a new position at Defense is one of many additional efforts underway to improve intelligence management.

I am concerned that there may be too many centers being created to respond to the same threat. For example, the CIA has its Counter Terrorism Center—the Defense Intelligence Agency has its counter terrorism center—the new Department of Homeland Security will have an Information Analysis and Infrastructure Protection Directorate—the Army has an Information Dominance Center—DOD is developing a Total Information Awareness program—and the FBI has a Counter Terrorism Division. Now the President proposes a new Terrorist Threat Integration Center.

When this Committee marked up the Homeland Security bill, I worked with Senators Lieberman, Levin, and Thompson to craft an intelligence division to ensure the Department received sufficient information concerning domestic threats and had the capability of responding to those threats. Unfortunately, that proposal was later rejected by the administration. My concern then—and now—was that there would be duplication of effort in the intelligence arena.

There can be only so many cooks in a kitchen. I think we have already reached our limit when it comes to analyzing intelligence information. We have a limited number of qualified intelligence analysts and a limited number of agents in the field developing information. Creating numerous centers in Washington—all looking at the same information—does not mean we will be better prepared for countering terrorist threats.

We have an esteemed group of experts this morning, including our former colleague, Senator Rudman. I look forward to their comments on this subject and I commend our Chairman for holding this hearing.

Senator AKAKA. Under the administration's plan, and I would like to direct this to the Governor, the Director of the CIA will inform the President about threats, but who is responsible for ensuring domestic investigation of threats that take place, and State and local enforcement are kept in the picture? Governor Gilmore, am I correct in thinking there is currently a disconnect?

Mr. GILMORE. Yes, Senator, there is a disconnect. I think that most people have understood that since September 11 as they have tried to analyze the problem and are trying to find ways to address that.

Just to touch on your Department of Defense comment just as a potential for more and more centers trying to do the same thing. It certainly is contemplated, I think, that this fusion center, this integration center, or however it is defined or structured would include people from the Defense Intelligence Agency, from the Department of Defense as well as from the CIA and the FBI and hopefully a place also for State and local people. It is a desire to begin to combine things in a way that structurally we have never done before.

I might point out, by the way, that I have spoken to some leaders in law enforcement from some of the major municipalities of the country and they have indicated that the FBI's Joint Terrorism Task Forces are doing some more of that communication and that they do feel like they are having an opportunity to work on the same team with that program. So that seems to be a program that is making some progress in terms of the collection efforts, in terms of the team for gathering information.

But at the end of the day I think there is a near virtual consensus everywhere that there needs to be some type of integration center or fusion center so that everybody has a centrally located place to learn all the information gathered from all the disparate areas as you have described.

Senator AKAKA. Senator Rudman, I know because of your background and experience as a Senator and your participation in security matters as well, I ask for your assessment and also your thinking about—and if you can explain to me what you know about the Terrorist Threat Integration Center that the President is proposing and whether that would answer my question, which officially is in charge of bringing together all foreign intelligence concerning threats inside the United States and the domestic law enforcement information about domestic threats and ensuring first that this information is thoroughly evaluated and that a timely investigation takes place?

And second, who ensures that local officials who might be affected by a threat are kept in the picture? I am hoping that the President's proposal on integration will bring that about. I was thinking of it in terms of the interagency coordinating group that would do this. Can you give me your views on that?

Mr. RUDMAN. I will, Senator Akaka. Thank you for your gracious comments. I enjoyed our service together.

Let me tell you that I do not think that I necessarily know the answer to that and I think that is a better question for the administration witnesses. But I think I know what the answer will probably be, so on that basis I will tell you what I believe the answer is but I just do not know for certain.

I am sure that this new threat analysis center will carry out the function that you are speaking of. I think theirs is purely analysis. The question then becomes, what happens to their product? Let us assume that their product produces a specific threat to Honolulu. The question is, how does the chief of police of Honolulu and the Governor of Hawaii get to know this information? That is really your question.

I think there are two answers to that question, or at least there should be. It is, I believe, now the primary responsibility of the FBI and the Department of Homeland Security to coordinate with local communities to make sure that the kind of information they have not been getting they will be getting.

It is my understanding that there is currently a program underway in which the police authorities of major cities are getting Federal security clearances, which is a very unique new program. It is not a classified program. It is known. It was spoken about publicly at a meeting I was at yesterday. So that there is more ease of passing on that information to people.

For instance, it is hard to believe that when Governor Gilmore was Governor of Virginia it would have been a Federal crime for an agent to share certain classified information with him because he did not have the clearance. Now it certainly seems to me that the mayor and the chief of police of New York ought to be able to get classified information. So I think they are working in that direction but not through this center. I think those questions are better directed at the FBI and Governor Ridge to see if they are upping their efforts to get clearances and find ways—

And finally let me say just one other thing that was inherently contained in your question. I have long believed that the balance between protecting sources and methods and protecting the American people from great harm has to be rationalized in some way. Where I come out on it is simply this. I believe that if we have a specific threat, as opposed to what we have right now, a specific threat based on good information of a major terrorist action against a particular city during a particular time frame, that sources and methods ought to be compromised if necessary to protect that population from that injury. That is a debate you will have to have within the community.

Senator AKAKA. Governor Gilmore.

Mr. GILMORE. Senator, if I may just add, in my discussions with Admiral Abbott he has indicated that they in fact are starting a program where they are beginning to go through the process of clearing the governors and clearing of major law enforcement key personnel in the respective States. Then you begin to put in all the safeguarding rules, all the penalties for violation of that, all of the training that goes along with that. I think that it can work and should work.

I think that if a politician in a State, the same thing as a politician at the Federal level—politicians are politicians, if they reveal

information in order to gain some type of political advantage and so on, there ought to be penalties involved with that. I think once you set up this kind of structure then everybody is going to understand what the rules are and how they are supposed to adhere to them.

Senator AKAKA. Thank you so much for your responses. Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Senator.

Before I let this distinguished panel go I just want to follow up on the issue of how the new center would interact with State and local law enforcement officials, which both of you have talked about as well as several of the members of this panel. Recently in Portland, Maine, for example, the local police detained a foreign national who was visiting on a tourist visa who was spotted photographing an oil tank farm on the Portland waterfront, obviously an action of some concern. The local police, however, had an extremely difficult time getting information from the FBI about whether or not this individual was on any watch list or if his actions were a matter of concern. So I think we still have long ways to go as far as information sharing and developing the trust among various agencies at various levels of government.

Do you think that State and local law enforcement officials should have direct access to this new center or a way to somehow tap into information directly? Senator Rudman.

Mr. RUDMAN. I do not, Senator Collins. I think that the nature of the information they will be having to compile, their analysis product based on foreign and domestic intelligence, cannot be shared on a demand basis. What I do believe is what you intended in the Department of Homeland Security legislation. I believe that DHS primarily is going to become responsible for liaison, both information technology and verbally, with local law enforcement. I believe that they ought to be on the front line, and I expect they will have people in this new center who can pass on to the chief of police of Portland, Maine that this person is on a watch list and do it in real time.

But I think that is the way it ought to be done. I think you have got to limit access to this product. Not limit access to those who need it, but limit general access to it. Then you get into some issues that I think would cause a lot of problems.

Chairman COLLINS. Governor Gilmore.

Mr. GILMORE. If I understand Senator Rudman, I think that our commission would disagree. We believe that there ought to be colocated people, representative people from States and local organizations to begin to understand the nature of what is going on in the States. There is a serious cultural problem here. We identified it years ago. It remains to this day. It is the inherent feeling of Federal law enforcement authorities that they are superior.

The reason that they think they are superior is because they are better funded by the Congress than local law enforcement agencies are able to be. They have, therefore, access to more people and more resources. Therefore they think they are superior.

But that is balanced by the fact that local law enforcement people are in more places, seeing more things across this Nation each and every day. Therefore, the Federal authorities are not superior.

They are just different. Therefore, culturally, things have got to work out in a way that can harmonize these two things together. I think the recommendation of our commission would be that the fusion center creates a vehicle for the gathering together of all the different organizations. There even should be some facility or some ability to have an open channel of communication with private enterprise.

Chairman COLLINS. I want to thank both of you very much for your testimony this morning. Both of you have been extremely generous with your time and your experience and we very much appreciate your appearing this morning. So thank you, both.

I now would like to call forth our second panel of witnesses this morning. James Steinberg is the vice president and director of foreign policy studies at the Brookings Institution. He served as deputy national security adviser in the Clinton Administration as well as director of policy planning staff and deputy assistant secretary for the Bureau of Intelligence and Research at the Department of State.

Jeffrey Smith is a formal general counsel of the CIA and formal general counsel of the Senate Armed Services Committee under Senator Nunn. He is now a partner at Arnold and Porter.

We welcome you both here this morning. We very much appreciate your taking the time to appear. Mr. Steinberg, we are going to begin with you.

TESTIMONY OF JAMES B. STEINBERG,¹ VICE PRESIDENT AND DIRECTOR OF FOREIGN POLICY STUDIES, THE BROOKINGS INSTITUTION

Mr. STEINBERG. Thank you very much, Madam Chairman. I very much appreciate the opportunity to be here, and I commend you and the Committee on having these hearings because I think this is one of the most critical topics that we as a Nation face. As you pointed out, although a number of actions have been taken concerning homeland security, one area that has not gotten the degree of attention that I think it deserves is the organization of our intelligence efforts, so I think this is very welcome.

I have a longer statement for the record and I will just summarize a few points for you. As you heard from the previous panel I think there is a general agreement that there is a need for greater integration of our efforts to analyze the threat and the nature of the challenges that we face in the area of counterterrorism. Where I differ from my distinguished colleagues who you heard from in the previous panel is that I believe that this effort should be focused in the Department of Homeland Security, and I think that is consistent with the intention of the Congress when it created the department, and particularly the Office of Intelligence Analysis and Infrastructure Protection.

As you stated in your opening statement, the House and Senate joint inquiry into the attacks of September 11 really demonstrated the problem that we have in terms of bringing together and sharing information. I will not repeat the quote that you gave because I think it is exactly to the point of the challenge that we faced. Be-

¹The prepared statement of Mr. Steinberg appears in the Appendix on page 95.

fore I discuss the specific ways of how we should respond, it is important to spend a minute discussing the nature of the intelligence challenge that we face in dealing with counterterrorism, because only by understanding the dimensions of the problem can we develop an appropriate architecture or organizational structure that is appropriate to the task.

The intelligence challenge in counterterrorism has four key components. First we need to collect timely, relevant, and in the best case, actionable information. Second, we need to collate or bring together the information from the full spectrum of sources. Third, we need to analyze the information; as others have said, connect the dots. And finally, we need to disseminate that information to those who need to act on it, policymakers, law enforcement officials, the private sector, and the public in a form that allows them to use that information to accomplish their mission.

In the fight against terrorism these tasks are far more difficult in many ways than the intelligence challenge we faced during the Cold War. Today, terrorists threaten us at home and abroad. As Senator Rudman observed, they have no fixed addresses and we only occasionally know their identities or their targets. Technology and globalization have made it easier for would-be terrorists to bring dangerous people and weapons into the United States, and to conceal their activities.

Key information that we need to detect and prevent terrorist attacks lie in the private sector, at airlines and flight schools, with operators of chemical plants, and high-rise buildings, with local police and community doctors, and we must increasingly count on the private sector and State and local governments to take the actions necessary to prevent attacks or deal with their consequences. We need to adopt our intelligence efforts and the organization of our intelligence community to meet this radically different challenge.

In your opening statement you identified a number of the small steps that have been taken today and these are welcome. But I think that is true that as many of the witnesses and the Members of the Committee have noticed, that there is a tendency to focus primarily on the role of the Federal Government in carrying out these tasks, but in reality we see that there are a wide variety of actors who are crucial: Foreign governments, State and local officials, business, and private citizens. They all have access to information that may be relevant to the terrorist threat. They have expertise that can help us transform this raw information into meaningful intelligence. And perhaps most important, they are the key players who need to act on this intelligence, to apprehend a suspect, to prepare public health facilities in the event of an attack, to secure critical infrastructures, etc.

Now the reason I have stressed the importance of understanding these different functions is because they provide key guidance for the critical question of how we should organize the intelligence efforts. The necessary elements, in my view are, first, we need a strategy for identifying the kinds of information we need to collect on threats and vulnerabilities.

Second, we need a network, a decentralized network designed to permit sharing of information among the widest possible group of

collectors, analysts, and implementers at all levels of government, and between government and the private sector.

Third, we need a focal point for bringing all the information together to be integrated and analyzed.

And fourth, and I think this is extremely important, we need an accountable organization that assures that the right information is being collected and the results of collection and analysis are shared in a timely, usable way with those who need to act on it.

Judged by these tests, the administration's proposed Terrorist Threat Integration Center represents a partial step forward in helping to build a network bringing together foreign and domestic intelligence collection and a place where this information can be integrated. But it fails to meet the other key tests, particularly in developing a structure that will increase the chances that we will collect the right information and that will link the collection and analysis to those who are responsible for taking the necessary actions to prevent attacks, protect our people and critical infrastructure, and mitigate the consequences of any attack that might take place.

I think, therefore, in this respect that the Terrorist Threat Integration Center is a step backwards from the approach that you adopted in the Homeland Security Act of 2002 creating the Department of Homeland Security. Yes, we have closed the seam between foreign and domestic intelligence, and it does recognize the need to draw on broad expertise. But by placing the TTIC under the direction of the Director of Central Intelligence rather than the Secretary of Homeland Security, and disconnecting it from those with direct responsibility for safeguarding homeland security, the administration fails to develop an effective and integrated approach to countering the terrorist threat to the United States, and risks, as many of the members of the panel have suggested, creating more duplication that could harm the homeland security effort.

After all, the Department of Homeland Security was created to be the hub of our homeland security efforts. Unlike any other official, the Secretary of Homeland Security's sole responsibility is to see that the necessary actions are taken to secure our borders, to protect critical infrastructure, to defend against biological, chemical, nuclear, and radiological attacks, and to respond to emergencies that do occur.

Importantly, the statute specifically gives the Secretary responsibility for coordinating with State and local officials and with the private sector. So in order to carry out the functions that you gave him in the statute, he has got to be able to link the decisions about what information we collect and what information we share with his responsibility to take the necessary actions. I think that is the important difference between locating this effort in the Department of Homeland Security and making it a separate entity, whether a joint venture or an independent effort.

I think the importance of this linkage is most clear in the case of protecting our critical infrastructures. Only by matching analysis of the threat against the analysis of vulnerabilities that the department is responsible for can we know how to prioritize both what intelligence we collect and what protective measures we must take. The synergy created by linking intelligence and collection analysis

and operational responsibility can lead to better quality intelligence, more actionable intelligence, and greater incentives for the intelligence to flow to those who need it in a form that they can use.

By taking these functions away from the Department of Homeland Security we risk having a secretary and department who have accountability for homeland security but no authority to assure it. In my judgment, this has been the consistent problem in dealing with threats to the homeland with responsibility widely dispersed throughout the Federal Government and that has seriously hampered our efforts.

I think there is an important question about maintaining the independence of this analysis. Therefore this fusion center in the Department of Homeland Security should also have the general oversight of the Director of Central Intelligence just as he has oversight over the Department of Intelligence Research at the State Department, the Defense Intelligence Agency, etc.

But along with this authority that I would give to the Secretary of Homeland Security there is also a responsibility to make sure that this information is collected consistent with fundamental civil liberties, because the homeland security challenge will rely heavily on information collected from the private sector, and from a wide range of domestic activities.

Moreover, to carry out the homeland security challenge, vital information will need to be widely disseminated. It will be, therefore, all the more important to develop clear, public guidelines for the acquisition, retention, and dissemination of information, particularly personally identifiable information.

Whether the new threat integration center is placed under the authority of the DCI, or as I have suggested under the Secretary of Homeland Security, the long-term acceptability to the American people of our heightened intelligence effort will depend on our ability to demonstrate that we are undertaking these new tasks with due regard for privacy and individual liberty. Formal guidelines subject to public comment and Congressional oversight, and accountable mechanisms to make sure those guidelines are adhered to, are essential to this goal.

Thank you for the opportunity to appear today. I look forward to your questions.

Chairman COLLINS: Thank you, Mr. Steinberg. Mr. Smith.

TESTIMONY OF JEFFREY H. SMITH,¹ FORMER GENERAL COUNSEL (1995-1996), CENTRAL INTELLIGENCE AGENCY (CIA)

Mr. SMITH: Thank you, Madam Chairman, for inviting me to appear. As with Mr. Steinberg, I have a longer statement that I would like to submit for the record that I will summarize very quickly and we can get to questions.

This is an extremely important issues. There have been a lot of changes, so I think we might begin by listing a few principles that ought to govern the collection and analysis of intelligence for domestic security.

First, there should be a unity of effort and unity of command.

¹The prepared statement of Mr. Smith appears in the Appendix on page 100.

Second, there must be clear channels among collectors, analysts, operators, and consumers—the linkages that Jim spoke of. This has to be a two-way channel with information flowing up and down.

Third, there has to be a smooth flow of information among other sources of information and between State, local and Federal officials.

Fourth, we should avoid overlap between intelligence agencies. The boundaries should be clear but not impervious or rigid, and some competition, as Senator Pryor suggested, can be helpful.

Fifth, intelligence analysts must be independent. Indeed, that is why the CIA was created in the first place.

Sixth, the analysts and indeed all intelligence activities must be accountable to the political leadership of this country and to the Congress.

Seventh, we must take all measures to protect the civil liberties of American citizens.

Eighth, any organizational structure can be made to work even if it looks dysfunctional on paper. The keys to success, in my judgment, are good people, strong leadership, and stability. In that regard I am reminded of Norm Augustine's wisdom that sometimes we check on the health of a plant by pulling it up to look at the roots, and that is not a good thing.

Finally, an analytical organization is only as good as the information it has to analyze. There was much criticism after September 11 that we had not connected the dots. The major problem is, we just do not have enough dots. I think a renewed emphasis must be placed on collecting more intelligence, especially human intelligence.

Now let me turn to a few of the specifics of the President's proposal. It is a good idea and I support both the concept and the proposed implementation of it. However, I believe it is only a first step toward what I believe we ultimately need, which is a viable domestic intelligence service. The Department of Homeland Security clearly needs an intelligence function. I agree with everything that Jim has said about the need to have it linked to ultimately the responsibilities of the Secretary. However, I think for the moment I would leave it under the Director of Central Intelligence until ultimately it would be moved, in my judgment, to a domestic security service that would be part of the Department of Homeland Security.

Indeed, as Governor Gilmore said, many people believed after Congress passed the homeland security bill that this function would be housed in the directorate of infrastructure security at Homeland Security. However, the President has decided that it ought to be under the DCI. As I understand the plans of the administration it is to create the TTIC as a fusion center that will ultimately combine the databanks of several agencies including the FBI. It will be a joint venture that will build on the strengths of the current organizations. People will remain employees of their agencies but will be seconded to this center.

The recent changes in the Patriot Act now permit wider exchange of information between law enforcement and intelligence agencies and that should make it possible to permit a common

database so that the chief of police in Portland could call this center either directly or through Homeland Security. But they have to have access to that information, you are absolutely right. And they ought to produce a common watch list that is available to everybody in the country who needs it.

The President's desire, as I understand it, is to try to build on what is already working. The officers who are assigned to this center will be able or are encouraged to have strong ties back to their home agencies including, I am told, even the right to have access to operational traffic within their agency, which is a very important element.

At the same time, there will be much confusion as the center is being created. The FBI has been trying to do this, the Department of Homeland Security has been trying to do it, and now we have yet a new center. There will clearly be some confusion and Congress needs to keep an eye on it. I understand, for example, in the President's budget that he has just submitted contains \$829 million for DHS's information analysis and infrastructure directorate. Is that money then to stay in Homeland Security or does that somehow get shifted to the intelligence community for this function?

Jim and I agree, the intelligence element of homeland security should report directly to the Secretary, and he went through the functions that they need to perform with which I agree and I will not talk about that.

Let me talk about a couple of specific questions the Committee has asked me to address. First, I do not believe that there are any unique legal or privacy concerns raised merely because the DCI will now be responsible for the analysis of domestic intelligence.

However, I would like to point out to the Committee that under current law the DCI, "in his capacity as head of the CIA shall have no police, subpoena, or law enforcement powers or internal security functions." Two aspects of this are worth dwelling on for just a moment.

First, the law draws a distinction between the DCI's role as head of the CIA and as head of the broader intelligence community. This suggests that Congress recognized that as head of the intelligence community he would inevitably have some role in domestic intelligence and law enforcement matters. However, Congress was rightly concerned about the creation of a domestic secret police, and thus barred CIA from having any police or internal security functions.

The second clause of this provision, "shall have no internal security functions" is also worth a moment's discussion. I have always understood it to mean that the CIA may not play any role in domestic law enforcement other than the collection and analysis of foreign intelligence that may relate to law enforcement or domestic security. Indeed, CIA has done that since its establishment.

For example, it collects information relating to espionage directed against the United States, collects information relating to narcotics trafficking, money laundering, and so on. However, as this center is established it would be well to consider carefully the limits of what the DCI and the TTIC will do to be certain that we are comfortable with their roles. Some additional guidelines may be necessary to determine where the line is between intelligence relating

to domestic terrorism, which would be legitimate areas for the center to address, and intelligence relating to purely domestic political groups which should be left with the FBI.

The center should not, for example, be used to analyze information on domestic political groups such as right wing militia or hate groups. It must continue to follow the existing Attorney General guidelines on such matters as the collection and dissemination of information. I, for one, am comfortable with the President's proposal but I believe vigorous Congressional oversight is needed and perhaps some new guidelines.

Finally, Madam Chairman, as this Committee knows, I have been an advocate for some time for creating a domestic security service and I think this is the first step in that direction. I know Senator Edwards introduced a bill yesterday to this effect, Senator Graham has talked about the same thing. I think it is time to seriously give that consideration. Thank you.

Chairman COLLINS. Thank you very much, Mr. Smith.

Why don't we start with the point you made last and I would like to ask Mr. Steinberg your judgment on whether or not we should create a domestic intelligence agency? Many of us have concerns about the civil liberties implications of that and I would welcome your judgment.

Mr. STEINBERG. Thank you, Madam Chairman. I think that the civil liberties issues that we face exist irrespective of where the domestic collection takes place. We have civil liberties issues if the FBI remains the principle domestic security organization or if we have an organization that is separate. On balance, I agree with Jeff Smith that we would be better off with a separate organization. First, because I do believe that a domestic security operation is a very different function than law enforcement. We heard earlier from the early panel about the cultural problems. I think in some respects that if we try to turn the FBI into something which it has not been, we will not get the benefit of what the FBI does well, which is an important law enforcement function, and will begin a new role from a place where they are affected by their traditions.

So I think we need a fresh start. I think we need to look at this question, and I think that the advantage of having a separate organization is that we can have a public debate about what the rules are that should govern it. If we were to create such an organization we would be able to have decisions in the statute that created it providing clear guidelines on civil liberties measures, on accountability and the like, and it would allow us to have a fresh debate that I fear we will not have if we simply move the FBI into the domestic security function and away from law enforcement.

I think we do have to remember the difficulties that the FBI had in the past when it did play a bigger role in domestic security. So I do not feel that just simply by keeping it in the FBI that we can necessarily address those problems. I think by creating an organization that is focused on the domestic security function you will have an organization that defines its mission as protecting the American people and is organized to do that in the most effective way.

Chairman COLLINS. Mr. Smith, based on your experience at the CIA do you see duplication between the CIA's Counter Terrorist

Center and the proposed new integration center? How do they differ? It was my understanding that the Counter Terrorist Center was supposed to conduct all-source analysis and in fact Director Tenet just last year said that it was created to enable the fusion of all courses, the same kind of language that is being used now to justify the creation of the new integration center.

Mr. SMITH. I agree, Madam Chairman, and I think what will happen here or what should happen is that the current CTC should get much smaller and it should probably focus very much on overseas collection of intelligence and overseas operations. The analytical function currently being done by the CTC should be moved to this new center and combined with the analytical functions of the Bureau, because I do think unless that shift is made there will continue to be overlap and confusion.

Chairman COLLINS. Mr. Steinberg, do you have any thoughts on that?

Mr. STEINBERG. I think it is a very good question, Madam Chairman, because we have to ask ourselves the question why the CTC has not been as successful as we want it to be, and whether creating an organization which sounds very much like what the CTC was supposed to be would solve the problem.

I think that there are two reasons why the CTC has not been successful. First is, as you explored at length with the first panel, there is a problem with joint ventures.

There is a question of what is the principal set of responsibilities of the people who work there, how do they think about the problem? I think it is a lesson we learned from the Goldwater-Nickles Act in the military context. That if you do not give a sense of jointness, of being on the same mission to the people who are taking on this task together, they will still feel they belong to the domestic equivalent of the Army, Navy, Marines, and the like, that you are not going to get the kind of coherence and integrated approach that you want. I think that has been one reason why the CTC has not been as successful as it should be, and that I think will be replicated in the new proposal for the TTIC.

Second, I think you have the problem that there is a disconnect between those people who have operational responsibility and the analyst. That there is still a lack of understanding by the analyst of what is needed by the people who are out there in the field to do their job. Under this approach, we have lost the sense of connection between understanding what a border policeman needs to know, what a State and local official needs to know, what a fireman, what a doctor needs to know to carry out their job in homeland security.

The analysts exist in some respects in a vacuum from the mission. I think that has been a problem. We have used this device to assure independence but it has also created a disconnect. I think there are other ways to get the independence and the check on the quality of the intelligence without creating the sense of isolation of the analyst from the broader mission.

Chairman COLLINS. Mr. Steinberg, do you think that the new center, if it does come into existence which I believe it will, should be able to direct the collection of data?

Mr. STEINBERG. Irrespective of where it is located, I think that it is precisely the people who are trying to understand the problem who can help think about where do they want to fill in the holes? What are the problems that they see that are not being attended to? They have a unique ability to see what the requirements are.

But again, when you think about it in those terms, the analysts are one set of the community of people who understand what the requirements are, but so are the users. That is, again, another reason why I would like to see the connection to the users because that way you have the full community of analysts and users together thinking about what the requirements are, and getting a more focused collection.

Because, for example, in the area of critical infrastructure, we will now have in the department people who are looking at the questions of, what are the attacks we are most worried about? What are the greatest vulnerabilities we have?

We then need to be able to have them go to the collectors and say, we are worried about whether the terrorists can attack a chemical plant, or cause damage at a nuclear facility. They will understand the problem that needs to be addressed and they can focus the direction of the collectors to that end.

Chairman COLLINS. Mr. Smith, what is your view on that? Should the new center be able to direct the collection of data or just be a recipient and analysis—

Mr. SMITH. I do not believe they should be able to direct it directly. By that, I mean they should have a key role, and indeed the leading role, in suggesting what needs to be collected, but that ultimately the DCI has to decide what are the priorities of collection. In the intelligence business there is a lot of competition for scarce assets.

For example, how does one decide how the satellites are targeted? You cannot have the DCI telling a satellite to collect on something and have the head of the center telling that same satellite to collect on something different. That is the DCI's role.

On the other hand with respect to issues related to homeland security, clearly this center has to have a very strong voice.

One other point I think is extremely important. Whether the center is under the DCI or ultimately moved to Homeland Security, it is also imperative that the center be able to send essentially tasking directives to State and local government. The British model, the MI5 is very good on this. They work with State and local—in their case all local municipalities, very directly to say, here are the issues that we are concerned about. Here are the people we are concerned about. Here are the organizations we are concerned about. So that the bobby on the beat in London or Manchester knows what it is that he is supposed to be looking for. That is something that we do not do now and that is something that homeland security needs to do in the future.

Chairman COLLINS. Senator Pryor.

Senator PRYOR. Thank you, Madam Chairman. I just have a few short questions. This is a fascinating discussion because it gives us the opportunity to establish something new that theoretically we could do an extremely good job of setting up and that could be very beneficial to this country and to the world. In the discussions and

proposals where do the two of you see major points of weakness in any proposal?

In other words, we talk a lot about who has control over this and what is the job description of this entity. But what do the two of you see as the major point of weakness, the one thing that we need to make sure that we get right, or the one thing that we will need to work on the most to make sure this is an effective organization?

Mr. STEINBERG. If I could start, I think that in many ways the challenge we face on homeland security is a little bit like the challenge we faced at the beginning of the Cold War, at the end of World War II, when we really had to rethink our national strategy. That meant both the substance of our strategy—we developed the doctrine of containment and it had a powerful impact on the organization of our government and how we—

Senator PRYOR. I agree with you on that. I think that is a good point.

Mr. STEINBERG. There is a tremendous temptation to do this in a piecemeal fashion. It is hard to make big change in government. You know that, this is the Governmental Affairs Committee. So the temptation is to make incremental changes. To say, the FBI should do a little more here, the CIA will do a little bit more here. There is always resistance. There is always inertia. There are always costs to change.

I think that what the Congress has done in this area has really pushed the administration both on the strategy and the organization to say, think about this as a fresh problem. Recognize that we really have never thought about the vulnerability of the United States as a core part of what we do. It affects our military. It affects our police. It affects the relationships between State and local government, the private sector and government. These are profound changes and we need to have a vision and a strategy that is equal to the profundity of this change.

Mr. SMITH. I agree completely. I mentioned the British a moment ago. We do not need to necessarily adopt MI5 as the perfect model but they start and are charged by the Prime Minister with that very question, what are the threats to the United Kingdom, whether they originate within the United Kingdom or outside of the United Kingdom, that will ultimately manifest themselves within the United Kingdom? It is their responsibility to figure what to do about them. They collect, they analyze, and ultimately work with law enforcement officials to act. The strategy is vitally important.

Another issue that I worry about is confusion and who is in charge. The issue of the unity of command that I mentioned at the outset, Mr. Steinberg mentioned Goldwater-Nickles. Congress made an enormous step forward in linking authority with responsibility with resources, and that is very important. A Marine general one time put it more bluntly which is, I want a designated neck, by which he meant a neck around which I can get my hands. That is a very useful concept, and as we organize ourselves we ought to designate necks that the President and the Congress can get their hands around when things go wrong.

Senator PRYOR. Let us talk about MI5 for just a second. I will be the first to admit that I do not know a lot about MI5, but you have mentioned it. My perception of MI5, and maybe I am wrong,

is that it is much more integrated than the U.S. counterpart. Obviously there are differences in Great Britain and the United States. They have a much smaller geographical area, a smaller population, and they do not have the Constitution and the Bill of Rights like we do. So there are clearly some differences.

But you have mentioned MI5 a couple of times. Is my perception correct that they are more integrated and, as you said earlier, the agent on the corner is much more in touch with the central office than anybody here in the United States? And is that a good model, and is that what we should shoot for?

Mr. SMITH. Let me talk about that for a moment. It has been my privilege to work with the British over the years so I have some acquaintance with it. As I say, they begin with this fundamental question. They report, by the way, to the Home Secretary so in that sense they fit ultimately with having this whole function report to the Secretary of Homeland Security. They develop criteria for collection, they participate in the process of what is it that British intelligence agencies should collect, MI5, the military services and so on.

They do not have arrest authority. They are purely a collection and analytical body. Nor do I think any of us who favor a domestic security service here, none of us want this new service to have arrest authority.

Senator PRYOR. Right, but then they collect and analyze, but they also have the authority to disseminate to the proper—

Mr. SMITH. Absolutely. That is a key point. I do not know what happened yesterday at Heathrow but my guess is that MI5 was very directly involved in the decisions involving the security around Heathrow.

They have in each local municipality in the United Kingdom designated police officers who work with them. They are given clearances. They are given secure communications. They are brought to London periodically for briefings on what is going on. There is a flow of information back and forth between London and the local police forces with respect to what it is that MI5 is interested in. So literally then, the bobby on the beat is informed in turn by this core of people in Manchester or wherever, Glasgow, on what it is that MI5 is worried about. He does not have a clearance but he knows what they are looking for, and he knows then how to report it. He reports it back to that group which then reports it back to London. It is a two-way street and it works quite well.

Ultimately then they are very closely tied to the Special Branch and Scotland Yard, who actually do the police work, carry out the arrests and ultimately testify in court if need be. It is not a perfect model and there certainly are frictions and there are problems there as well, and it cannot be imported directly here, but I do believe it is worth looking at. As I say, I am very pleased that there are now serious proposals here in Congress to consider this.

Senator PRYOR. May I ask one more question?

Chairman COLLINS. Certainly.

Senator PRYOR. That is, are both of you advocating that this joint venture be housed in the Department of Homeland Security?

Mr. STEINBERG. I certainly am. I think it is really consistent with the idea of, as Jeff said, creating a responsible authority. I think

that the Secretary of Homeland Security ought to have that role. I am very concerned that we are having a diffusion of authority. We have a Secretary of Homeland Security, we have an Office of Homeland Security in the White House which also has responsibilities in this area. We are now giving the DCI new responsibilities in this area. It is the diffusion that concerns me.

Mr. SMITH. Senator, I differ with Mr. Steinberg only on that point. It may be a temporal disagreement. I think for the moment it does belong under the DCI, in part because he has got the experience, he has got the manpower to do it, and I think it makes a lot of sense there. It will be independent and so on.

I also worry a great deal about the confusion that is associated with the start-up of Homeland Security. I think we may be underestimating how difficult this is going to be to do. So I would leave it there for the moment and, as I say, it may ultimately be wise to move it to Homeland Security but I think for the moment it belongs where it is.

Senator PRYOR. Thank you.

Chairman COLLINS. Thank you, Senator.

Mr. Steinberg, just to follow up on the issue of where the center should be located. That is an issue on which we have heard diverse opinions today and I have not yet reached a conclusion. One of the arguments that I have heard against locating it in the Department of Homeland Security is that the department's role is focused on security within the borders of United States and the center's role is going to be broader than that. It would be collecting information about terrorist threats against our embassies or forces abroad, for example.

What is your response to those who would argue that it does not make sense to put it within the Department of Homeland Security because the center's focus is so much broader?

Mr. STEINBERG. I think that you have to look at the overall structure of what everyone will be doing in this effort. The CIA is going to be focused on events abroad and terrorist threats not only to the United States but terrorist threats to friendly countries, to stability of countries that are not friendly, so there will continue to be within the CIA a responsibility to look at what is going on overseas.

The question is where do you bring it all together, and is the better balance to bring it together in the context of the DCI, who is mostly looking overseas, or importing that information that is being developed by the CIA and other overseas collectors into an agency who is trying to link that aspect of the terrorist threat to domestic rules?

So for example, at least for the moment, we do not believe that Hamas is a threat to the United States. It does not have a history of either targeting Americans or the United States. We are still going to have somebody in the CIA who is collecting on them. But if we keep the responsibility for homeland security at the CIA, as I believe it will be under this joint venture, then I think that there is a danger that too much of this will be focused away from the homeland mission and not sensitive enough to the needs of the people who are actually carrying out the mission.

So inevitably you are going to have to make a choice as to where the balance goes because this will need to be an all-source center.

I think the question is, who is going to pull out that part of the foreign terrorist intelligence that is directly related to the homeland and understand best how to take that foreign intelligence and relate it to threats here?

I believe that on balance, though obviously there is no perfect answer to this, that the right division is to say, of course the CIA will still be looking at terrorism abroad but this new center will still be involved in tasking. I agree with Jeff, that, when I say that the new domestic security agency should be involved in tasking, I do not mean that they should have their hands on the satellite apertures but they should be tasking the foreign collectors to look into, what al Qaeda is doing in Afghanistan that may be relevant to the United States. But I think that the weight of where their focus should be is to be able to look at the foreign intelligence and see how it affects threats against us here at home.

Chairman COLLINS. Mr. Smith, in addition to the argument that Mr. Steinberg just made, an argument has been made against locating the new center under the control of the CIA director, that then the center will just once again become a creature of the CIA. That you will lose the whole intent of this center. What is your response to that?

Mr. SMITH. It is very much a function of leadership. It is a question of who is put in charge. It is a question of the quality of people who are assigned there. There is a risk if it is housed at Langley that it will take on the character of a foreign intelligence center.

I think, however, that there will be—the people who are assigned there from the Bureau or from Homeland Security, or Customs or Immigration, wherever, will have as their responsibility to worry about their home agencies. There is no doubt that George Tenet is personally focused on this to make it work and to make it work to support Governor Ridge. I think that as long as that is the case there is some, but not much risk, that it will be captured by the intrigue of foreign intelligence. In my judgment, it will remain focused.

Mr. STEINBERG. If I could just add, Madam Chairman, I think obviously there are trade-offs here. The other risk in placing responsibility under the DCI, is that, as several Members of the Committee pointed out, as serious as the threat to the homeland is, we have other things we have to worry about. We have to worry about weapons of mass destruction. We have to worry about turmoil abroad. Director Tenet has a lot of responsibilities, so he cannot afford to wake up every day and only worry about the homeland.

The advantage of what you have done by creating a Secretary of Homeland Security is that somebody who can wake up every day and only think about it. That I think is my worry. I have the same worry about the FBI. That while I am sure they will try to do a good job as they move into this area, the question is, do you want somebody who has to wake up and worry about all of these things or is this such a central function that you really do want one person who organizes everything around that mission?

Chairman COLLINS. Thank you, both.

Senator Pryor, do you have any further questions you would like to ask?

Senator PRYOR. I do not. Thank you.

Chairman COLLINS. I want to thank both of you for testifying before us today. I think this hearing has been very helpful to hear a variety of views on the new center. We look forward to also having a second hearing at which administration witnesses will be testifying as well.

I want to also thank my staff for putting together this hearing. It is the first hearing on the concept that the President revealed during his State of the Union address. So thank you for your assistance and this hearing is now adjourned.

[Whereupon, at 11:51 a.m., the Committee was adjourned.]

**CONSOLIDATING INTELLIGENCE ANALYSIS:
A REVIEW OF THE PRESIDENT'S PROPOSAL
TO CREATE A TERRORIST THREAT
INTEGRATION CENTER**

WEDNESDAY, FEBRUARY 26, 2003

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:02 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coleman, Levin, and Akaka.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. Good morning. The Committee will come to order. First I want to disclaim any responsibility for the weather. Even though I am from Maine, I did not bring this weather with me in any way and I just wanted to make that clear while we have all these intelligence experts in the room.

Today the Governmental Affairs Committee is holding its second hearing on the President's proposal to create a Terrorist Threat Integration Center. We are very pleased to have a distinguished panel of administration witnesses to answer the many questions about the mission, structure, and responsibilities of the new center.

The sharing of intelligence among Federal agencies was a serious problem long before the horrific attacks of September 11. But it was the terrorist attacks that focused attention on the serious consequence of inadequate communication and interagency rivalries. As the lead Federal law enforcement agency responsible for collecting domestic intelligence, including terrorism related intelligence, the FBI historically has focused on investigating and developing criminal cases. At times the FBI has failed to share critical domestic intelligence because of concerns that the disclosure of such information could jeopardize its criminal cases.

As the primary Federal agency responsible for collecting foreign intelligence related to terrorism, the CIA also has been hesitant to share information because of concerns that such disclosures would jeopardize its methods and sources.

The result of these barriers has been that far too often critical intelligence has not reached those who really need it. After September 11 it became readily apparent that government agencies must do a better job analyzing and sharing terrorism related intelligence. Congress moved toward that goal in 2001 by passing legis-

lation to facilitate the sharing of intelligence information, and then last year by approving the Homeland Security Act.

The administration has also taken a number of positive steps since September 11. The FBI and the CIA have expanded both their analytical capabilities and their cooperation. But these changes have not gone far enough. Administration representatives have stated that information sharing between the FBI and the CIA still is too often achieved through “brute force.” The President is attempting to address these impediments to the timely sharing of critical information by creating the Terrorist Threat Integration Center. Nevertheless, there are many questions that remain about the implementation of the administration’s plan.

The first and perhaps most fundamental question is, how will the integration center be an improvement over the existing intelligence structure? We currently have a Counter Terrorist Center within the CIA that has access to all government intelligence relating to terrorism. As CIA Director George Tenet has noted, the center “was created to enable the fusion of all sources of information in a single action-oriented unit.” Frankly, that sounds a lot like the proposed integration center, which raises the obvious question of how the new center will improve the sharing of intelligence information among agencies.

A second key question is, what is being done to ensure that the integration center will streamline and consolidate intelligence analysis rather than create duplication and mission confusion. I have prepared a chart¹ that shows some of the agencies that are now responsible for collecting and analyzing terrorism-related intelligence. As you can see, it is a very confusing picture. Including the integration center in the chart does not make the picture any less complex. It simply adds another box. We need to understand how this additional box will improve the flow of information to the agencies and individuals that need it.

A third question concerns the proper location of the new center. Some experts believe that the Department of Homeland Security should be the hub of all homeland security activities including intelligence analysis. By reading the Homeland Security Act, one could make a compelling case that the new department was meant to be the fusion center for the analysis of intelligence relating to homeland security. Should the integration center therefore be under the control and the direction of the Secretary of Homeland Security rather than the Director of Central Intelligence? We would like to obtain a better understanding of the reasoning behind the administration’s decision and how the integration center will interact with the new Department of Homeland Security.

Another important question is, how will the center share appropriate information with State and local authorities, our front line troops in the war against terrorism? It is one thing to analyze intelligence information well, but if the people who need the intelligence do not receive it, then the effort has been of little use.

Still another key issue is the center’s ability to overcome historic agency resistance to change. There have already been news reports

¹The chart entitled “Primary Agencies Handling Terrorist-Related Intelligence (With Terrorist Threat Integration Center)” appears in the Appendix on page 119.

indicating opposition to the integration center in both the CIA and the FBI. What is being done to overcome agency resistance so that it does not undermine the center's core mission?

Finally, will the integration center adequately address and safeguard privacy and other legal concerns? The President's proposal places the Director of the Central Intelligence in charge of the integration center. In that position he will be responsible for the analysis of domestic as well as foreign intelligence. I understand that the administration has reviewed the legal issues carefully but I want to ensure that the center's activities will not infringe on the Constitutional rights of law-abiding Americans.

At last week's hearing we did not hear of any opposition to the concept of a Terrorist Threat Integration Center, but a number of questions were raised by Members of this Committee and by our witnesses concerning the implementation of this plan. It is my hope that our expert administration witnesses will help us fully answer those questions today. If the administration can achieve its stated goals by the creation of this new center, I believe that the integration center will usher in important new capabilities in the way that our government analyzes intelligence and shares it with those who are responsible for protecting our people and our Nation. But its success will depend on overcoming formidable historic barriers to information sharing and cooperation.

I look forward to hearing from our witnesses today. At this time I would like to ask the Senator from Minnesota if he has any opening comments that he would like to make.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Madam Chairman. I think your opening statement did a tremendous job of summarizing areas of concern for a number of us. Just looking at the chart up there I think the question is, is it going to work, and can you make it work? And can you make it work, by the way, not just for those at the top levels but for those at the local level who have to deal with it at the frontline. I come from the perspective of a local citizen.

Second, Madam Chairman, let me reiterate the other concern that you raised in that you have to, we have to make it work, and you have to make it work in a way that does not infringe upon the rights and Constitutional protections of privacy of law-abiding American citizens. So I think those are the challenges. We need to make this work. We need to work together to make this work and I look forward to the testimony today.

Chairman COLLINS. Thank you very much, Senator Coleman. Your perspective as a mayor will be very helpful as we sort through how this new center should interact with State and local law enforcement officials. That is often a challenge because they do not have security clearances in most cases and because we do not want to overwhelm the center with responding to local inquiries, but at the same time there needs to be some kind of system for sharing essential information and we look forward to your insights in that regard.

I am very pleased to welcome our distinguished panel of administration representatives today from the FBI, the CIA, and the De-

partment of Homeland Security. They are leading their respective agency's efforts to create the new Terrorist Threat Integration Center. We understand that the President's proposal is still under development but we very much appreciate your sharing your preliminary insights with us today. We are pleased to be joined by the Hon. Gordon England who is Deputy Secretary of the Department of Homeland Security, the first deputy secretary. He previously served as Secretary of the Navy, and before that had a distinguished career in the private sector at General Dynamics Corporation.

Pasquale D'Amuro is the Executive Assistant Director for Counter Terrorism at the FBI. He was appointed by the Director to be the Executive Assistant Director for Counter Terrorism and Counter Intelligence in November of last year. He is the lead FBI official on counterterrorism issues and has had a distinguished career with the FBI since 1979.

Our third panelist is Winston Wiley, who became the Associate Director of Central Intelligence for Homeland Security in May 2002. In this capacity Mr. Wiley is tasked with ensuring the efficient and timely flow of intelligence in support of the homeland security effort. He is also the acting chair of the Terrorist Threat Integration Center Steering Committee. So I very much appreciate his being with us as well.

I am going to start with Mr. Wiley. I understand that Secretary England does not have a formal statement; is that correct, Mr. Secretary?

Mr. ENGLAND. Yes.

Chairman COLLINS. So we will start with Mr. Wiley. Thank you, you may proceed.

STATEMENT OF WINSTON P. WILEY,¹ ASSOCIATE DIRECTOR OF CENTRAL INTELLIGENCE FOR HOMELAND SECURITY AND CHAIR, SENIOR STEERING GROUP

Mr. WILEY. Thank you, Madam Chairman and Senator Coleman. Let me begin by saying that the statement that I have and that I have submitted for the record is not just my statement. It is a joint statement that we have all participated in pulling together. Indeed, the effort to put together a response to the President's charge to come up with a threat integration center was, from the beginning, seen as a joint effort. The senior steering group, the members of whom are at the table and sitting behind me, saw this as a joint effort and have created an institution that we think represents that. So as I go through these remarks do not think of them just as coming from the Director of Central Intelligence. They, in fact, represent the views of all of us in this effort.

Turning to that, let me say a little bit about how we got here. When the Director charged us with going forward with putting some real meat on the bones of the proposal we knew that the key agencies needed to be involved, and that was the CIA, the FBI, and the Department of Homeland Security. But the Department of Defense, the Department of State, and the Office of Management and Budget would also need to play a role. So they represented the core

¹The prepared statement of Mr. Wiley appears in the Appendix on page 113.

steering group and all of those are here. You have introduced those at the table. John Brennan is the Deputy Executive Director from the Central Intelligence Agency. He represented the CIA while I represented the Director in his community capacity. Cofer Black is the Ambassador at Large and Special Assistant to Secretary Powell for counterterrorism at the Department of State. And Rich Haver from the Department of Defense is with us, and Steve McMillan from OMB.

Again, integration and partnership in the sense of joint venture is what we had in mind from the beginning. The hard work of putting together the proposal was done by subject matter experts from all these agencies and beyond. They reported back to us, and we proposed formally up through the DCI and our respective principals to the President, and that was accepted.

Let me go through some of the points that are in the statement that we have prepared without going actually to the trouble of reading it all into the record. The first has to do with the mission and structure and gets at one of the questions that you had. The goal really is the full integration of U.S. Government terrorist threat-related information and analysis. Bringing together both the foreign intelligence that is collected overseas and what we call the foreign intelligence that is collected domestically by the Bureau and others, so that it is fused and looked at in a comprehensive fashion.

The structure is designed to ensure rapid and unfettered sharing of relevant information across department lines. We keep using the term joint venture because we feel the TTIC needs to be an institution that has parts of all of the holders of information in that component. The objective is to create value added efficiencies in analyzing the full array of terrorist threat-related information.

You used the term brute force earlier, which is a fair characterization. But what we have to acknowledge is that brute force is exercised every day, and very diligently and carefully by officers of the Central Intelligence Agency, other parts of the TTIC, and the members of the FBI. We do make it work, but we need to make it work better and we need to institutionalize some of the things that are today being done simply because people are so diligent and careful to get them done.

TTIC, the Terrorist Threat Integration Center, will be composed of elements from the Department of Homeland Security, from the FBI's counter terrorist division, from the Counter Terrorist Center at CIA, as well as elements of the Department of Defense, DIA, JITF-CT, NSA, NIMA, and other agencies that have a stake in what TTIC will do. The State Department is a good example of that. TTIC will combine the terrorist threat-related information in a way to provide a more focused and comprehensive government counterterrorist intelligence effort in defining the threat.

I have mentioned that among the most important features for TTIC is unfettered access to all information, all intelligence information, whether it is from raw reports to finished analytic assessments. That is essential in order to be able to pull the work together and has been clearly reflected in the discussions that led up to the Homeland Security Act as well as the other discussions post-September 11. TTIC will need to provide all-source threat assess-

ments both to the national leadership and, as Senator Coleman said, to the broader homeland security community which certainly includes State and local as well as private sector officials, and finding the ways to do that in the appropriate formats is one of the key missions.

TTIC will also oversee a national counterterrorism tasking and requirements system. Intelligence, in order to work, fundamentally has to begin with a requirements process that identifies the key questions that collectors have to go collect against. That information is brought back, assessed, analyzed, distributed and then balanced against those requirements. We talk about an intelligence cycle, but it begins at its heart with a requirements system and TTIC will play a key role in organizing that on the counterterrorist homeland security side.

Finally, another key responsibility will be to maintain a database of known and suspected terrorists that is accessible at the Federal and non-Federal level with appropriate controls and security clearances, and bringing the various databases that exist today in various places together into a centralized capability.

The principal objective, and again it gets back to your first question is that TTIC needs to close the gaps that separate the analysis of foreign source and domestic source terrorist threat information and ensure optimum support of the wide range of customers for homeland security information, those at the Federal level as well as those in the State, local and private sectors.

Let me turn to a second point that is addressed in the statement. TTIC cannot reach its full end-state capabilities overnight. We need, obviously, to grow and we need to grow as quickly as we can. But we also need to grow in a way that does not smother the effort by being over-ambitious in its initial days. Stand-up will occur by May 1. It will focus on integrating terrorist threat-related information and pick up some of the responsibilities that are today exercised jointly between the FBI and the CTC. One of those is the preparation of a daily threat matrix that you have heard about. Situation reports, updates on threats, and interagency terrorist threat warnings, picking up those responsibilities from the various government agencies is critical.

As soon as possible thereafter, TTIC should become the principal gateway for policymaker requests for assessments about terrorist threats. As it grows in capability, and what we see is an incremental growth as we move towards its ultimate full strength that I will talk about, TTIC would stock and maintain the database of known and suspected terrorists that I talked about. It will be producing the current intelligence and terrorist threat-related assessment, drawing on resources not just in TTIC but in the various agencies that are contributors to TTIC but are maintaining some inherent capability of their own. TTIC will be able to reach back into its parent agencies to provide it with an instantaneous surge capability that draws on the strength of a wide range of agencies.

What we are trying to do is make sure that we build on what works. We do not want to undo things that are working well, and that is especially true when it comes to the integration of the work of collectors of information and the analysts, whether that is at the CIA or in the Intelligence Community or at the FBI. That is hap-

pening today. We want to build on that and make sure that there is a better fusing across the domestic and foreign side.

When TTIC reaches its full end-strength capability it will be collocated with the CIA—the DCI’s—Counter Terrorist Center and with the FBI’s Counter Terrorism Division in a building that has yet to be acquired but that we are actively working on. Prior to that, TTIC—while it is not a CIA organization, it is an organization that reports to the DCI in his capacity as Director of Central Intelligence—will be located on the CIA compound, as are other independent Intelligence Community entities today. So we are sensitive to not creating it as a CIA organization, but the smartest place to build the interim capability is in space that we have at the CIA.

Let me talk about the command structure quickly. The director of TTIC needs to be a senior, very senior U.S. Government official who reports directly to the DCI in his statutory capacity as head of the Intelligence Community. He would be appointed by the director in consultation with the other partners in pulling together the TTIC. The director of TTIC will have the final review and approval authority for all of the intelligence that is prepared by TTIC. For national level analysis that is produced outside of TTIC, our expectation is that the director of TTIC will play a role in coordinating that, recognizing that agencies may do some departmental work just as is done today across the Intelligence Community.

I mentioned information access and the criticality of that. TTIC as an organization must have access to the full array of terrorist threat-related information within the U.S. Government. We can do that consistent with all the necessary protections and working smart by making sure that individual members of TTIC have access to information they need to do their work while the organization as a whole, and the leadership of the organization, have access to information that is comparable to what the head of CTC at CIA and the head of the Counter Terrorist Division at FBI has. So we think we can work both the necessary sharing within the organization and do the necessary work of protecting the most sensitive information.

Critical to making this work is a robust information technology base, one that will be particularly vigorous in the collocated end-state when CTC, CTD, and TTIC are located together. They all need to be able to draw on their own information bases, but we need to be able to bring that information together in the TTIC environment and share it in ways that allow us to do the most detailed analysis, use the most modern tools, and have the most aggressive sharing mechanisms available to us.

I would close with a thought about the work of TTIC just as you did. It is a work in progress. In fact if we do it right, TTIC will always be work in progress. It needs to start small. It needs to grow quickly. But we need not to be locked into particular institutional solutions. Rather with our eye on the ball, what we are trying to do is make sure that we have the best mechanisms in place to provide threat information to our national leadership and to the American people. We will be making adjustments as we go along based on what we think works rather than tell you today that we have the perfect plan that takes us from here out to the year 2010.

With those thoughts, let me close and I think my friend Pat D'Amuro has some comments that he may want to share.

Chairman COLLINS. Thank you, Mr. Wiley. Mr. D'Amuro.

STATEMENT OF PASQUALE J. D'AMURO,¹ EXECUTIVE ASSISTANT DIRECTOR FOR COUNTERTERRORISM/COUNTERINTELLIGENCE, FEDERAL BUREAU OF INVESTIGATION (FBI)

Mr. D'AMURO. Thank you, Madam Chairman and Senator Coleman. Thank you for the opportunity to add just a few short comments from the statement I have with respect to Mr. Wiley's efforts with the steering committee.

As we know, President Bush recently emphasized during a speech at FBI headquarters that the FBI has no greater mission, no greater priority than preventing the next terrorist act in America. We strongly support the formation of the TTIC and we are proud to be a partner with both the CIA, Homeland Security, and all the other participating agencies.

The FBI's experience in conducting complex criminal and terrorist investigations has shown that analysts are most effective when they are in constant and close communication with the investigators. For this reason we strongly support and look forward to the expeditious implementation of plans to collocate not only the TTIC but the FBI Counter Terrorism Division and the CIA Counterterrorism Center along with the Department of Homeland Security.

As you know, the FBI has established 66 joint terrorist task forces in the field offices around the country as well as a national joint terrorism center at FBI headquarters. The JTTF's partner FBI personnel with hundreds of investigators from Federal, State, and local agencies. These partnerships provide an effective and efficient mechanism to collect domestic intelligence crucial to preventing the next attack domestically. The fusion of this domestic and international threat intelligence is critically important for the FBI to complete its mission of preventing the next and future attacks domestically.

The FBI views the TTIC as an important resource. The TTIC will not only provide all-source integrated analysis to the FBI but also to the officials in State and local law enforcement who are essential partners in the fight against terrorism. We recognize that the two-way flow of information between Federal and local law enforcement is necessary to continuously sharpen both the collection and the analysis of threat-related information. Once again, the 66 JTTFs across the country provide an effective channel to share the TTIC analytical products with our partners in State and local law enforcement. We are committed to working with the Department of Homeland Security to push information and analysis out of the TTIC to all Federal, State, and local agencies.

We are expanding our ability to collect, analyze, and disseminate intelligence. The centerpiece of the director's efforts is the establishment of an executive assistant director for intelligence who will have direct authority and responsibility for the FBI's national intelligence program. Specifically, the EAD for intelligence will be re-

¹The prepared statement of Mr. D'Amuro appears in the Appendix on page 117.

sponsible for ensuring that the TTIC's reporting requirements are met by all the field offices.

Our support of the TTIC will not change our mission, priorities, or operations. In fact, the TTIC will only strengthen our capabilities. The Bureau is uniquely positioned to bring both national security and law enforcement authorities to bear in the war against terrorism. Recently, the ability to develop intelligence on terrorist activities and use law enforcement powers to disrupt them was exemplified in Buffalo, New York where seven al-Qaeda associates and sympathizers were indicted in September 2002 for providing material support to terrorism.

Every FBI agent is trained to recognize that along with these broad authorities comes the responsibility to implement them fairly and in accordance with the protections provided by the Constitution. It is important to note that the Bureau's role, and the roles of all TTIC participants, must and will remain consistent with the protections provided by privacy laws, executive orders, Attorney General guidelines, and other relevant legal authorities under the protection of the Constitution to safeguard the civil liberties of the citizens of this country.

Again, I will keep this statement short because I know you have a lot of questions, but thank you for allowing me to appear today.

Chairman COLLINS. Thank you very much.

Secretary England, do you have anything you would like to add to your colleagues?

**STATEMENT OF HON. GORDON ENGLAND, DEPUTY
SECRETARY, DEPARTMENT OF HOMELAND SECURITY**

Mr. ENGLAND. Let me just make a comment, Madam Chairman. First of all, I thank Mr. Wiley for all his work with chairing this group that we put together. I will tell you that the TTIC is vitally important to the Department of Homeland Security. We have been part of the effort to create this structure in response to the President's initiative. This is vitally important for us to do our job in the Department of Homeland Security, so you will find us a very significant proponent of this approach; very supportive, and we will work very closely with all the other agencies to make this very successful. In my judgment, this is very important for America, so it has the full support of the Department of Homeland Security and we will be happy to work with you as we fully develop this concept in the coming weeks and months ahead.

Chairman COLLINS. Thank you.

Mr. Wiley and Mr. D'Amuro, our government already has a Counter Terrorist Center which is under the supervision of the Director of Central Intelligence, and when you look at the details of the current Counter Terrorist Center and the proposed Terrorist Threat Integration Center they seem, at first analysis, to be quite similar. I quoted Director Tenet's comments that it was supposed to be all sources of intelligence would be analyzed. Both do have access to all sources of government information about terrorism. Both are under the supervision of the Director of Central Intelligence. I believe both have staff from a number of agencies conducting intelligence analysis. In light of those similarities I have two questions.

First, in practical terms how will the proposed Terrorist Threat Integration Center be different from the Counter Terrorist Center that already exists on the organization chart¹ that I showed you?

Second, given the fact that at least at first blush they appear very similar, how will the new center address problems that have plagued our analytical efforts so far? They seem so similar that I am concerned about duplication. And if they are structured in similar ways, how will the new center be an improvement over what we have?

I am going to ask a similar question to Mr. D'Amuro.

Mr. WILEY. Thank you, Senator. I think that at first blush it is possible to say that the TTIC bears a similarity to the Counter Terrorist Center. But I think that you have to go a step beyond that first level of analysis. I think that what you have in TTIC is a much more vigorous presence of Intelligence Community and law enforcement and DHS employees in a common environment, with reachback capability to their respective agencies, in which all of that information is brought together.

CTC does have, and has long had, and will continue to have detailees from other agencies in it. But what we envision in TTIC is a more robust presence and a more explicit set of responsibilities for integrating that flow of domestically collected foreign intelligence, which is growing. The TTIC by itself is not the only change that is going on. The change in collection philosophy and dissemination philosophy—what is going on at the Bureau—Pat D'Amuro can talk about—is instrumental in helping to make TTIC a success. It will increase the amount of domestically collected information about foreign terrorist groups that can be fused. And by bringing the analysts together, having them work literally in a common environment, I think that is a significant step up from where we are today.

Chairman COLLINS. Mr. D'Amuro, the FBI has a counterterrorism division. It is my understanding that is still going to exist when the new center is created. How can we avoid duplication?

Mr. D'AMURO. I think that it is important to understand that the TTIC is being created for the fusion of an analytical product with respect to threat information. It is not an operational entity. The counterterrorism division at the FBI headquarters will still maintain its operational role throughout the country as being the lead agency domestically with respect to counterterrorism investigations.

If I could just add a few comments to Mr. Wiley's—it is the fusion of that intelligence and the production of one analytical product that I see extremely critically important that we'll be able, through the JTTFs, to disseminate that product to all State and local law enforcement authorities that are part of the JTTF. There is also a program underway at the Bureau to reach out for all the State and local entities that are not members of the JTTF so that we can make sure, not only do we provide them with one fused analytical product, but also tap into their ability to collect information

¹The chart entitled "Primary Agencies Handling Terrorist-Related Intelligence (With Terrorist Threat Integration Center)" appears in the Appendix on page 119.

and intelligence which would be critical to preventing the next terrorist act.

So while the TTIC is being formed for the fusion of the intelligence product, both CTC will maintain its operational responsibility as well as the FBI maintaining its responsibility for the conduct of intelligence and criminal investigations with respect to counterterrorism.

Chairman COLLINS. Let me follow up on the use of sharing information with State and local law enforcement. You have described a system under which the joint terrorism task force, I guess, would act as an intermediary to distribute information; is that correct?

Mr. D'AMURO. What the plan is, is that through the national JTTF at FBI headquarters, that would be the distribution mechanism for the fused analytical product out to all the JTTFs, the 66 JTTFs that are now in existence across the country. In addition to that, we are going to be reaching out to all State and local entities even if they are not permanent members of the JTTFs. So, yes, it will be the mechanism for distribution of that product.

Chairman COLLINS. But what is going to happen in the other direction? The complaints that I hear from police chiefs of our major cities in Maine is that when they are in a state of high alert, as we are now, and they have reason to be concerned—and this happened recently in Portland, Maine where a foreign national was taking photographs of our oil tank farms on the Portland waterfront, and when the police chief tried to get information from the FBI about whether this individual was on the watch list, he had a very difficult time in getting an answer from the FBI.

What are we doing in the other direction? I understand when you have a product or information that needs to be shared it will go through the joint terrorism task force. But what does a police chief in Portland, Maine who is concerned about the vulnerabilities of our ports and sees something suspicious, or certainly raising concern, how do we improve the flow of information in the other direction?

Mr. D'AMURO. That is the main purpose of the creation of the Office of Intelligence for the Bureau. What the Office of Intelligence will do and what the Bureau has not done in the past is establish intelligence requirements. It will ensure that the field offices are out collecting the intelligence necessary for the protection of this country. Providing information and intelligence with respect to vulnerabilities of various seaports and other infrastructure protection matters will be the mission of Homeland Security. We will provide that information through the executive assistant director, setting those requirements, make sure those requirements are met, and making sure that intelligence is collected in the field.

I am unaware of the situation that you mention but that police chief should have been able to get information from the joint terrorism task force, which in that case would have been out of Boston and I believe a resident agency in Portland. That is the way it is supposed to work. That is the vision of how we plan to collect that intelligence and making sure that it gets to the different agencies that it needs to go to. That establishment of the requirements will not be the only mechanism for the Office of Executive Assistant Director for Intelligence. We are also changing the metrics by how we

judge our field offices and how we judge and promote executives into the Bureau. They will have requirements for the collection of that intelligence that will be used in their performance appraisals.

Chairman COLLINS. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you. Thank you very much, Madam Chairman. I am pleased that you are holding this hearing today. We have had a hearing before this that raised some issues and I think we came out of that one being concerned about maybe having too many or creating too many intelligence centers. Senator Rudman at that time expressed concern about confusion in our intelligence analysis and collection. So this hearing will certainly help us, I am sure, to learn more about what we need to do.

As I hear your concerns too, the difference between the former structure and the one that we have now is that we have added TTIC to it. Hopefully TTIC will resolve some of these problems. So I am glad that we are having this and may I ask that my statement be placed in the record?

Chairman COLLINS. Without objection.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

Madam Chairman, the issues raised in the first hearing on the President's proposal to create a Terrorist Threat Integration Center (TTIC) were important ones. I am pleased that you are holding this hearing with the administration.

At our last hearing, Senator Rudman, one of the witnesses, made the point that we need to be careful to limit the confusion in our intelligence analysis and collection. As I mentioned at that last hearing, I am concerned that we may be creating too many intelligence centers to evaluate the same information and respond to the same threats.

For example, the CIA has its Counter Terrorism Center—the Defense Intelligence Agency has its counter terrorism center—the new Department of Homeland Security will have an Information Analysis and Infrastructure Protection Directorate—the Army has an Information Dominance Center—DOD is developing a Total Information Awareness program—and the FBI has a Counter Terrorism Division. Now the President proposes a new Terrorist Threat Integration Center which apparently will include representatives from all these different centers.

Mr. Wiley, in his testimony, will suggest that TTIC is going to have all the information, including raw reports, that other agencies are producing and that it will maintain a database of terrorists accessible to some non-federal officials and entities. This library of terrorist reports will be useful only if it contains accurate information and is available to the people who may need it the most—local police forces and other first responders.

I am concerned that there still appears to be a disconnect between information and the people who need it at the local level. All the reports in the world will not be of any value if no one who needs to know can find them.

I am also worried that this system does not provide a mechanism for ensuring investigations are fully carried out. There were numerous times prior to 9–11 when FBI agents reported suspicious activities which have subsequently been linked to those attacks but those reports were not followed up on. I want to know—the American public wants to know—who is responsible? Who is in charge of ensuring that all the intelligence reports are acted upon?

Will this new intelligence center resolve that problem or only add to the problem?

I look forward to the testimony and hope these questions will finally be resolved.

Senator AKAKA. Thank you. I am so glad to have our panel this morning, and especially Secretary England. Good to see you, and always good to be with you.

Mr. ENGLAND. Senator, good to be with you. I wish I was with you in your home State today, however. [Laughter.]

Senator AKAKA. One hundred percent agreement.

Secretary England, at our last hearing on this subject Governor Gilmore pointed to the institutional and cultural barriers to intelligence sharing, especially with State and local officials as mentioned by the Chairman. Although I share his concern, I worry that we are creating a multitude of intelligence agencies, all of them performing important functions including sharing information with this new agency TTIC. However, it is still not clear who is responsible for ensuring the proper response to a terrorist threat. So let me pose a scenario to my question.

The CIA receives information about a foreign terrorist group that is thinking about targeting cruise ships. The FBI gets information about foreigners with seafaring backgrounds entering the United States for some illegal purpose. The Honolulu Police Department receives reports about suspicious people loitering about or around the port.

Question, who is responsible for putting all these bits of information together, instigating an investigation, alerting local officials, and telling the public what it should do? Is it the Director of the CIA, the FBI, or the Secretary for Homeland Security? As you can see, some of the confusion that has resulted, especially from the periodic announcements that we are on high terrorist alert, comes because the public is not certain who is in charge of dealing with these threats. So my question then is, who is responsible for putting all of these bits together?

Mr. ENGLAND. Senator, I believe that is clear to me. With this new Terrorist Threat Integration Center, all the data would come into this one center. The nice thing about this—this is not a new agency, by the way. This is a center. This is an integration of existing capability that we put together so we can collaborate and exchange data and analyze data jointly to get a best answer from the data sources that we have. So all the data would go into this center.

We, the Department of Homeland Security, will have analysts and we will have assessment people in this center. So this is part of Homeland Security. Our responsibility is to relate these threats to our infrastructure. So we will have assessment capability, unique assessment capability that when we see these threats, our people will be aware of critical infrastructure, public and private, throughout America and throughout our territories, etc. That will be our job and our obligation to make those connects, to alert the appropriate people and to put protective measures in place, or respond if we have to. But that will clearly be a responsibility of the Department of Homeland Security working as part of the TTIC with the CIA, the FBI, and the other intelligence agencies.

So I believe that the TTIC will provide a capability to do that kind of assessment and to make those kinds of connections.

Senator AKAKA. Thank you. I see more the need of TTIC as you explain it.

Mr. Wiley, you are deputy chief of the CIA's Counter Terrorist Center and I understand that there is discussion about collocating the Terrorist Threat Integration Center with the CIA's Counter Terrorist Center. As you know, the CTC is unique. Operations officers are brought together with an analyst as an integral part of the

targeting operation and analytical functions of counterterrorism efforts. The TTIC is not supposed to have an operational function.

First, how are you going to maintain operational security with CIA operation staff working together with TTIC personnel?

And second, what is the rationale for involving TTIC directly in operations as is now the case in the CIA's CTC?

Mr. WILEY. Senator, the Counter Terrorist Center today, as it was when I was in charge of it through December 1997, is an integrated environment that involves our operations officers, technical collection officers from other agencies, and analysts from the Directorate of Intelligence as well as some analysts from other parts of the Intelligence Community. Operational security there has been maintained from the early days of the Center back in the mid-1980's through today by making sure that all those in the Center have access to the information they need to conduct their work, what we call horizontal compartmentalization rather than isolating—the analysts are going to have this slice of information and operators have that slice of information.

I believe that same philosophy can and should be extended to TTIC. TTIC itself does not have an operational role and it is important for legal and privacy and chain of command reasons to separate the two. But it is perfectly possible for them to work together in a secure environment with appropriate caveats for access to information. We have done that. We have a 15, 20-year track record now of having done that and I think it can be extended to the TTIC. I think that the same applies in the work that we have seen with the FBI.

So I am always concerned about operational security, but I believe we have the experience for dealing with this.

Senator AKAKA. I am glad we are raising these questions because, if need be, I am sure we will find an answer to some of these questions.

Mr. D'Amuro, in your testimony you have indicated that there are now 66 FBI joint terrorism task forces around the country. Are these all up and running, and are they all fully staffed? Do they also include local officials?

Mr. D'AMURO. Yes, Senator, I believe—the JTTF is not a new concept to the Bureau. It was created 23 years ago in New York City. At the time a lot of people thought that this was not going to work. It turned out to be visionary. It turned out to be a very effective tool, and the reason it is so effective is by including other Federal, State, and local agencies on the JTTFs. So the 66 JTTFs that I have identified in my testimony are up and running. What we are trying to do is get some critically needed training for them so that they know how all of these JTTFs are supposed to operate.

We had, at the time of September 11, I believe it was approximately 26 JTTFs across the country. So by expanding to 66 now you can see the need for training those JTTFs and making sure they understand how they are supposed to operate. They do include State and local participants. We have received over 1,200 requests for security clearances. As of this date I believe we have 936 approved at the secret level and we are working to try to resolve the rest of them.

So they are the shining star, the critical piece of the Bureau's counterterrorism mission. It is how we not only fuse intelligence but it also gives us the ability to go out and act upon that intelligence, to be able to disrupt or prevent terrorist acts as you saw, as I mentioned earlier, in Buffalo.

Senator AKAKA. Thank you. My time has expired. May I just ask a question of Secretary England?

Chairman COLLINS. Certainly.

Senator AKAKA. Because I mentioned cruise ships, are cruise ships considered part of the critical infrastructure?

Mr. ENGLAND. Senator, I am not sure they are critical infrastructure. They are certainly important in terms of protection. But what we will do as part of our department—keep in mind we have only been in place for a month so far, but one of our functions will be to identify the most critical infrastructure in the country and to prioritize. So that has worked under the Office of Homeland Security, but that will expand greatly under the Department of Homeland Security. So it will be part of the total infrastructure. It will be studied, examined, and prioritized.

Senator AKAKA. Thank you. Thank you, Madam Chairman.

Chairman COLLINS. Thank you very much. Senator Coleman.

Senator COLEMAN. Thank you, Madam Chairman. First, a comment directed to Mr. D'Amuro. As a former local elected official I appreciate the work of the JTTFs and believe that they really are a wonderful model and work very well. But my concern is this and I hope you will reflect on it. I think they do a very good job of collecting. You talked about that, of collecting data. I still think there are real challenges in terms of—it is the question that Madam Chairman raised about information getting back to those at the local level.

In addition to chiefs of police, there are mayors who are held responsible for knowing what is going on and there is a question about whether they are contained in the security link. Do they have the relevant clearances? What can they be told? So much of what we are talking about depends upon public confidence, and the mayor at the local level is the one who is supposed to know what is going on. If you have a lack of understanding, of someone in the dark at the local level, it undermines public confidence and I think has a very debilitating effect on folks that—moms and dads in our community.

So I do hope that we can go back and you can look at how we do a better job connecting with mayors, with folks at the local level, not just in the receipt of the information which we do a very good job now, I believe, of integrating local law enforcement with Federal authorities at the JTTFs. But it is getting it back, and that is still, I think, an honest concern and I would hope that you would reflect on it and figure out some way to deal with it.

Secretary England, I appreciate your clarifying so we all understand the TTIC, they are not an agency. It is a center. My question for you was, and I think I heard you respond somewhat, does Homeland Security expect to create its own operational intelligence unit? If it does, how do you then deal with this issue again of duplication? We have the FBI that focuses on the local level. They have an operational unit. We have CIA—have operational units. Are we

creating another operational unit in government that will then work with TTIC?

Mr. ENGLAND. Senator, I am not quite sure what you mean by an operational unit. We will have a separate analysis center to interpret the data that takes place outside in the TTIC. So the purpose of the TTIC, I mean, the benefit to us is that we rapidly stand up to a capability where we are part of the TTIC, so we participate. Think of it as part of the Department of Homeland Security, just like it is a part of all the other agencies working together with access to all the data. So we will have all the access that all the other agencies have to intelligence data.

We will have some additional analysis people and assessment people that are not in the TTIC that help relate that data to our infrastructure and also, frankly, to be able to discuss it with myself, Secretary Ridge, and other people.

Also, by the way, the question about dissemination of data, we do have to have processes in place to make sure that we do disseminate data to State and local first responders, and we are working with FBI in that regard right now. That is a very critical part of this also, to understand what data needs to be passed down throughout America.

Senator COLEMAN. Again, while I strongly support and understand the importance of trying to make sure we have a more efficient sharing of information and analysis of information, I would just again then raise the question, we have FBI out there. They do the analysis. We have CIA out there. Please, please, please let us make sure that we do not create another layer of intelligence analysis. Certainly you and Secretary Ridge need to have information analyzed brought to you so you can respond, but I just raise that concern again.

Mr. ENGLAND. You are absolutely right, sir. I can assure you that—the intent is just the opposite, to make sure we take full utilization of the TTIC.

Senator COLEMAN. Following up then again with the responsibility that you and Secretary Ridge have to analyze—to receive information of the threat analysis and then articulate that to the public, is it the sense that—I am trying to understand its function here. Is the TTIC the agency then that will provide the underlying information and you then take that information and then come to a conclusion that we are at yellow or at orange and here is where we go from here?

Mr. ENGLAND. That will be one of the fundamental analysis base that we will use to assess the threats; that is correct, Senator. So that is the all-source data that will be available to us, and again, to the other agencies. So we will analyze that data, have full access to that data, and we will help assess that data along with the other agencies.

We will analyze, but largely we will assess. That is, what is the effect of that data on infrastructure and across America? What is the effect of that data? So when people talk about an analysis center, in my judgment it is really both analysis and assessment. We will do more assessment, less analysis, but we will have analysis people located within the center.

Senator COLEMAN. Thank you, Mr. Secretary. Finally, we are entering—these are works in progress. We have entered a strange new world, unfortunately, post-September 11. Though we always like to take pride in our ability to do things the best, and I believe that is true about America, there are certainly other countries that have been dealing with these types of situations longer than we have. For us so often it was looking at foreign terrorist threats and now we have to understand and reflect upon the domestic terrorist threats, and the integration of foreign sources and domestic sources. Are there other models out there? Are there folks, Israel, or some other places that have dealt with this before, that are helping us shape this, or is this simply kind of a whole cloth concept that we have put together? Mr. Wiley from the CIA or anybody on the panel?

Mr. WILEY. Senator, there certainly are models and Israel, the United Kingdom, our partners in Western Europe to one degree or another have attempted to do this. No one, I think, has faced quite the challenge that we do in terms of scale; the size, the openness of our society are all things that contribute to a different environment. But both through the Intelligence Community, and I know the law enforcement community, my friend Ambassador Black in his exchanges, we are very much interested in drawing lessons from others and incorporating that in all facets of it, and I am sure the same is true for the Department of Homeland Security.

Mr. D'AMURO. I will just add to that, if I could, Senator. We have a very robust liaison program with a lot of different intelligence and law enforcement services across the world. The United States poses a unique situation as Winston has said. We have a Constitution. We operate within the Constitution. I think the beauty of the system that we have, in particular talking about the FBI, is that we have both the intelligence tools and the law enforcement tools in the same bag.

I do not mean to go back to Buffalo again but it is a prime example of how we are able—that was a pure intelligence collection operation. When we learned that one individual was overseas, we were able to dispatch individuals to interview this person. And when we learned through that interview that there were legal statements, legal problems with some of the statements that he made, that actual crimes had taken place, the Buffalo division within 24 hours was able to act very quickly and round up those individuals that we had under our intelligence investigation, and get them off the street and prevent a possible terrorist event.

So the beauty of having both the intelligence tools and the law enforcement tools in an organization that has operated within the Constitution, I think, is one of the benefits of our systems.

Senator COLEMAN. Thank you. Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Senator Coleman. Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

My major concern has been and continues to be, where will the principal responsibility for analyzing foreign intelligence rest? This has been a subject that Senator Coleman and I think others have made reference to today, and I believe our Chairman, as a matter of fact, specifically asked that question about the relationship between the CTC and TTIC. I am not satisfied with what I under-

stand the answers were. I am sorry I could not be here to hear them in person but the report of those answers leaves me very unsatisfied.

It is a huge problem. There is a lot of information that we received prior to September 11 that was not analyzed, that fell through cracks. If we are going to diffuse responsibility instead of fuse it, we are going to have confusion instead of focused responsibility to analyze—and I use that word precisely—foreign intelligence. Not domestic intelligence yet. I want to talk about intelligence.

Now on January 17—and by the way, one other thing: We will be lucky if we do this well once. We have got 17,000 pieces of intelligence coming into the CTC a week; 17,000 pieces of intelligence. The CTC produces 300 outgoing intelligence products a month, and they have got almost 300 analysts.

We have got to understand precisely the relationship between TTIC and CTC. We cannot blur that responsibility. We have got to focus it so that we can hold folks accountable if there are failures. Otherwise, CTC will say that was a TTIC responsibility, and TTIC will say that was a CTC responsibility, and we cannot have that situation.

I asked Secretary Ridge, on January 17 when he was before the Committee, the following question, will the principal responsibility to analyze foreign intelligence from all sources remain in the CTC? His answer was, that is correct.

Now I think the statute itself is unclear on that issue. The homeland security statute is unclear because it creates a new Undersecretary for Information Analysis and Infrastructure Protection inside the Homeland Security Department and gives that Undersecretary the responsibility to assess, which is what Deputy Secretary England just made reference to, receive, and analyze law enforcement information, intelligence information and other information from agencies of the Federal Government, State and local government agencies, and to integrate such information in order to identify and assess the nature and scope of the terrorist threats.

Given that language, I asked Secretary Ridge whether or not there is then confusion. Where is the principal responsibility to analyze those 17,000 pieces of foreign intelligence that come in every week? Is it going to be CTC or is it going to be Homeland Security? Now I ask the same question about TTIC because now we not only have a CTC which apparently is going to proceed unencumbered that is supposed to analyze all foreign intelligence from all sources, and has FBI sitting there, and has the Coast Guard sitting there, and all the other agencies at the CTC. And now we are going to have Homeland Security that has a statutory responsibility to analyze and now a TTIC responsibility, apparently in the CIA, to analyze what seems to me to be the same information coming from all sources as the CTC is analyzing.

We have got to be clear in statute and in practice where this responsibility lies and I repeat what I said, if we do this well once we will be very lucky. This is a huge challenge to put together 17,000 pieces of intelligence a month that come in, and to analyze it, and to connect the dots. The idea that we might do it twice or three times to me is wrong in terms of accountability and it is

wrong in terms of responsibility and it is wrong in terms of practicality.

Now let me start with you, Deputy Secretary England. Is the principal responsibility to analyze foreign intelligence going to remain in the CTC?

Mr. ENGLAND. Yes, sir.

Senator LEVIN. Then how is that different from the responsibility which we are giving to TTIC to do the analysis of all intelligence, foreign and domestic apparently? How is that different?

Mr. ENGLAND. Senator, we will basically collate resources so that all the data is available in one place.

Senator LEVIN. Is that TTIC or CTC?

Mr. ENGLAND. The TTIC itself will have access to all the source data.

Senator LEVIN. I know they will have access. Who is responsible to analyze all this intelligence coming in? Will it be TTIC or CTC?

Mr. ENGLAND. My judgment is it will be CTC for the foreign intelligence. For domestic intelligence it will be the FBI. But in this facility we will then have people available with access to this data, access to conclusions that we can then analyze further, if necessary, because of data we may know in terms of homeland security, threats to America, whatever. So we would have in that facility access to ask additional questions, understand further, make additional assessments, etc. So it is a resource available for our analysts to be part of it, and also our people to assess that—

Senator LEVIN. Wait a minute. For our analyst to be—who is our?

Mr. ENGLAND. Department of Homeland Security will have some analysts in this facility, so we can understand the data in terms of our mission, which is to assess that data relative to threats to America.

Senator LEVIN. I understand the assessment and where it belongs and where it is. I just want to be real clear. What you just said is, principal responsibility to analyze information, intelligence relative to foreign intelligence will remain in the CTC; domestic intelligence will remain in the FBI. The reports from both of those entities will come to TTIC to do whatever it wants to do with the reports that come in from both CTC and from FBI; is that correct?

Mr. ENGLAND. That is correct. That is my understanding.

Senator LEVIN. I think that is fine if it is clear, but I think we all have to be real clear now on where that responsibility lies and I would like to see either an executive order, or I would like to see a decision by the agencies involved, a joint decision placing the principal responsibility exactly where you said. And if it is not there, where is it? We cannot have unfocused location of the analysis responsibility of foreign intelligence and domestic intelligence. We cannot blur it. We cannot duplicate it. We will be making a tragic error if we do. Instead of fusing we will be confusing, and I think that is—

Mr. ENGLAND. Senator, you and I agree on this. This is not an issue at all. I concur completely with your approach. I believe my colleagues do also. That is the approach that we are using for TTIC, so I do not believe we have any disagreement here at all.

Senator LEVIN. TTIC becomes a customer essentially. It has got the ability to do additional analysis, I understand, and it has a right to access anything it wants, I understand. But it is basically a customer of CTC and FBI when it takes the reports of foreign intelligence from CTC, domestic intelligence from FBI, fuses those reports, does whatever it wants with those reports, and then makes its own assessments. If it wants additional analysis it has the power to do additional analysis on its own. It can, I presume, task FBI or CTC to do additional analysis.

Mr. ENGLAND. Yes.

Senator LEVIN. But the principal responsibility is where you just identified. Is that your understanding as well, Mr. D'Amuro?

Mr. D'AMURO. Yes, Senator, it is. I will try to explain it real quickly and I know Mr. Wiley may want to jump in on this. The mission of the TTIC is to fuse threat information—to provide one-stop analytical products for threat analysis to law enforcement, the Intelligence Community, everyone. It is an interagency function. All the agencies are at the table to include DOD, Homeland Security, the FBI, and the CIA. They will fuse that product and provide an analytical product with respect to threat analysis.

Mr. WILEY. I think Mr. D'Amuro has it exactly right, Senator. I think that, Senator, before you came in I said that one of the things about TTIC is that our intention is to build on those things that have been working well. The close collaboration between collectors and analysts, both within the agency at CIA and between CIA and the FBI, because I think that is one of the things that has been working well. We want to do precisely what you are talking about, is bring the analysis of foreign intelligence, whether it is collected overseas or collected inside the United States, together in a seamless fashion, just as you are saying. TTIC will be in a position—by virtue of having CIA people, FBI people, other Intelligence Community people, DHS people together—in a position to do that. But I cannot be all things on day one, and will have to—

Senator LEVIN. No, not on day one. Is its goal to duplicate CTC?

Mr. WILEY. Its goal is not to duplicate CTC.

Senator LEVIN. It is to take the product of CTC and FBI and to then act—to put those products—

Mr. WILEY. Over time, Senator, I believe that a TTIC, if we make it work right, will absorb some of those analytic production responsibilities from CTC and from the FBI to create that single fused product that we have been talking about.

Senator LEVIN. Is that the ultimate goal?

Mr. WILEY. Yes, sir, I believe so.

Senator LEVIN. That is different then from what I was just told.

Mr. WILEY. I think it should be.

Senator LEVIN. I am not saying it should not. By the way, it is fine with me, so long as it is clear. But now that is very different from what Secretary England said.

Mr. ENGLAND. Senator, it is going to take time for this to evolve. This is still—I mean, we now have, I believe, a working concept, a structure of how we can go forward, greatly improve from where we are today. How this evolves I think is another question. We are a long way to get to that “evolutionary stage” and we are going to have—it takes a period of time just to stand up this capability. So

while Mr. Wiley may be right, I think there is a lot of discussion before we ever get to that point in time.

Mr. WILEY. I agree.

Senator LEVIN. Is TTIC going to be represented at the CTC?

Mr. WILEY. It will be cheek by jowl with—

Senator LEVIN. Will it be sitting at that analytical table with the CTC? We have FBI there. We have Coast Guard there. We have all these agencies, part of CTC, sitting at the table. My specific question is, will Homeland Security and—first, will TTIC be at that table?

Mr. WILEY. Yes, sir.

Senator LEVIN. Will Homeland Security be at that table?

Mr. WILEY. Yes, sir. And vice versa. The point is that we want to—

Senator LEVIN. That is fine.

Thanks, Madam Chairman.

Chairman COLLINS. You are welcome, Senator Levin. I want to follow up on the issues that Senator Levin just raised.

Secretary England, I am trying to get a better sense of what the role of the Information Analysis and Infrastructure Protection Directorate will be once TTIC is created. Will it conduct any analysis of raw intelligence or will it merely be a consumer of analysis that is produced by the new center, the FBI, and the CIA?

Mr. ENGLAND. The IA organization, part of the IA organization, information analysis, will physically be located in the TTIC. We will have a separate analysis center. An analysis center will be in the TTIC, and it will have access to all the data available in the TTIC. Now we will also, in addition to people who are located in the TTIC, we will have some number of people who will also do analysis, for the understanding of the Secretary, myself, etc. I mean, we are not there. How do you interpret the data, etc.? But we will also have an assessment group and the assessment group will determine what the effect of that analysis is, what that means in terms of our infrastructure; to assess that it in terms of what you do across America in terms of protection.

So it is both analysis and assessment. But we will have a separate analysis group, per se. We will also rely on the TTIC and our representation in TTIC.

Chairman COLLINS. A related issue here which I raised in my opening statement is where the new center should be located. Many would argue that when Congress created the new Information Analysis Directorate at the Department of Homeland Security it did so to try to create an intelligence fusion center. One of the witnesses at our hearing last week, James Steinberg, recommended that the new center be located at the Department of Homeland Security. He said the new department is supposed to be the hub of all homeland defense efforts and that it is the natural place where the fusion of terrorist analysis should take place. It is also the one department responsible for protecting our borders and our critical infrastructure.

I guess I will ask Mr. Wiley this question first and then go to Secretary England. Why was the decision made to locate the new center under the supervision of the Director of Central Intelligence rather than the Secretary of Homeland Security?

Mr. WILEY. Senator, I think that the key feature of having the threat integration center report directly to the Director of Central Intelligence is that it is doing precisely the fusion of intelligence, whether it is foreign intelligence or domestically collected foreign intelligence and law enforcement information. The Director of Central Intelligence has a responsibility for assessment of foreign intelligence, and the Intelligence Community has the overwhelming share of people with experience in doing that.

With due respect to Mr. Steinberg, I think that doing the analysis and assessment part under the leadership of the Director of Central Intelligence and providing that to the Department of Homeland Security to merge with the vulnerability assessments and to have a responsibility for taking action is the right model. I think that asking the Department also to take on the intelligence assessment capability as well as the vulnerability work is asking it to do more than it needs to. I think that that is the rationale between the two.

Chairman COLLINS. My concern is, how are we going to prevent the new center from just becoming a creature of the CIA? The House Intelligence Committee issued a staff report that found that oftentimes the DCI intelligence centers, including the Counter Terrorist Center, become solely CIA centers. Whenever you locate an agency or a new entity on the grounds of the CIA, which is the initial plan, and report to the CIA Director, how is that going to overcome the cultural differences that have impeded the relationship between the CIA and the FBI? If it were located in the new Department of Homeland Security, would that not send the right signal as far as overcoming these historic barriers?

And if I could just add one thing. In your comments you referred to the brute force approach to sharing and said it is working, but it still is requiring brute force.

Mr. WILEY. Just on the brute force issue, whether a new department is located at DHS, at the CIA, at the FBI, or anyplace else, if you are collocating people and you are institutionalizing a process, it will reduce the amount of brute force that is required. So I do not think the location, the particular location makes a difference on the issue of brute force.

I think on the issue of its physical location, in order to get started quickly you really needed to be, I believe, in one of two places where there is already a framework of analysts working the counterterrorism problem to support that. That, in my view, left it to either the CIA compound or the FBI building downtown. There you have a framework to be able to get started quickly.

Institutionally, this chart that you provided us reflects that the TTIC does not report to the Director in his capacity as head of the CIA but in his capacity as the head of the Intelligence Community, as I do, frankly. That itself sets it apart from CIA. CTC is a center that reports to the DCI through the Directorate of Operations. This is a direct-report to the DCI.

Its physical location at the CIA headquarters compound cannot be denied, but it will not be collocated with CTC, and there are other non-CIA elements that are resident in that building: The National Intelligence Council, the Community Management Staff, large portions of NIMA, the imagery and mapping agency, are lo-

cated in that building. Certainly the majority of the building is a CIA building, but it is not exclusively a CIA building. While it presents a challenge, I think strong leadership and the commitment of all of the partners to put people and contribute to the leadership will mitigate against that. In the long run, the point of collocation where CTC, the FBI's Counter Terrorism Division, and TTIC are collocated in an off-site facility I think mitigates that problem completely.

Chairman COLLINS. Secretary England, what is your response to those experts who believe that this new center would be most effective if it were located within the new Department of Homeland Security?

Mr. ENGLAND. Senator, I would not recommend that. My own experience with large organizations—first of all, TTIC is for threat data, so this is threat analysis and the expertise of threat analysis lies with other agencies, not with the Department of Homeland Security. We will not be the dominant organization in the TTIC. We will have equal representation there.

So while we will be able to participate in some of the source threat analysis, that is not our key mission. Our key mission is to make sure that the threats are analyzed appropriately, that data is available to us, that we can then do additional analysis if we have to, want to, etc. But it is to do vulnerability analysis, understand the infrastructure and how those threats may relate to vulnerability of our infrastructure and our people across the country.

So I, frankly, think it would be very difficult for the Department of Homeland Security to take on a task as large as threat analysis that would come into this center and be able to assess all that appropriately. That would be a very large organizational step for us to take, particularly at this time and probably for years to come. So I, frankly, do not feel that would be appropriate for us today. I was delighted with this approach to have this fusion center put in place because it does enable us to do our mission much better.

So again, as I said in my first comment to you, we endorse this approach. It makes us an equal player in this arena of threat analysis. But I certainly do not feel like we could actually manage that operation.

Chairman COLLINS. Senator Coleman.

Senator COLEMAN. Thank you, Madam Chairman. I wanted to follow up on the questions raised by Madam Chairman and the distinguished Senator from Michigan.

Secretary England—and by the way, we are all in agreement here. We want this to work. We want it to be effective. We understand it is a work in progress. We have got to keep coming back to that, it is a work in progress, so we are going to need some flexibility here. But I would question—I understand that your principal mission is not threat analysis, but I suspect in Homeland Security that you are going to be taking a lot of information that is not going to be yours—you are not creating it. That is why I asked the question about whether you created an intelligence analyst unit. The answer was, not creating; you have some folks who will do that but you are not going to duplicate the work that is done by CTC, you are not going to duplicate the work that is done by the FBI.

But if your principal function is to fuse this—to take the information that has been fused, that has come together, and then to articulate that, take threat analysis, and then to work with the American public on that to make sure that we are prepared, that we understand, I would suggest that it would make sense. My sense is that it would make sense for the Department of Homeland Security, again not to create a new analysis, not to say that is your principal function, but to have the kind of direct access from this unit to then figure out what you have got to do with it.

If you look at the chart that Madam Chairman established, laid out before you, I mean organizationally what you have is TTIC then reporting to the head of the CIA—so there is a step between all that information that is gathered, at least structurally, and the Department of Homeland Security. It would appear to me that there should be a much more direct connection between you and TTIC.

Mr. ENGLAND. Senator, we are a full partner in TTIC. TTIC is part of the Department of Homeland Security, the same as it is part of all the other agencies. So we are part of TTIC. Some of our people will physically reside in TTIC. So data does not go up and across and down. Our information analysis people are part of TTIC, so we reside in that location. So this is—in fact, we call this a joint partnership and that is what it is. It is a joint partnership.

My view is, as long as this partnership works effectively, and I believe it can work effectively and will work effectively, who it reports to is not very important frankly. To take existing structure in place and build it is much easier than the Department of Homeland Security trying to build a whole new structure. So this is a partnership. We do have direct access to all the information and we will be able to do our job appropriately.

Senator COLEMAN. Secretary England, again I want to get back to this concept of work in progress. I appreciate the comment of who it reports to right now on paper. I do not think that is very important either, if it does not interfere with the most effective operation of TTIC and what it is supposed to do in terms of assessing threats to our country and dealing with those threats.

I would hope then as we go about our work of bringing these pieces together and we are doing—again, we are living in this new world. As we do that, for it to have the flexibility along the way to say this may work a little better and then to come back to us at another point in time and say, we figured out a better way to do it, and this is what we are going to do. So I want you to have that flexibility. I support that concept and would hope that you keep that in mind, that you are not tied to a structure that has been put together very quickly, under difficult circumstances, and in the end we have got to do the right thing rather than what we may have thought the right thing was at another point in time.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you, Senator. Senator Levin.

Senator LEVIN. Just one question, Secretary England. You said that TTIC is part of Homeland Security?

Mr. ENGLAND. I say it is, I guess, rhetorically. We are part of—it is a partnership. So when I say it is part of it, I mean we are there. It is also part of the FBI, it is part of all the agencies that

make it up. It was merely to emphasize that our people are there along with all the other people who make this up. So it is indeed a partnership.

Senator LEVIN. But the head of TTIC is appointed by the Director of Central Intelligence; is that correct?

Mr. ENGLAND. Right, with the advice—

Senator LEVIN. With the advice and so forth of the other agencies. But it is appointed by the Director of Central Intelligence, is located at Central Intelligence, and has people represented from all the other agencies including yours.

Mr. ENGLAND. Yes.

Senator LEVIN. That is very much like CTC. It is part of the CIA, appointed by the Director of the CIA, has representatives from the Department of Homeland Security, the FBI, Coast Guard, you name it. It sounds to me that this is very similar in terms of its structure to the CTC. So I like the idea of things evolving. That is fine, and it may be over time that it belongs in a different place. I am less interested as to where it is, frankly, than that its responsibility is clear. That to me is the most important thing, and that is my concern, is that it be clear right off the get-go as to what its responsibility is, regardless of where it is or where it ends up 2, 5, or 10 years from now.

I just think there is a lot of work that need to be done to identify that responsibility to analyze intelligence as to where that is, because right now statutorily it is in three places. The analytical responsibility is in three places on foreign intelligence; CTC, Homeland Security, and now TTIC. I do not think that is healthy. I think it allows people to, as we saw before September 11, it will allow people to duck accountability. There was enough ducking of accountability, in my judgment, for the failures that existed before September 11.

So I would just ask you—I cannot do this on behalf of the Committee. Obviously, the Chairman has that exclusive responsibility, but at least this one Senator would be a lot more comfortable if somehow or other there was a statement as to the primary responsibility for analysis of foreign intelligence, domestic intelligence, as to where that is going to rest, and what is the relationship of TTIC to those analyses—and that be in writing.¹ I just think that there is some fuzziness here which could be unhealthy.

Chairman COLLINS. I would second, as the Chairman of the Committee, Senator Levin's request in this regard. I do think we need more definition on who is going to do what. The Department of Homeland Security's underlying law calls for it to analyze. That is part of the law. So I do believe we need more definition. I do recognize that the Center is a work in progress, but I would ask the witnesses to come back to us with a document that would define with more specificity the responsibilities of the components and the existing—the Counter Terrorism Division at the FBI, the Counter Terrorism Center at the CIA, the Information Analysis Directorate at Homeland Security. I would like to see more definition in defining the responsibilities of those three units and how the new center interacts. The goal is fusion not confusion. But when I look at the

¹The response from Mr. Wiley appears in the Appendix on page 73.

chart and plot the new center in, I am concerned about duplication, accountability, and responsibility. So I hope as you further work out the details of the center you would get back to us.

Senator LEVIN, did you have something more on that?

Senator LEVIN. No.

Chairman COLLINS. Senator Coleman.

Senator COLEMAN. No.

Chairman COLLINS. Before I adjourn the hearing I just want to bring up one final issue that I alluded to in my opening statement, and that is the dangers to privacy rights of combining law enforcement functions with intelligence gathering and analysis. Several, or some of our witnesses at our previous hearing raised the issue of whether this new center poses a threat to privacy rights. We have seen the controversy over the total information awareness program at the Department of Defense. The new center potentially will have access to huge databases of its component agencies—the good news is, for the first time we will be bringing all this information together. The bad news is, for the first time we will be bringing all this information together.

Mr. Wiley, as the chair of this working group, how is the group going to ensure that the creation of this new center with its access to unprecedented amounts of information will not infringe upon the privacy rights of law-abiding citizens?

Mr. WILEY. Madam Chairman, from the beginning the concerns you have expressed were an explicit part of our discussions in making sure that the lines of responsibility, lines of authority, the separate authority for conducting collection operations, whether overseas or domestic, remain separate from the authorities vested in the TTIC. I can only tell you that from day-one, we will continue at the Agency, at the Bureau, at Homeland Security to make sure that the structures we put together are in compliance with the laws, the executive orders, and sensitive to the issues of making sure that privacy rights and civil rights of law-abiding citizens are not violated. It is a fundamental concern right from the beginning and the very structure of the Center recognizes that by separating it from the operational components of both the FBI and the CIA.

Chairman COLLINS. Mr. D'Amuro.

Mr. D'AMURO. Senator, Winston is correct. This is not—the TTIC is focal point for the analysis of information that has been collected. The information that we will be collecting domestically will be overseen by the inspector general from the Department of Justice, it will be overseen by the FISA court. We have numerous Attorney General guidelines and directions that protect the civil liberties of the citizens of this country. The collection process will not change. We will use those guidelines, we will use those laws for our collection domestically. The role of the TTIC is simply the analysis of that collection. It is not an instrument that will go out operationally and collect on its own.

Chairman COLLINS. There is no new collection authority; is that correct?

Mr. D'AMURO. That is correct.

Chairman COLLINS. Secretary England.

Mr. ENGLAND. In addition, Senator, let me add, Madam Chairman, that we also have a statutory obligation in terms of privacy.

We do have, will have a privacy officer as part of this. That privacy officer will have a role, so we will have at least some degree of oversight to allay those concerns. But I do not believe that there will be a real concern there, but nonetheless, we will have that oversight function within the Department of Homeland Security.

If I could add one more thing before we leave?

Chairman COLLINS. Certainly.

Mr. ENGLAND. I know you have a very complex chart here but I would like to comment that there is actually more arrows that belong on this chart, Senator, only because of your comment. It turns out that the source data is available here at the information analysis. It goes directly—the analysis charts. So rather than linking here at the Secretary level, it really does link the IA/IP organization directly with the TTIC. I think perhaps that will clarify some of the issues we discussed earlier.

Chairman COLLINS. Thank you. I want to thank our witnesses for appearing today. Your contributions are very valuable. We look forward to hearing back from you as you continue to refine the President's plan.

The record will remain open for 15 days for the submission of any additional questions. I want to thank my staff for its hard work on this series of hearings. This hearing is now adjourned.

[Whereupon, at 11:38 a.m., the Committee was adjourned.]

A P P E N D I X

RESPONSE TO SENATORS LEVIN AND COLLINS TRANSCRIPT REQUEST FROM MR. WILEY REFERRED TO ON PAGE 69

The Terrorist Threat Integration Center (TTIC) is currently working collaboratively across the Federal Government to integrate terrorism information and analysis to provide a comprehensive, all-source-based picture of potential terrorist threats to U.S. interests. In this regard, TTIC works closely with the FBI's Counterterrorism Division, DHS's Information Analysis and Infrastructure Protection directorate, the DCI's Counterterrorism Center, and the Defense Intelligence Agency's Joint Intelligence Task Force—Counterterrorism, among others. In fact, all of these organizations are represented in TTIC and work together, on a daily business, to carry out the mission of their parent organization as well as that assigned to TTIC by the President: to enable the full integration of U.S. Government terrorist threat-related information and analysis, collected domestically or abroad.

As a relatively new entity, and one that is unique in the Federal constellation, misperceptions are still common. One common misperception is that TTIC is a part of the Central Intelligence Agency. In actual fact, TTIC does not belong to any department or agency. It is a multi-agency joint venture composed of partner organizations including the Departments of Justice/Federal Bureau of Investigation, Homeland Security, Defense, and State, and the Central Intelligence Agency. TTIC reports to the Director of Central Intelligence, but in his statutory capacity as the head of the Intelligence Community. TTIC does not engage in any collection activities and it does not engage in operations of any kind. Unlike the FBI's Counterterrorism Division, the DCI's Counterterrorism Center, and the Department of Homeland Security, all of which have an operational or collection element, TTIC is focused on integrating and analyzing terrorist threat-related information collected domestically or abroad. We defer to these other organizations to provide you a full explanation of their roles and responsibilities.

While TTIC is still in its infancy, there is tangible evidence of the value of "jointness," as embodied in the TTIC construct, and TTIC is making a difference in the war against terrorism. For example, TTIC analysis has contributed to informed decision making within DHS about the appropriate threat level for the nation. The TTIC-maintained terrorist identities database informs the national watchlisting process and according to the Homeland Security Presidential Directive-6, will soon serve as the single source of international terrorist identities information for the newly established Terrorist Screening Center. In addition, the TTIC-hosted joint information sharing program office is actively implementing the Information Sharing Memorandum of Understanding signed in March 2003 by Attorney General Ashcroft, Secretary Ridge, and the Director of Central Intelligence. Under the auspices of this program office, business processes are being re-engineered to facilitate the flow of information throughout the Federal Government, but in particular, to the Department of Homeland Security. Specific issues being addressed at this time include establishing standards for tear lines, reaching out to non-Intelligence Community Federal departments and agencies, and rethinking reporting standards.

As the national approach to combating terrorism and protecting the homeland evolves, TTIC will continue to carry out the mission assigned to it by the President: to enable the full integration of U.S. Government terrorist threat-related information and analysis, collected domestically and abroad—and TTIC will fulfill its mission in full coordination with partner organizations including the Department of Homeland Security, the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Defense, and the Department of State. We will keep you informed of our progress.

PREPARED STATEMENT OF SENATOR SHELBY

Thank you Madam Chairman for calling this hearing today to examine the President's proposal to form the Terrorist Threat Information Center (TTIC). I also thank our panel for appearing before the Committee today. As a long time member of Senate Select Committee on Intelligence, I am particularly interested in the subject matter of this hearing.

Madam Chairman, as you know, I worked closely last year with the Governmental Affairs Committee to help draft the provisions of the Homeland Security Act creating an intelligence fusion center within the Department of Homeland Security. While the eventual fusion center language signed into law represented a compromise, I felt confident at that time that the United States government had the statutory tools it needed to make our country a safer place.

One of the main reasons for this belief is the placement of the fusion center within DHS itself. I have said many times before that the failure of the Central Intelligence Agency and others in the Intelligence Community (IC) to share intelligence information contributed significantly to the government's lack of preparedness for the September 11 attacks. I supported the formation of the independent fusion center located outside of the IC because I believed it would challenge the community's reluctance to share information. Creating a new and improved fusion center within the IC is a good think—because improvements are clearly needed—but I am concerned that if this is all that happens, it may allow the IC's institutional allergy to information sharing to remain unchallenged and the President's vision of a truly "all-source" fusion center to remain unfulfilled.

If TTIC does not challenge the institutional and cultural barriers to intelligence sharing within the IC, our country will not be safer from the threat of terrorism. During the Homeland Security debate, I and my colleagues spent a considerable amount of time developing the idea of an intelligence fusion center for *all* government information on terrorist threats. I hope that the intelligence bureaucracies—whose job it will be to implement the President's vision for TTIC—permit the new center to develop into such an organization.

Madam Chairman, unfortunately, we have heard little in the way of specific information from the administration about why TTIC is necessary and how it will result in a safer country. Only three months ago, the President signed into law legislation creating the Homeland Security Department, which will house the nation's first truly all-source, government-wide intelligence fusion center. It is unclear to me then why the administration is pushing for the creation of a second intelligence fusion center before the DHS fusion center has even begun operations and had a chance to be evaluated. The new TTIC, I should emphasize, is by no means a bad idea. But I am concerned that, in practice, it will represent not the fulfillment of our broad vision of a "one-stop shopping" fusion center, but rather its co-opting by agencies who see real innovations in this regard as a threat to their bureaucratic "turf."

The TTIC proposal raises a number of questions. For example, DHS's website states that the department "will serve as a central hub of intelligence analysis and dissemination, working with agencies throughout the federal government such as the FBI, CIA, NSA, DEA, the Department of Defense and other key intelligence sources." How does this mission differ from TTIC's mission? Will the responsibilities of DHS and TTIC overlap? If so, is this the most efficient way to protect our country from terrorism or will it result in needless and wasteful duplication? Also, if TTIC is to be our nation's premier terrorist threat fusion center, how will DHS be able to attract and hire qualified information analysts? Moreover, if TTIC is really supposed to be the center for evaluation *all* U.S. Government information relevant to terrorist threats, how will it—as part of the Intelligence Community—fulfill this role within the IC's current rules regarding the handling of information related to "United States persons"?

Last, I would be remiss if I did not express my concerns about the President's decision to place TTIC under the supervision of the Director of Central Intelligence (DCI). As I have said many times before, I believe Director Tenet has played no small role in worsening the bureaucratic problems—including a powerful institutional resistance to information-sharing—that have long kept our Intelligence Community from being as capable and prepared as Americans desperately need it to be. I question whether the President's vision of a powerful and effective TTIC will be well served by putting this DCI in charge of the premier terrorist threat fusion center in the U.S. Government.

Madam Chairman, while I have a number of concerns about TTIC, it should be noted that I am not necessarily opposed to it at this time. I do believe, though, that Congress needs more information in order to evaluate TTIC. It is my understanding that it is the administration's position that Congressional approval is not needed to

create TTIC. While this may be legally true, Congress will be involved with TTIC through its oversight responsibilities of the Intelligence Community. Nothing, moreover, prevents Congress from stepping in to structure TTIC by statute, as occurred with the Department of Homeland Security itself. I therefore strongly urge the administration to keep an open line of communication with the relevant congressional communities.

I thank you Madam Chairman for the opportunity to address the Committee today and look forward to hearing from our panel.

*THE ADVISORY PANEL TO ASSESS
DOMESTIC RESPONSE CAPABILITIES FOR
TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION*

Hearing of the
Senate Committee on Governmental Affairs
February 14, 2003

Testimony of
Governor James S. Gilmore, III
Governor of the Commonwealth of Virginia
&
Chairman
Advisory Panel to Assess the Capabilities for Domestic
Response to Terrorism Involving Weapons of Mass Destruction

Madam Chairman Collins, Senator Lieberman, and distinguished Members of this Committee, I am honored to be here today. I come before you as the Chairman of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction. Thank you for the opportunity to present the views of the Advisory Panel. This is a national commission on terrorism (a.k.a the Gilmore Commission) and we have been influential in the development of a national "Homeland Security" strategy – a strategy that is not federal – but is focused on federal, state, and local capabilities to respond to the unthinkable acts of terrorism on our homeland.

On September 11th, our nation saw the unlimited imagination of these terrorists. That defining moment in our shared history as Americans has forced all of us to recognize that we must be better prepared at the state, local, and federal level.

Today, we are discussing one component of this national strategy – the intelligence gathering capabilities of our nation. On January 28th, President George W. Bush announced to the world that he would direct the CIA and FBI to begin the process of integrating intelligence on the homeland based on a major recommendation made by this Commission in November 2002.

In November of last year we were faced with a raging debate in our Commission to create, or not to create, a domestic homeland intelligence gathering agency to find terrorists living among U.S. citizens – without violating civil liberties. One theme you will find when you read our four reports is an abiding commitment to the protection

Please address comments or questions to:

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of civil liberties by not overreacting to the terrorist threat and fixing the problem of terrorism (while trampling on the basic civil liberties that are grounded in the Constitution.) America is the best managerial class the world has ever seen and we will fix any problem that confronts the homeland, but at what cost to civil liberties? We applaud the President's plan to create an intelligence "fusion center". This step is carefully discussed in our fourth report. Likewise, I was recently invited to the White House by Admiral Steve Abbott, the President's Homeland Security Advisor. In that meeting, Admiral Abbott emphasized progress in information sharing, between the Federal Government, the states and localities.

America *is* working together on a national strategy to fight terror on the homeland, but we have a long way to go. This Commission fully understands that the White House, the Congress, in consultation with the FBI, CIA, and other intelligence gathering and analytical agencies, will continue working together to fuse the best and the brightest personnel from each institution to collect data on terrorists living in America. After a year long debate, the members of this Commission decided to propose the following "fusion center" based on these principles:

Intelligence Collection, Analysis, and Dissemination

- Recommendation: That the President direct the establishment of a National Counter Terrorism Center (NCTC) – now widely known as the Terrorist Threat Integration Center (TTIC)
- Recommendation: That the collection of intelligence and other information on international terrorist activities inside the United States, including the authorities, responsibilities and safeguards under the Foreign Intelligence Surveillance Act (FISA), which are currently in the FBI, be transferred to the NCTC.
- Recommendation: That the Congress ensure that oversight of the NCTC be concentrated in the intelligence committee in each House
- Recommendation: That the President direct that the NCTC produce continuing, comprehensive "strategic" assessments of threats inside the United States, to be provided to policymakers at all levels, to help ensure appropriate planning and allocation of preparedness and response resources.
- Recommendations: That the Congress and the President ensure that the DHS has the authority to levy direct intelligence requirements on the Intelligence Community for the collection or additional analysis of intelligence of potential threats inside the United States to aid in the execution of its specific responsibilities in the area of critical infrastructure protection vulnerability assessments.

That the Congress and the President ensure that the DHS has robust capability for combining threat information generated by the Intelligence Community and the NCTC with vulnerability information the Department generates in cooperation with the private sector to provide comprehensive and continuing assessments on potential risks to U.S. critical infrastructure.

Managing Operations

- Recommendation: That the President and the Congress clearly define the responsibilities of DHS and other federal entities before, during, and after an attack has occurred, especially any authority for directing the activities of other federal agencies.
- Recommendation: That the President specifically designate the DHS as the Lead Federal Agency for response to a bioterrorism attack, and specify its responsibilities and authority before, during, and after an attack; and designate the DHHS as the Principal Supporting Agency to DHS to provide technical support and provide the interface with State and local public health entities and related private sector organizations.

Interagency Coordination

- Recommendation: That the Assistant to the President for Homeland Security review and recommend to the President, and that the President direct, a restructuring of interagency mechanisms to ensure better coordination within the federal government, and with states, localities, and the private sector, to avoid confusion and to reduce unnecessary expenditure of limited resources at all levels.

Legal Authorities

- Recommendation: That the President direct the Attorney General to conduct a thorough review of applicable laws and regulations and recommend legislative changes before the opening of the next Congress.

The Congress

- Recommendation: That each House of the Congress establish a separate authorizing committee and related appropriation subcommittee with jurisdiction over Federal programs and authority for Combating Terrorism/Homeland Security.

Gilmore Commission Backgrounder

The Advisory Panel was established by Section 1405 of the National Defense Authorization Act for Fiscal Year 1999, Public Law 105-261 (H.R. 3616, 105th Congress, 2nd Session) (October 17, 1998). That Act directed the Advisory Panel to accomplish several specific tasks. It said:

The panel shall--

1. Assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

2. Assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;
3. Assess deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;
4. Recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and
5. Assess the appropriate roles of State and local government in funding effective local response capabilities.

That Act required the Advisory Panel to report its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction to the President and the Congress three times during the course of the Advisory Panel's deliberations—on December 15 in 1999, 2000, and 2001.

The Advisory Panel's tenure was extended for two years in accordance with Section 1514 of the National Defense Authorization Act for Fiscal Year 2002 (S. 1358, Public Law 107-107, 107th Congress, First Session), which was signed into law by the President on December 28, 2001. By virtue of that legislation, the panel is now required to submit two additional reports—one on December 15 of this year, and one on December 15, 2003.

Leadership of the Subcommittee

Let me again commend this panel, and especially its distinguished Chairman, the gentleman from Pennsylvania, Mr. Weldon, for your continuing leadership in bringing these issues involving homeland security and combating terrorism before the U.S. Congress and the American people. Many will not remember, as we on the Advisory Panel remember so well, that this subcommittee and its Chair were well into these issues long before the attacks of last September, including the foresight to establish and then to extend the tenure of the Advisory Panel for an additional two years.

Panel Composition

Madam Chairman, as I usually do on occasions like this, please allow me to pay special tribute to the men and women who serve on our panel.

This Advisory Panel is unique in one very important way. It is not the typical national "blue ribbon" panel, which in most cases historically have been composed almost exclusively of what I will refer to as "Washington Insiders"—people who have spent most of their professional careers inside the Beltway. This panel has a sprinkling of that kind of experience—a former Member of Congress and Secretary of the Army, a former State Department

Ambassador-at-Large for Counterterrorism, a former senior executive from the CIA and the FBI, a former senior member of the Intelligence Community, the former head of a national academy on public health, two retired flag-rank military officers; a former senior executive in a non-governmental charitable organization, and the head of a national law enforcement foundation. But what truly makes this panel special and, therefore, causes its pronouncement to carry significantly more weight, is the contribution from the members of the panel from the rest of the country:

- Three directors of state emergency management agencies, from California, Iowa, and Indiana, two of whom now also serve their Governor's as Homeland Security Advisors
- The deputy director of a state homeland security agency
- A state epidemiologist and director of a state public health agency
- A former city manager of a mid-size city
- The chief of police of a suburban city in a major metropolitan area
- Senior professional and volunteer fire fighters
- A senior emergency medical services officer of a major metropolitan area
- And, of course—in the person of your witness—a former State governor

These are representatives of the true “first responders”—those heroic men and women who put their lives on the line every day for the public health and safety of all Americans. Moreover, so many of these panel members are also national leaders in their professions: our EMS member is a past president of the national association of emergency medical technicians; one of our emergency managers is the past president of her national association; our law officer now is president of the international association of chiefs of police; our epidemiologist is past president of her professional organization; one of our local firefighters is chair of the terrorism committee of the international association of fire chiefs; the other is chair of the prestigious national Interagency Board for Equipment Standardization and Interoperability.

Read our reports and you will understand what that expertise has meant to the policy recommendations that we have made, especially for the events of last year.

Those attacks continue to carry much poignancy for us, because of the direct loss to the panel. Ray Downey, Department Deputy Chief and chief-in-charge of Special Operations Command, Fire Department of the City of New York a friend of the Chairman and known to this subcommittee and others like it throughout the Congress, perished in the attack on the New York World Trade Center. Although we continue to miss Ray's superb advice, counsel, and dedication to these issues, we trust that Ray knows that we are carrying on in the tradition that he helped us to establish.

Our Continuing Mission

Madam Chairman and Members, this Advisory Panel continues to work hard to develop the best possible policy recommendations for consideration by the President and the Congress. Now, of course, people and organizations are coming out of the woodwork, claiming to be all manner of "experts" in homeland security. At the same time, this panel is toiling away, seeking neither fame nor credit for its work, simply trying to find some rational and feasible solutions to many problems and challenges that still face us.

Observations about Terrorism Preparedness

In the course of our deliberations, the Advisory Panel has been guided by several basic observations and assumptions that have helped to inform our conclusions and policy recommendations for improving our preparedness to combat terrorism.

First, all terrorism is "local," our at least will start locally. That fact has a lot to do, in our view, with the emphasis, the priorities, and the allocation of resources to address requirements. September 11 and the subsequent anthrax attacks were further proof of that basic assumption.

Second, a major attack anywhere inside our borders will likely be beyond the response capabilities of a local jurisdiction, and will, therefore, require outside help—perhaps from other local jurisdictions, from that jurisdiction's state government or multiple state resources, perhaps from the Federal government, if the attack is significant enough to exhaust other resources. That principle was likewise validated last September.

Given those two factors, our approach to combating terrorism should be from the "bottom up"—with the requirements of State and local response entities foremost in mind.

We note that we have many existing capabilities that we can build on in an "all-hazards" approach, which can include capabilities for combating terrorism.

Our thorough research and deliberations have also led us to observe that there is great apprehension among States and localities that some Federal entity will attempt to come in and take charge of all activities and displace local response efforts and expertise.

That was not and likely could not, because of the actual circumstances in New York, have been the case in September. But all events may not unfold in that fashion.

Based on a significant amount of analysis and discussion, we have been of the view that few if any major structural or legal changes are required to improve our collective efforts; and that the "first order" challenges are policy and better organization—not simply more money or new technology.

With respect to Federal efforts, two years ago we concluded that, prior to an actual event, no one cabinet department or agency can "supervise" the efforts of other federal departments or agencies. When an event occurs, response will be situational

dependent; federal agencies can execute responsibilities within existing authority and expertise, but under established "Lead Federal Agency" coordinating processes

The chart attached to this testimony is an attempt to depict graphically the magnitude of the problem and the necessary interrelationships that must exist among entities at the local, State, and Federal levels. It shows that integration must exist both vertically and horizontally among various functions and the agencies that have responsibilities for executing those functions. It also emphasizes our view that simplistic categories such as "crisis management" and "consequence management" do not adequately describe the full spectrum of functions or responsibilities.

Support for Panel Activities and Reports

Madam Chairman, it also says something about the foresight of this committee that you directed in legislation that analytical and other support for the Advisory Panel would be provided by a Federally Funded Research and Development Center. We have been exceptionally fortunate to have that support provided by The RAND Corporation. The breadth and depth of experience at RAND in terrorism and policy issues across a broad spectrum have made possible the panel's success in accomplishing its mandate. Its assessments of federal programs, its case studies and hundreds of interviews across the country and around the world, its seminal work in surveying state and local response entities nationwide, its facilitation of our discussion—leading to near unanimity of members on this broad spectrum of recommendations, its work in drafting reports based on our extensive deliberations, all have combined to make this effort a most effective and meaningful one.

Our Reports

In our first three reports, the advisory panel has, through its assessments and recommendations, laid a firm foundation for actions that must be taken across a broad spectrum of threats in a number of strategic and functional contexts to address this problem more effectively.

First Report—Assessing the Threat

The Advisory Panel produced a comprehensive assessment in its first report of the terrorist threat inside our borders, with a focus on chemical, biological, radiological, and nuclear (CBRN) weapons. The very thorough analysis in that report can be summarized:

The Panel concludes that the Nation must be prepared for the entire spectrum of potential terrorist threats – both the unprecedented higher-consequence attack, as well as the historically more frequent, lesser-consequence terrorist attack, which the Panel believes is more likely in the near term. Conventional explosives, traditionally a favorite tool of the terrorist, will likely remain the terrorist weapon of choice in the near term as well. Whether smaller-scale CBRN or conventional, any such lower-consequence event—at least in terms of casualties or destruction—could, nevertheless, accomplish one or more terrorist objectives: exhausting response capabilities, instilling fear, undermining government credibility, or provoking an overreaction by the government. With that in mind, the Panel's report urges a more balanced approach, so that not only higher-

consequence scenarios will be considered, but that increasing attention must now also be paid to the historically more frequent, more probable, lesser-consequence attack, especially in terms of policy implications for budget priorities or the allocation of other resources, to optimize local response capabilities. A singular focus on preparing for an event potentially affecting thousands or tens of thousands may result in a smaller, but nevertheless lethal attack involving dozens failing to receive an appropriate response in the first critical minutes and hours.

While noting that the technology currently exists that would allow terrorists to produce one of several lethal CBRN weapons, the report also describes the current difficulties in acquiring or developing and in maintaining, handling, testing, transporting, and delivering a device that truly has the capability to cause "mass casualties."

We suggest that that analysis is still fully valid today.

Second Report—Toward a National Strategy for Combating Terrorism

By the second year, the Advisory Panel shifted its emphasis to specific policy recommendations for the Executive and the Congress and a broad programmatic assessment and functional recommendations for consideration in developing an effective national strategy.

The capstone recommendation in the second report was the need for a comprehensive, coherent, functional national strategy: ***The President should develop and present to the Congress a national strategy for combating terrorism within one year of assuming office.*** As part of that recommendation, the panel identified the essential characteristics for a national strategy:

- It must be truly *national* in scope, not just Federal.
- It must be comprehensive, encompassing the full spectrum of *deterrence, prevention, preparedness, and response* against domestic and international threats.
- For domestic programs, it must be *responsive to* requirements from and *fully coordinated with state and local officials* as partners throughout the development and implementation process.
- It should be *built on existing emergency response systems*.
- It must *include all key functional domains*—intelligence, law enforcement, fire services, emergency medical services, public health, medical care providers, emergency management, and the military.
- It must be *fully resourced* and based on *measurable performance*.

Of course, the Panel recognizes that in light of September 11, 2001 this objective has been difficult to achieve. However, the principles contained within this strategy and their requirements remain the same.

The Second Annual Report included a discussion of more effective Federal structures to address the national efforts to combat terrorism. We determined that the solutions offered by others who have studied the problem provided only partial answers. The Advisory Panel attempted to craft recommendations to address the full

spectrum of issues. Therefore, we submitted the following recommendation: ***The President should establish a senior level coordination entity in the Executive Office of the President.*** The characteristics of the office identified in that recommendation included:

- Director appointed by the President, by and with the advice and consent of the Senate, at "cabinet-level" rank
- Located in the Executive Office of the President
- Authority to exercise certain program and budget controls over those agencies with responsibilities for combating terrorism
- Responsibility for intelligence coordination and analysis
- Tasking for strategy formulation and implementation
- Responsibility for reviewing State and local plans and to serve as an information clearinghouse
- An interdisciplinary Advisory Board to assist in strategy development
- Multidisciplinary staff (including Federal, State, and local expertise)
- No operational control

We included a thorough explanation of each characteristic in our Second Annual Report. For instance, we determined that this office should have the authority to direct the creation, modification, or cessation of programs within the Federal Interagency, and that it have authority to direct modifications to agency budgets and the application of resources. We also recommended that the new entity have authority to review State and geographical area strategic plans and, at the request of State entities, to review local plans or programs for combating terrorism for consistency with the national strategy.

Although not completely structured around our recommendations, the model for the creation of the Office of Homeland Security came from this recommendation.

To complement our recommendations for the federal executive structure, we also included the following recommendation for the Congress: ***The Congress should establish a Special Committee for Combating Terrorism—either a joint committee between the Houses or separate committees in each House—to address authority and funding, and to provide congressional oversight, for Federal programs and authority for combating terrorism.*** The philosophy behind this recommendation is much the same as it is for the creation of the office in the Executive Office of the President. There needs to be a focal point in the Congress for the Administration to present its strategy and supporting plans, programs, and budgets, as well as a legislative "clearinghouse" where relevant measures are considered. We recognize that Congress is still in the process of working towards this objective.

In conjunction with these structural recommendations, the Advisory Panel made a number of recommendations addressing functional requirements for the implementation of an effective strategy for combating terrorism. The recommendation listed below are discussed thoroughly in the Second Annual Report:

Enhance Intelligence/Threat Assessments/Information Sharing

- Improve human intelligence by the rescission of that portion of the 1995 guidelines, promulgated by the Director of Central Intelligence, which prohibits

the engagement of certain foreign intelligence informants who may have previously been involved in human rights violations

- Improve Measurement and Signature Intelligence (MASINT) through an expansion in research, development, test, and evaluation (RDT&E) of reliable sensors and rapid readout capability and the subsequent fielding of a new generation of MASINT technology based on enhanced RDT&E efforts
- Review statutory and regulatory authorities in an effort to strengthen investigative and enforcement processes
- Improve forensics capabilities to identify and warn of terrorist use of unconventional weapons
- Expand information sharing and improve threat assessments

Foster Better Planning/Coordination/Operations

- Designate the senior emergency management entity in each State as the *focal point* for that State for coordination with the Federal government for preparedness for terrorism
- Improve collective planning among Federal, State, and local entities
- Enhance coordination of programs and activities
- Improve operational command and control of domestic responses
- The President should always designate a Federal civilian agency other than the Department of Defense (DoD) as the Lead Federal Agency

Enhance Training, Equipping, and Exercising

- Improve training through better coordination with State and local jurisdictions
- Make exercise programs more realistic and responsive

Improve Health and Medical Capabilities

- Establish a national advisory board composed of Federal, State, and local public health officials and representatives of public and private medical care providers as an adjunct to the new office, to ensure that such issues are an important part of the national strategy
- Improve health and medical education and training programs through actions that include licensing and certification requirements
- Establish standards and protocols for treatment facilities, laboratories, and reporting mechanisms

- Clarify authorities and procedures for health and medical response
- Medical entities, such as the Joint Commission on Accreditation of Healthcare Organizations, should conduct periodic assessments of medical facilities and capabilities

Promote Better Research and Development and Create National Standards

- That the new office, in coordination with the Office of Science and Technology Policy, develop a comprehensive plan for RDT&E, as a major component of the national strategy
- That the new office, in coordination with the National Institute for Standards and Technology (NIST) and the National Institute for Occupational Safety and Health (NIOSH) establish a national standards program for combating terrorism, focusing on equipment, training, and laboratory processes

Third Report—For Ray Downey

Our Third Annual Report to the President and the Congress builds on findings and recommendations in our First and Second Annual Reports delivered in 1999 and 2000. It reflects a national strategic perspective that encompasses the needs of all three levels of government and the private sector. It seeks to assist those who are dedicated to making our homeland more secure. Our recommendations fall into five categories:

- ü *Empowering State and Local Response* by ensuring the men and women on the front line of the war against terrorism inside our borders have the tools and resources needed to counter the murderous actions of terrorists;
- ü *Enhancing Health and Medical Capacities*, both public and private, to help ensure our collective ability to identify attacks quickly and correctly, and to treat the full scope of potential casualties from all forms of terrorist attacks;
- ü *Strengthening Immigration and Border Controls* to enhance our ability to restrict the movement into this country, by all modes of transportation, of potential terrorists and their weapons and to limit severely their ability to operate within our borders;
- ü *Improving Security Against Cyber Attacks* and enhancing related critical infrastructure protection to guard essential government, financial, energy, and other critical sector operations against attack; and

- ü *Clarifying the Roles and Missions for Use of the Military* for providing critical and appropriate emergency response and law enforcement related support to civilian authorities.

Mister Chairmen, I should note that the substance of all of the recommendations contained in the third report were approved by the panel at its regular meeting held on August 27 and 28, 2001—Tuesday the 28th being exactly two weeks prior to the attacks of September 11. Although we thoroughly reviewed those recommendations subsequently, the panel unanimously agreed that all were valid and required no supplementation prior to publication.

The recommendations contained in that report, listed below in summary form, are discussed in detail in the body of the report, and further supported by material in the report appendices, especially the information from the nationwide survey of State and local responders covering an array of preparedness and response issues.

State and Local Response Capabilities

- Increase and accelerate the sharing of terrorism-related intelligence and threat assessments
- Design training and equipment programs for all-hazards preparedness
- Redesign Federal training and equipment grant programs to include sustainment components
- Increase funding to States and localities for combating terrorism
- Consolidate Federal grant program information and application procedures
- Design Federal preparedness programs to ensure first responder participation, especially volunteers
- Establish an information clearinghouse on Federal programs, assets, and agencies
- Configure Federal military response assets to support and reinforce existing structures and systems

Health and Medical Capabilities

- Implement the AMA Recommendations on Medical Preparedness for Terrorism
- Implement the JCAHO Revised Emergency Standards
- Fully resource the CDC Biological and Chemical Terrorism Strategic Plan
- Fully resource the CDC Laboratory Response Network for Bioterrorism
- Fully resource the CDC Secure and Rapid Communications Networks
- Develop standard medical response models for Federal, State, and local levels

- Reestablish a pre-hospital Emergency Medical Service Program Office
- Revise current EMT and PNST training and refresher curricula
- Increase Federal resources for exercises for State and local health and medical entities
- Establish a government-owned, contractor-operated national vaccine and therapeutics facility
- Review and recommend changes to plans for vaccine stockpiles and critical supplies
- Develop a comprehensive plan for research on terrorism-related health and medical issues
- Review MMRS and NDMS authorities, structures, and capabilities
- Develop an education plan on the legal and procedural issues for health and medical response to terrorism
- Develop on-going public education programs on terrorism causes and effects

Immigration and Border Control

- Create an intergovernmental border advisory group
- Fully integrate all affected entities into local or regional "port security committees"
- Ensure that all border agencies are partners in intelligence collection, analysis, and dissemination
- Create, provide resources for, and mandate participation in a "Border Security Awareness" database system
- Require shippers to submit cargo manifest information simultaneously with shipments transiting U.S. borders
- Establish "Trusted Shipper" programs
- Expand Coast Guard search authority to include U.S. owned—not just "flagged"—vessels
- Expand and consolidate research, development, and integration of sensor, detection, and warning systems
- Increase resources for the U.S. Coast Guard for homeland security missions

- Negotiate more comprehensive treaties and agreements for combating terrorism with Canada and Mexico

Cyber Security

- Include private and State and local representatives on the interagency critical infrastructure advisory panel
- Create a commission to assess and make recommendations on programs for cyber security
- Establish a government funded, not-for-profit entity for cyber detection, alert, and warning functions
- Convene a "summit" to address Federal statutory changes that would enhance cyber assurance
- Create a special "Cyber Court" patterned after the court established in FISA
- Develop and implement a comprehensive plan for cyber security research, development, test, and evaluation

Use of the Military

- Establish a homeland security under secretary position in the Department of Defense
- Establish a single unified command and control structure to execute all military support to civil authorities
- Develop detailed plans for the use of the military domestically across the spectrum of potential activities
- Expand training and exercises in relevant military units and with Federal, State, and local responders
- Direct new mission areas for the National Guard to provide support to civil authorities
- Publish a compendium of statutory authorities for using the military domestically to combat terrorism
- Improve the military full-time liaison elements in the ten Federal Emergency Management Agency region

Status of Our Recommendations

Mr. Chairman and Members, I can tell you that, according to our most recent count, of the 79 major policy recommendations made by the Advisory Panel to date, 64 have now been adopted in whole or in major part. Having said that, there are others that

continue to need to be addressed, and some that could still use additional resources or policy direction.

Our Current Deliberations

Madam Chairman, now that the Department of Homeland Security is a reality, we will continue to make recommendations to assist in the management of that department. We also realize that a major part of our Commission focus will be on intelligence gathering. The intelligence committees of each House are putting together a report, flowing from the recent Joint Inquiry of those committees, which will, perhaps, contain major recommendations with respect to the structure, laws, and procedures of the Intelligence Community for combating Terrorism. In addition, the Congress is attempting to complete action on appropriations bills for the current fiscal year, which if enacted will contain significant additional funding to address some of these issues, especially for supporting the efforts of State and local responders.

In the midst of all that, the Advisory Panel is crafting and putting the finishing touches on significant policy recommendations in several key areas:

- Strategy and Structure
- Use of the Military
- Health and Medical
- Critical Infrastructure Protection
- Agroterrorism

In addition, that report will contain an update of the comprehensive threat assessment contained in the Panel's First Annual Report, as well as a set of recommendations on the nature and sources of the resources necessary to fund the national efforts to combat terrorism.

Recommendations for the Fourth Annual Report

Strategy and Structure

Madam Chairman and Members, I have a bit of an announcement to make in this forum. Because the Congress is considering the new Department of Homeland Security, the Advisory Panel decided at its meeting last week to release its principal recommendations in this area in advance of the publication of its full report in December. We have done so in the hope that those recommendations may help to inform the current debate. Briefly, the "Strategy and Structure" Chapter recommends:

- That the President create an entity that will become the all-source fusion and analysis center for potential terrorists attacks inside the United States from foreign terrorists and their supporters. That center would also house, in a separate component, the intelligence collection against such terrorists currently in the FBI.
- That more comprehensive assessments of threats to the homeland be developed
- That the new DHS have the necessary capability and authority to perform the critical infrastructure vulnerability and warning functions envisioned in its enabling legislation
- That the President clearly define the responsibilities of DHS and other federal entities before, during, and after an attack has occurred, especially any authority for directing the activities of other federal agencies
- That the President direct a restructuring of the Federal interagency mechanisms to ensure better coordination within the federal government, and with states, localities, and the private sector, to avoid confusion and to reduce unnecessary expenditure of limited resources at all levels

And to repeat an earlier recommendation of the panel:

- That each House of the Congress establish a separate authorizing committee and related appropriation subcommittee with jurisdiction over Federal programs and authority for Combating Terrorism/Homeland Security.

I will be happy to address any questions that Members may have concerning those recommendations.

Use of the Military

The panel continues to address issues involving the use of the military inside the United States for various responses to terrorism. In its next report, the panel will make recommendations dealing with:

- Command and control issues involving the new U.S. Northern Command (NORTHCOM)
- Developing a more comprehensive, coordinated process to identify the potential needs of States and localities, as well as other Federal agencies, for military support against terrorist attacks
- Additional authority for use of the National Guard in a Title 32 status
- New roles and missions for certain National Guard units
- Better training and exercise programs for military units for performing homeland missions
- Better structure and policies for DoD civilian oversight of the military
- Clarification, consolidation, and explanations of laws for use of the military domestically

Health and Medical

The panel continues its efforts to address the important issues in health and medical planning, preparedness, and response to terrorism and will make recommendations on the following subjects:

- Sustaining and prioritizing resources to improve the public health and medical infrastructure
- Exercising and training health and medical response entities in the larger emergency management context of terrorism response including exercising the use of the National Pharmaceutical Stockpile
- Centralizing, coordinating, and simplifying Federal information on resources, best practices, and research for state and local access
- Implementing the full range of research to improve health and medical detection of and response to terrorist attacks
- Developing and operationalizing the laws and regulations for health and medical response to a terrorist attack including the clarification of the Health Insurance Portability and Accountability Act (HIPAA) guidelines and the rules for quarantine
- Defining who is in charge in response to a bioterrorist attack
- Developing a strategic information plan for educating and communicating with the public and the media before, during and after an attack
- Improving intelligence collection related to health and medical issues
- Establishing a national vaccine strategy
- Responding to the threat of a smallpox attack

Critical Infrastructure Protection

For the Fourth Report, the panel has expanded its consideration beyond cyber security to include issues of physical protection of critical infrastructure. It will make CIP recommendations in the following areas:

- Federal reimbursement for certain costs incurred by States, localities, and the private sector for improvements to infrastructure security

- Improved training, standards, and protocols for government and private sector responders, to include facilities, responder equipment, and communications compatibility and interoperability
- More comprehensive and concise policies and enhanced capabilities for intelligence and information sharing involving critical infrastructure among government entities and with the private sector
- Improvements in security measures for and in the screening of non-passenger cargo aboard commercial aircraft
- Development of significantly enhanced security measures for general aviation aircraft, passengers, and facilities
- Expanded research and development into CIP security measures
- Comprehensive revamping of Federal laws to address privacy, freedom of information, liability, anti-trust, indemnification, insurance, and related issues
- Enhanced security for agriculture and the food supply structure

Agroterrorism

The panel once again addresses the issue of Agroterrorism, and will make recommendations in the following areas:

- Developing threat assessments for potential terrorist attacks against U.S. agriculture
- Including Agroterrorism as an Emergency Support Function in the principal Federal response plan
- Improving processes for testing for and identifying agroterrorism attacks
- Creating a system of fair compensation for losses due to an attack
- Enhancing education, training, and exercises on attacks to agriculture

We must develop processes that help us understand better how we set priorities for homeland security. We must answer some fundamental questions about preparedness, including the overarching one: "Preparedness for what?" Without a firm grasp on how to answer that question, how will we know that we have our priorities set forth correctly, and that the expenditure of scarce resources at every level of government is appropriate. A more educated and enlightened assessment of the threats we face is critical to answering that basic question.

An integral part of that issue is the absolute necessity to have national standards for how entities at all levels of government and in the private sector train, equip, and plan for, and then coordinate responses to attacks. We are still a long way from having any standards for a variety of these issue related to homeland security.

Madam Chairman, in the panel's second report, submitted in December of 2000, we addressed this issue head on. We did so in the context of our recommendation at that time for the creation of an office in the White House, very similar but not exactly like the Office of Homeland Security (OHS) headed by my friend Tom Ridge. We called it the National Office for Combating Terrorism, rather than "Homeland Security." We would have placed some very specific responsibilities in that Office and in other entities for the development of national standards and for processes for research, development, test, and evaluation (RDT&E) to further the implementation of those standards. Those recommendations are worth repeating. (To avoid any confusion, the references to the "National Office" and "Assistant Director" are to the specific construct that we recommended in 2000, not to anything that currently exists in OHS). We said in 2000:

***"Improve Plans for Research, Development,
Test and Evaluation for Combating Terrorism***

"The national strategy developed by the National Office for Combating Terrorism must contain a clear set of priorities for RDT&E. The program and budget authority of that office must be exerted to ensure effective application of Federal funds devoted to this purpose.

"The White House Office of Science & Technology Policy should play a major role in the effort. **We recommend that the Assistant Director for RDT&E and National Standards of the National Office for Combating Terrorism either enter into a formal relationship with OSTP or have appropriate members of the OSTP staff detailed to the National Office for Combating Terrorism on a rotational basis.**

"Wide varieties of equipment that have potential application for combating terrorism are available from commercial vendors. Nevertheless, many local responders have told us that some equipment they purchased does not meet the specifications described by the vendor. At present, no viable program is in place for testing and evaluating the effectiveness of equipment for combating terrorism. **We recommend that the Assistant Director for RDT&E and National Standards develop equipment testing protocols and continue to explore the prospect of financial support from vendors for equipment live agent test and evaluation, leading to Federal certification.**

"We recommend that the Assistant Director for RDT&E and National Standards develop, as part of the national strategy, a comprehensive plan for long-range research for combating terrorism; this should include better coordination among the National Laboratories. The focus of those efforts by National Laboratories should be dual- or multi-purpose applications.

"The National Office for Combating Terrorism should also integrate other indirect, yet applicable, research and development projects into its information-dissemination process. For example, the Deputy Directorate for Operations (Combating Terrorism) within the Joint Staff provides executive seminars on its *Best Practices Study* for anti-terrorism and force protection. This program also collects information on "commercial off the shelf" resources and equipment to support its anti-terrorism mission. These studies and resources may not directly relate to policy and standards for combating terrorism at the State and local level but may well contribute to State and local preparedness.

"The top priorities for targeted research should be responder personnel protective equipment (PPE); medical surveillance, identification, and forensics; improved sensor and rapid-readout capability; vaccines and antidotes; and communications interoperability.

**"Develop National Standards for Equipment,
Training, and Laboratory Processes**

"One of our basic assumptions is that no single jurisdiction is likely to be capable of responding to a major terrorist attack without outside assistance. That leads to the

element of any national plan. Firefighters or EMS technicians in the jurisdiction where an attack takes place must not be concerned that responders from other jurisdictions, providing "mutual assistance," will arrive with equipment of a different standard than local responders, even at risk of becoming casualties themselves.

"We recommend that the Assistant Director for RDT&E and National Standards in the National Office for Combating Terrorism establish a national standards program for combating terrorism, focusing on equipment, training, and laboratory processes. The fundamental objectives for equipment standards will be nationwide compatibility, and dual-/ multi-purpose applications. For training, they will be interdisciplinary curricula, and training exercises based on realistic scenarios. For laboratories, the focus should be clear, strict protocols for identification, forensics, and reporting. The ultimate goal of the national standards program should be certification of the specific equipment, training, or laboratory and a recapitulation of certifications in a "Consumers Digest," for use by response entities nationwide.

"We recommend that the National Institute for Standards and Technology (NIST) and the National Institute for Occupational Safety and Health (NIOSH) be designated as Federal "co-lead agencies" for the technical aspects of standards development. The Executive Branch and the Congress should provide resources for the development of national standards, and Congress should be presented with a detailed budget request for that purpose at the earliest opportunity. In addition, the Interagency Board for Equipment Standardization and InterOperability should be subordinated to the National Office for Combating Terrorism.

"The Federal co-lead agencies should develop certification standards in coordination with appropriate Federal agencies and with advice from State and local response entities, professional organizations that represent response disciplines, and private and quasi-public certifying entities."

Madam Chairman, those functions that we recommend now almost two years ago still need to be performed, now obviously more urgently than before. Unfortunately, we are still a long way from achieving any coherence in standards and testing, especially for "first responder" equipment and communications capability. It is still the case that the only "standards" available are what vendors say are the capabilities of their wares. We continue to need something like an "underwriters laboratory" for a wide variety of protective equipment and communications. We have before and will again recognize the efforts of the Interagency Board for Equipment Standardization and InterOperability, National Personal Protective Technology Laboratory (in the Chairman's home state of Pennsylvania) and the Technical Support Working Group. Those efforts will not, however, be nearly enough, at least not at the level of current resources.

For training, the panel is encouraged that the majority of Federal training programs, at least those currently in FEMA and DOJ, will apparently be combined in the new DHS. Nevertheless, other Federal agencies—EPA, DOE, DoD, DHHS as examples—will continue to conduct training that will need to conform to a set of national training standards. That effort has not yet been undertaken, but it should be required on an urgent basis.

Conclusion

The Advisory Panel will continue to be relentless in pursuing appropriate solutions to these difficult issues, even if our recommendations are controversial and cross some "turf" boundaries. We will always—always—consider as an overarching concern the impact of any legal, policy, or process changes on our civil rights and liberties. Our Constitution, our laws, our judicial system, our culture, our history all combine to make our way of life unique in all the world.

Thank you again for this opportunity.

TESTIMONY OF JAMES B. STEINBERG, VICE PRESIDENT AND DIRECTOR OF
FOREIGN POLICY STUDIES, THE BROOKINGS INSTITUTION,

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

“CONSOLIDATING INTELLIGENCE ANALYSIS: A REVIEW OF THE
PRESIDENT’S PROPOSAL TO CREATE A TERRORIST THREAT INTEGRATION
CENTER”.

FEBRUARY 14, 2003

Good Morning, Madame Chairwoman, and members of the Committee. My name is James Steinberg and I am Vice President and Director of the Foreign Policy Studies Program at the Brookings Institution. Prior to coming to Brookings, I served for four years as Deputy National Security Advisor under President Clinton, and Director of the State Department’s Policy Planning Staff.

Today this Committee is considering perhaps the single most important issue in the fight against terrorism – how best to mobilize information and intelligence to protect our security.

The Joint House Senate Inquiry into the September 11 attacks vividly illustrates the crucial challenges that we as a nation face. In particular, their report found that “the US government does not presently bring together in one place all terrorism-related information from all sources. While the CTC [Counter-Terrorism Center] does manage overseas operations and has access to most Intelligence Community information, it does not collect terrorism-related information from all sources, domestic and foreign. Within the Intelligence Community, agencies did not adequately share relevant counterterrorism information.”

Before I turn to the specifics of the Administration recent proposal to create a Terrorist Threat Integration Center (TTIC), I would like to take a minute to discuss the nature of the intelligence challenge in dealing with counter-terrorism. Only by understanding the dimensions of the problem can we develop an appropriate “architecture” or organizational structure suitable to the task.

The intelligence challenge has four key components – first, collecting timely, relevant and in the best case, actionable information; second, collating or bringing together information from the full spectrum of sources; third, analyzing the information – “connecting the dots”; and finally, disseminating that information to those who need to act on it – policymakers, law enforcement officials, and the public – in a form that allows them to use that information to accomplish their mission.

In the fight against terrorism, these tasks are in many ways far more difficult than the intelligence challenge we faced during the Cold War. At that time, we faced a known enemy. We knew generally what to look for, and where to look for it, although we had to deal with our adversaries' attempt to conceal crucial information from us. For the most part, the information we needed was overseas, and largely concerned military activities, limiting our need to collect information in the United States, or about US citizens. Most of the expertise and knowledge resided in the federal government, and the actions needed to be taken rarely involved the public, the private sector or state and local officials.

All of this has now changed. Today, terrorists threaten us both at home and abroad. They have no fixed address, and only occasionally are their identities – or their targets -- known. Technology and globalization have made it easier for would-be terrorists to bring dangerous people and weapons into the United States and to conceal their activities. Key information that we need to detect and prevent terrorist attacks lie in the private sector – at airlines and flight schools, with operators of chemical plants and high rise buildings, with local police and community doctors – and we must increasingly count on the private sector to take the actions necessary to prevent attacks or deal with their consequences. We must adapt our intelligence efforts and the organization of our intelligence “community” to meet this radically different challenge.

Most of the discussion about reforming the use of intelligence in the fight against terrorism has focused on problems of information sharing in the federal government – problems highlighted in the Joint Inquiry. To date, some modest but positive steps have been taken. Prior to September 11, the Director of Central Intelligence strengthened the Counter-terrorism Center (CTC), staffed by analysts from the CIA, FBI and other Federal agencies. After September 11, the rigid barriers against sharing law enforcement information with the intelligence and policy communities were softened in the USA Patriot Act. Improvements have been made to permit sharing of databases such as watch out lists among federal agencies. The FBI has placed new priority on the domestic security mission.

More recently, but only after sharp prodding by Congress and governors, mayors and police chiefs, the FBI has begun to expand its information sharing with state and local law enforcement and public health and safety officials. Lack of funds, technical problems in acquiring and deploying new information systems and problems of classification have limited the effectiveness of these efforts to date

Although there is a tendency to focus primarily on the role of the federal government in carrying out these tasks, in reality we see that a wide variety of actors are crucial – foreign governments, state and local officials, business and private citizens all have access to information that may be relevant to the terrorist threat, have expertise that can help transform raw “information” into meaningful intelligence, and perhaps most important, are the key players who must act on the intelligence – to apprehend a suspect,

to prepare public health facilities in the event of an attack, to secure critical infrastructures, etc.

I've stressed the importance of understanding the different functions in the counter-terrorism intelligence process because they provide key guidance for the crucial question of how to organize the intelligence effort. The key necessary elements are first, a strategy for identifying the kinds of information we need to collect on threats and vulnerabilities, second, a network designed to permit sharing of information among the widest possible group of collectors, analysts and "implementers"; third, a focal point for bringing together, integrated and analyzed, and fourth, an accountable organization that assures that the right information is being collected and that the results of collection and analysis are shared in a timely, usable way with those who need to act on it.¹

Judged by these tests, the Administration's proposed Terrorist Threat Integration Center represents a partial step forward in helping to build a network linking foreign and domestic information collection and analysis, and in providing a place where these various sources of information can be integrated. But it fails to meet the other key tests, particularly in developing a structure that will increase the chances that we will collect the right information, and that we will link the collection and analysis to those responsible for taking the actions necessary to prevent attacks, protect our people and critical infrastructures, and mitigate the consequences of any attack that does take place. In this respect, the TTIC is a step backwards from the approach contained in Homeland Security Act of 2002, which created the Department of Homeland Security. Let me explain my conclusions in a little more detail.

By creating the TTIC, the Administration has recognized the importance of "closing the seam" between domestic and foreign intelligence, and to have access to all sources of intelligence – from raw reports to finished intelligence. But this effort was already underway under the current Counter-Terrorism Center. It also recognizes the need to draw on expertise from across the federal government and to develop a process for an integrated approach to "tasking" intelligence collection. These are welcome developments.

Unfortunately, by placing the TTIC under the direction of the DCI, rather than the Secretary of Homeland Security, and disconnecting it from those with direct responsibility for safeguarding homeland security, the Administration's proposal falls far short of what is necessary to develop an effective, integrated approach to countering the terrorist threat to the United States, and risks creating more duplication that could harm homeland security efforts.

In creating the Department of Homeland Security, the Congress gave the Department the mission to "prevent terrorist attacks within the United States; reduce the vulnerability of the United States to terrorism, and minimize the damage, and assist in the recovery, from terrorist attacks that do occur in the United States" (Sec. 101(b)(1)). To carry out that

¹ For a more comprehensive assessment of the intelligence challenge, see "Protecting America's Freedom in the Information Age" a Report of the Markle Foundation Task Force, October, 2002.

mission, the Congress chose to bring together most of the key elements of the mission – protecting our borders against dangerous people and materials, protecting critical infrastructures, and responding to emergencies. In organizing the Department, the legislation recognized the key roles played by the private sector and by state and local authorities, and specifically tasked the Secretary with coordinating the Department's activities with them. The legislation also recognized that to carry out these functions, the Department would depend critically on having actionable intelligence, and having the expertise to analyze that information and get it to the people in and out of government who need them. This responsibility was entrusted to the Under Secretary for Information Analysis and Infrastructure Protection.²

As a result of this structure, the Department truly lies at the hub of the homeland security effort. Many of its employees are critical “collectors” of information relevant to the homeland security mission – be they Customs and INS officials, or the TSA and the like. Even more important, the agencies within the DHS have the central responsibility to act on intelligence – by, for example, heightening protection of our borders, screening airline passengers, securing critical infrastructure and working with state and local officials. Unlike any other official, the Secretary of Homeland Security's sole responsibility is to see that the necessary actions are taken. In order to do so, he must be able to link decisions about what information we collect, and what information we share, with his responsibilities to take necessary action. Thus, while the TTIC represents a step forward in the middle stage of the process – collating and analyzing all source intelligence, it fails to link that process to two equally critical tasks – deciding what information to collect to the needs based on the requirements of those who must act on it, and making sure that

² Specifically, the statute defines the responsibilities of the Undersecretary as:

“1) receiving and analyzing law enforcement information, intelligence, and other information in order to understand the nature and scope of the terrorist threat to the American homeland and to detect and identify potential threats of terrorism within the United States;
 2) comprehensively assessing the vulnerabilities of the key resources and critical infrastructures in the United States;
 3) integrating relevant information, intelligence analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) to identify protective priorities and support protective measures by the Department, by other executive agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities;
 4) developing a comprehensive national plan for securing the key resources and critical infrastructures in the United States;
 5) taking or seeking to effect necessary measures to protect the key resources and critical infrastructures in the United States, in coordination with other executive agencies and in cooperation with State and local government personnel, agencies, and authorities, the private sector, and other entities;
 6) administering the Homeland Security Advisory System, exercising primary responsibility for public threat advisories, and (in coordination with other executive agencies) providing specific warning information to State and local government personnel, agencies, and authorities, the private sector, other entities, and the public, as well as advice about appropriate protective action and countermeasures; and
 7) reviewing, analyzing, and making recommendations for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to homeland security within the Federal government and between such government and State and local government personnel, agencies, and authorities”.

once the information is collected and analyzed, it gets to those people – in and out of government -- who need it.

This importance of this linkage is most evident in the case of protecting our critical infrastructure. Only by matching analysis of the “threat” against analysis of our vulnerabilities can we know how to prioritize both what intelligence we collect and what protective measures we must take. If, for example, our threat analysis lead us to conclude that terrorist are focusing on attacking chemical production plants, that helps us decide to focus our efforts on protecting those plants. Conversely, if we conclude that attacks on chemical plants could cause widespread casualties, we will want our threat “collectors” to be particularly attuned to any intelligence that might suggest that terrorists are considering such an attack.

The synergy created by linking intelligence collection, analysis and operational responsibility can lead to better quality, more actionable intelligence – and create greater incentives for the intelligence to flow to those who need it, in a form that they can use. Only by locating the key intelligence tasking, analysis and dissemination functions in the DHS can these synergies be achieved.

By taking these functions away from the Department of Homeland Security, we will have a Secretary, and a Department, with accountability but no authority. This has been the consistent problem in dealing with threats to the homeland, with responsibility widely dispersed throughout the federal government and has seriously hampered our efforts. Only a system that links these various aspects of the intelligence challenge will have the accountability and authority that will enhance the chance that what needs to be done will be done.

Along with this authority comes a responsibility to assure that the collection, analysis and dissemination of information is consistent with fundamental civil liberties. The homeland security challenge will rely heavily on information collected from the private sector and from a wide range of activities conducted here in the United States. Moreover, to carry out the homeland security challenge, vital information will need to be widely disseminated. It will therefore be all the more important to develop clear, public guidelines for the acquisition, retention and dissemination of information, particularly personally identifiable information. Whether the new threat integration center is placed under the authority of the DCI, or as I have suggested, under the Secretary of Homeland Security, the long-term acceptability to the American people of our heightened intelligence effort will depend on our ability to demonstrate that we are undertaking these new tasks with due regard to privacy and individual liberty. Formal guidelines, subject to public comment and congressional oversight, and accountable mechanisms to make sure those guidelines are adhered to, are essential to this goal.

Thank you for the opportunity to appear before you today, and I look forward to your questions.

**Testimony of
Jeffrey H. Smith
Senate Committee on Governmental Affairs
Friday, February 14, 2003**

Thank you, Madam Chair, for inviting me to appear this morning to discuss the President's new proposal to create a Terrorist Threat Integration Center (TTIC). This is a very important initiative and I am pleased that the Committee is looking carefully at it.

Because this is such an important issue and because there have been so many recent changes with respect to the collection and analysis of intelligence relating to domestic threats, I thought it might be useful to begin the discussion this morning by listing a few principles that should be kept in mind as we think about the President's proposal and other proposals that have been made. Different people will have different principles, of course. But here's my list:

First, there must be unity of effort and unity of command.

Second, there must be clear channels among collectors, analysts, operators, and consumers. It must be a two-way channel with information flowing up and down.

Third, there must also be a smooth flow of information among other sources of information, both within and without the Government. The analysts must have access to all relevant information, but there must also be counterintelligence and security checks in

place. For example, we must be able to determine if somebody is trying to acquire information for which they have no legitimate need.

Fourth, we should avoid overlap between intelligence agencies. The boundaries should be clear but not impervious or rigid. Some competition between intelligence analytical organizations is healthy. For example, when national intelligence estimates, or NIE's, are prepared the views of different intelligence agencies are solicited. If they dissent from the overall consensus, those views are separately reported so policymakers will know that there is a dissenting view on a given point.

Fifth, intelligence analysts must be independent. Indeed, that is why CIA was created in the first place. It is imperative that any intelligence analytical organization – even if it is part of a Department – must be independent and able to speak unvarnished truth to its customers.

Sixth, the intelligence analysts, and all intelligence activities, must be accountable to the political leadership of this country and to the Congress.

Seventh, any intelligence agency, whether it is a collection or analysis agency, must take all measures to protect the civil liberties of American citizens. Those who guard our liberties must respect our laws in letter and in spirit.

Eighth, any organizational structure can be made to work, even if it looks dysfunctional on paper. The keys to success, in my judgment, are good people, strong leadership, and stability. In that regard, the recent organizational turmoil reminds me of Norm Augustine's wisdom that too frequently we check on the health of a plant by pulling it out of the ground to look at the roots.

Finally, an analytical organization is only as good as the information it has available to analyze. There was much criticism after 9/11 that we had not "connected the dots." The major problem is that we just don't have enough "dots." Therefore, renewed efforts must be made to collect more intelligence, especially human intelligence.

Now let me turn to the Terrorist Threat Integration Center.

I believe the President's proposal is a good idea and I support both the concept and the proposed implementation of it. You may recall, Madam Chair, that when I last appeared before this Committee, I testified in favor of an enhanced counterterrorist center under the direction of the DCI to perform this function. I am therefore pleased that the President has proposed the creation of TTIC.

However, as I will discuss later, I believe this is only a first step toward what we ultimately need – a viable domestic intelligence service.

The Department of Homeland Security clearly needs an intelligence function. The legislation that created DHS assigned to the Directorate for Information Analysis and Infrastructure Protection broad responsibilities to “access, receive, and analyze law enforcement information, intelligence information, and other informations from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities.” DHS was also to “integrate such information in order to ... identify and assess the nature and scope of terrorist threats to the homeland, detect and identify threats of terrorism against the United States, and understand such threats in light of actual and potential vulnerabilities.”

As such, many people believed that the primary responsibility within the Government to conduct intelligence analysis for homeland security would be lodged within this Directorate of DHS. At the same time, the FBI was trying hard to improve its own analytical ability. The DCI had, for example, assigned 25 analysts to the FBI to assist them in this process.

It now appears that the President has determined that the principle responsibility should rest neither in the Homeland Security nor the FBI. He has decided, correctly in my view, that it should be housed in a fusion center under the direction of the DCI. I believe that is a good idea because it satisfies the elements that I outlined above.

As I understand it, the TTIC will be a “fusion center” that will ultimately combine the data banks of several agencies, including the FBI and CIA. I have spoken with

individuals in the intelligence community responsible for establishing the Center. They speak of creating not a new agency, but a “joint venture” that will build on the strengths of the current organizations.

The recent changes in the Patriot Act now permit wide exchange of information between law enforcement and intelligence agencies. This will allow officers from both FBI and CIA to work under the same roof with common databases. They are to have unfettered access to ALL relevant information. However, I gather that the final analytical product will be approved by the Director of the TTIC and, as such, will be independent of any parochial departmental interests. This should produce dramatically improved intelligence analysis.

The President’s desire is to build upon what’s already working. For example, I understand that the officers from the various agencies will be encouraged to maintain strong ties back to their parent agencies – including the ability to review operational traffic. This will assure maximum connectivity to the other agencies – something that has been lacking in the past.

At the same time, there will be much confusion as this Center is created. The President’s direction calls for elements of DHS, FBI, and CIA-CTC to be moved into this center. DoD will also support it. I know that each of these organizations have been working hard to improve their own capacity, but there has been considerable personal turmoil in some of the agencies. That is likely to be confounded by the creation of this

new Center. But, under George Tenet's strong leadership, I believe that this dislocation will only be temporary and they will quickly work out the kinks. Let us hope so.

There also appears to be confusion in the President's budget that he has just submitted. It provides a considerable amount of money to DHS, some \$829 million for DHS's Information Analysis and Infrastructure Directorate. Clearly, Congress should look at that money and see if it is properly allocated to DHS or whether some of it should be shifted to the new TTIC.

The intelligence element of the Department of Homeland Security, in my view, should report directly to the Secretary and should be patterned after the intelligence elements of the Departments of State and Energy. In those departments, there is a small intelligence organization that provides independent intelligence analysis directly to the Secretary and other senior officials that is relevant to their needs. They also conduct liaison with the rest of the intelligence community with respect to tasking decisions and enable the smooth flow of information from their departments to the intelligence community and vice-versa.

DHS needs the same function – enhanced to do the unique duties assigned to it. In my view, the intelligence element of the Department of Homeland Security must have the following key functions:

1. Independent analysis to the Secretary and other senior officials relative to homeland security.
2. The interface with the intelligence community for purposes of collection, tasking, operational support, etc.
3. Providing guidance to the component parts of DHS, e.g., INS, Coast Guard, Customs, etc., with respect to the key intelligence concerns so that those agencies will know what to be looking for and where to report it.
4. A similar arrangement must be worked out with State and local governments. DHS must tell the State and local governments what to look for, what are the threats? Who are the individuals to be watching for? What kinds of activity raises concern? There must also be a smooth and efficient system for providing intelligence to local officials and for reporting those scraps of information up rapidly through the chain of command to DHS, and over to the TTIC so it can be analyzed and linked with other information. I believe this will be one of the most important, and perhaps most difficult, tasks facing both the Department of Homeland Security and the TTIC.

Let me turn to some of the specific questions raised in the Committee's letter inviting me to testify. The following points address only those issues that I do not believe I have already discussed.

1. I believe that the TTIC, under the DCI, should have the primary responsibility in the United States Government for performing intelligence analysis regarding the threat of international terrorism. I believe the Center should have access to all sources of intelligence, both foreign and domestic, and that, because it is under the DCI, it will have the advantage of the systems that the DCI and the intelligence community have worked out over the years. It will also have the independence that is a necessary element. I recognize that a strong case can also be made that it should be within DHS, but on balance I believe it should be under the DCI.

2. As to what agencies should be part of the TTIC, I believe the President has it right. It should include the analytical components of the FBI, some elements of the Department of Homeland Security, and the DCI's Counterrorist Center. Other agencies including NSA, NIMA, NRO, DIA and so on should have liaison elements as part of TTIC but I would leave them otherwise largely intact.

3. I do not believe that there are any unique legal or privacy concerns raised merely because the DCI will now be responsible for the analysis of domestic intelligence.

However, it is important to point out that under current law (50 USC 403-4(d)), the DCI, in "his capacity as head of the CIA shall...have no police, subpoena, or law enforcement powers or internal security functions." Two aspects of this are worth discussing.

First, the law draws a distinction between the DCI's role as head of the CIA and as head of the broader Intelligence Community. This suggests Congress recognized that, as head of the Intelligence Community, the DCI inevitably would have some role in domestic intelligence and law enforcement matters. However, Congress was rightly concerned about a domestic "secret police" and thus barred CIA from having any police or internal security powers.

The last clause of the provision "shall have no internal security functions" is also worth a moment's discussion. I have always understood it to mean that the CIA may not play any role in domestic law enforcement – other than the collection and analysis of foreign intelligence that may relate to law enforcement or domestic security. CIA has done that since its establishment. For example, CIA collects information relating to espionage directed against the U.S. It collects information relating to narcotics trafficking.

However, as this Center is established, it would be well to consider carefully the limits of what the DCI and the TTIC will do to be certain that we are comfortable with their roles. Some additional guidelines may be necessary to determine the line between intelligence relating to domestic terrorism – which would be legitimate areas for the TTIC to address – and purely domestic political groups – which should be left with the FBI. The TTIC should not, for example, be used to analyze information on domestic political groups such as right wing militia or hate groups. It must continue to follow existing Attorney General guidelines on such matters as the collection and dissemination

of information on U.S. persons. I, for one, am comfortable with the President's proposal, but I also believe the congressional oversight committees must be vigilant in monitoring the role of the CIA and the DCI as the TTIC is established.

There are existing safeguards, some in the law and some in Attorney General guidelines, that must be applied to the collection and dissemination of information involving U.S. persons and the use of intrusive techniques in the United States. Clearly those should continue to be applied to the TTIC. In that regard, I note recent press stories suggesting that the Department of Justice is seeking additional authority. That might be necessary but Congress should look very carefully at requests for additional authority particularly with respect to the rights of U.S. citizens. I have long believed that we must maintain current Constitutional protections for the rights of American citizens. However, I do believe we can be more aggressive with respect to aliens in the United States whether here legally or illegally.

4. The FBI should not have a supervisory role in the analysis of domestic intelligence. They do, however, have a need to conduct analysis that will support their collection efforts. They will also have an important voice in the TTIC. However, I believe the ultimate responsibility should rest with the DCI.

5. The TTIC should have a major role in the development of requirements for the collection of intelligence that are then passed, through the DCI's process, to the collection agencies, e.g., CIA, FBI, NRO, NSA, etc. At the moment, the collection of

domestic intelligence is scattered among member agencies, many of whom do not even realize they are collecting "intelligence." As I noted earlier, one of the key challenges is to figure out how to collect the vast array of information from domestic and foreign sources and spot those key pieces of information that are critical to identifying the threat in advance. I believe the DCI, working closely with the Secretary of Homeland Security and the Director of the FBI, can devise efficient priorities for the collection of intelligence.

6. As I also noted above, I believe the single most important element of this new TTIC will be the quality of personnel who are assigned there. All agencies must send to the TTIC their best performers. In addition, a vigorous recruiting effort should be made to find the best and brightest from among recent university graduates, the military, other government agencies, private industry, and academia. The best minds must be brought together to help fight terrorism.

Finally, Madam Chair, although I support the President's effort I believe it is only a first step. I believe the time has come to create a true domestic security service. In my mind, such a service would have the following responsibilities:

1. The first responsibility is to ask the question: What are the threats, whether generated from within the United States or outside, to the national security of the United States that will manifest themselves within the territorial confines of the United States? Thus the service would be responsible for counterterrorism, counterintelligence, and

counterespionage. I would not include narcotics or ordinary domestic crime such as hate and racist groups.

2. The service would be responsible for the clandestine collection of intelligence within the United States, and to some limited extent overseas when it relates to the domestic security of the United States.

3. The service would also be responsible for preparing analysis associated with domestic threats – in other words the TTIC would ultimately become the analytical arm of this new agency.

4. Such an agency would, therefore, combine the national security and counterterrorism divisions of the FBI, large portions of the domestic activities of the CIA that relate to counterterrorism and counterintelligence and certain elements of other departments and agencies.

5. The service would also be responsible for working with State and local governments to provide intelligence and threat analysis to them. It would also be the conduit through which information is provided from the local agencies to the Federal Government that is relevant to counterintelligence and counterterrorism.

6. The service would not have arrest authority and, in part because of that, would present less of a threat to our civil liberties than a law enforcement agency that is also charged with collection and analysis of intelligence on domestic activities.

7. Rigorous oversight would have to be in place, including perhaps some additional legislation with respect to electronic surveillance and infiltration of domestic groups.

I note that yesterday Senator Edwards introduced a bill to create such an agency and I am very pleased that he has done so. It is my hope that Congress will quickly take up Senator Edwards's bill and enact it.

Again, Madam Chair and Members of the Committee, thank you very much for the privilege of appearing before you, and I look forward to answering your questions.

Thank you very much.

**JOINT STATEMENT OF THE TERRORIST THREAT INTEGRATION CENTER
SENIOR STEERING GROUP**

**Winston P. Wiley,
Chair, Senior Steering Group**

As you know, in his State of the Union address, the President instructed the Director of Central Intelligence (DCI), the Director of the Federal Bureau of Investigation working with the Attorney General, the Secretary of Defense, and the Secretary of Homeland Security to develop the Nation's first unified Terrorist Threat Integration Center (TTIC). In connection with his recent visit to FBI headquarters, the President announced that the TTIC would stand up by May 1 and would, as soon as possible, be housed -- collocated -- with the FBI's Counterterrorism Division and the DCI Counterterrorist Center at a yet-to-be determined site. We appreciate your invitation to discuss our plans for TTIC and how we intend to ensure that it reaches its full potential.

Let me first outline how we got here. Immediately following the President's State of the Union address, the DCI asked me to chair a Senior Steering Group (SSG) charged with determining how best to realize the President's vision for TTIC. The SSG consisted of a single senior representative of the Departments of State, Defense, Justice/FBI and Homeland Security, as well as of the CIA and the Office of Management and Budget, each of whom is here with me today. Joining me here today are my colleagues on the Senior Steering Group: Deputy Secretary of Homeland Security Gordon England, the FBI's Executive Assistant Director for Counterterrorism and Counterintelligence, Pat D'Amuro, the Special Assistant to the Secretary of Defense for Intelligence, Rich Haver, the CIA's Deputy Executive Director, John Brennan, and the Ambassador-at-Large in the State Department's Office of the Coordinator for Counterterrorism, Cofer Black.

We on the SSG, in turn, convened a Working Group drawing on the very broadest array of expertise from affected entities. Among those were, of course, CIA, FBI, DHS, DoD, State, NSA, NIMA, and OMB. The SSG reviewed the implementation variables and decision points the Working Group had identified, and on that basis proposed a structure that will fully implement the President's vision for TTIC.

TTIC's Mission and Structure. TTIC's mission is to enable full integration of U.S. Government terrorist threat-related information and analysis. Its structure will promote that. TTIC will be an interagency joint venture where officers will work together to provide a comprehensive, all-source-based

picture of potential terrorist threats to U.S. interests. TTIC's structure is designed to ensure rapid and unfettered sharing of relevant information across departmental lines. It will collapse bureaucratic barriers and close inter-jurisdictional seams. The objective is to create value-added efficiencies in analyzing the full array of terrorist threat-related information the U.S. Government has available to it.

Elements of the Department of Homeland Security, the FBI's Counterterrorism Division, the DCI's Counterterrorist Center, the Department of Defense, and other U.S. Government agencies, as appropriate, will form TTIC. TTIC will not, however, involve any of its participating agencies in new missions. It will combine their terrorist threat-related analytic efforts in support of a more focused and comprehensive, Government-wide, counterterrorist intelligence effort.

We want to stress a few of TTIC's most important features. TTIC will:

- Have unfettered access to all intelligence information -- from raw reports to finished analytic assessments -- available to the U.S. Government.
- Provide all-source terrorist threat assessments to our national leadership.
- Oversee a national counterterrorism tasking and requirements system.
- Maintain a database of known and suspected terrorists that will be accessible to federal and, as appropriate, non-federal officials and entities.

TTIC will close any gaps separating analysis of foreign-sourced and domestic-sourced terrorist threat-related information. It will provide integrated analysis of potential terrorist threats to all U.S. interests, physical and cyber. TTIC's structure will promote comprehensive analysis of potential terrorist threats and unprecedented information sharing across agency lines to ensure optimum support to a disparate array of customers -- not only at the federal level, but also (through the Department of Homeland Security and the FBI) to state, local, and private sector officials who have homeland security-related responsibilities.

Capabilities and Timing. TTIC cannot reach its full, end-state capabilities overnight. Stand-up will occur by May 1. At stand-up, TTIC will focus on integrating terrorist threat-related information. It will produce the daily Threat Matrix, Situation Reports, CT Updates, and

inter-agency terrorist threat warnings for senior national leadership. TTIC will also have the support of an Interagency Transition Working Group, comprising representatives from participating departments and agencies, to advise and assist the Director of TTIC in addressing implementation and integration issues.

As soon as possible thereafter, TTIC will become the principal gateway for policymaker requests for analysis of potential terrorist threats to U.S. interests. At this point, TTIC will begin to stock and maintain a database of known and suspected terrorists. TTIC will also be producing current intelligence and terrorist-related assessments, drawing on non-TTIC resources and expertise as necessary. TTIC will, of course, be able to reach back to its participating parent agencies' base resources as necessary to meet its extraordinary requirements. This instantaneous surge capability is one of the benefits of structuring TTIC as a joint venture of its participating agencies.

TTIC will, under its Director's guidance, serve as the U.S. Government hub for all terrorist threat-related analytic work. Individual departments and agencies will retain their current ability to produce tailored analytic products in support of their individual missions, but will routinely augment TTIC's dedicated analytic resources and other capabilities. In sum, at its full, end-state capability, TTIC will have robust inter-agency participation, including, for example, in its 24/7 watch and integrated analytic support teams.

When TTIC reaches its full, end-strength capability, it will be collocated with the DCI's Counterterrorist Center and the FBI's Counterterrorism Division at a yet-to-be-acquired site. Prior to that, TTIC will be located on the CIA headquarters compound, as are many other independent Intelligence Community entities.

TTIC Command Structure. The Director of TTIC will be a senior U.S. Government official who reports directly to the Director of Central Intelligence in his statutory capacity as head of the Intelligence Community. The Director of Central Intelligence, in consultation with the Director of the FBI and the Attorney General, the Secretary of Defense, and the Secretary of Homeland Security, will appoint the Director of TTIC. TTIC's Director and its three Deputy Directors (for Analysis, Management, and Liaison) will come from different Government agencies.

The Director of TTIC will be the final review and approval authority for TTIC-generated products. For national-level analysis produced outside TTIC, existing departmental review processes and procedures will prevail

until the Director of TTIC has established other arrangements by agreement with the appropriate senior Government officials. At TTIC's end-state, all national-level terrorist threat-related analysis will be coordinated with the Director of TTIC or his/her authorized representative.

Information Access. The President's TTIC initiative seeks to ensure that TTIC has access to the full array of terrorist threat-related information available within the U.S. Government. Consistent with that vision, TTIC analysts with a need to know will -- regardless of their agency affiliation -- be afforded access to terrorist threat-related information, from raw reports to finished analytic assessments, collected through widely disparate sources, methods, and agencies. TTIC analysts with the need to know will have access, as appropriate, to all terrorist threat-related reporting (disseminated and non-disseminated). Need to know determinations will be based on TTIC's objective of ensuring comprehensive and integrated terrorist threat assessments based on the entire spectrum of available intelligence. The Director of TTIC's own access will be equivalent to that of the Chiefs of the DCI Counterterrorist Center and the FBI's Counterterrorism Division.

Information Technology. TTIC will utilize the most advanced systems and techniques that are available, accredited, and consistent with its mission objectives. TTIC will use the existing and accepted Intelligence Community architecture that enables information sharing across boundaries (i.e., the Intelligence Community System for Information Sharing (ICSIS)). TTIC's information technology will allow unprecedented access to information for all TTIC participants due to the "system high" nature of the access model we have adopted for TTIC.

TTIC analysts will have access to all necessary Intelligence Community networks and, where required, native access to their home agency's internal network. TTIC analysts will also have available to them the Intelligence Community's most powerful analytic tools for searching, analyzing, linking, and visualizing the Intelligence Community's data holdings to best understand the terrorist threat picture. TTIC's information technology implementation program will adhere to Intelligence Community and commercial standards and practices. An executive agent for the DCI will coordinate this implementation program with all TTIC's participating agencies.

Concluding Observation. I want to assure you that we on the TTIC Senior Steering Group wholeheartedly share the President's view that the TTIC is a major step in the direction of comprehensive and seamless integration and analysis of terrorist threat-related information. It builds on our strengths and adds to them new efficiencies. TTIC is very good news for the American people and very bad news for terrorists. My Senior Steering Group colleagues and I would be happy to answer your questions.

Pasquale J. D'Amuro
Executive Assistant Director for Counterterrorism/Counterintelligence
Federal Bureau of Investigation

**Senate Governmental Affairs Committee Hearing - "Consolidating Intelligence Analysis: A
Review of the President's Proposal to Create a Terrorist Threat Integration Center-Day 2" -
February 26, 2003**

Opening Oral Statement

Good morning Madam Chair Collins, Ranking Member Lieberman, and other distinguished Members of the Committee. I would like to express my gratitude to the Committee for the opportunity to testify today. I am honored to be included in such a distinguished panel of executives from the U.S. intelligence and law enforcement communities. I would also like to thank the Committee for allowing me to add the following remarks to Mr. Wiley's written statement submitted for the record:

President Bush recently emphasized during a speech at FBI Headquarters that "the FBI has no greater priority than preventing terrorist acts against America." The FBI strongly supports the formation of the Terrorist Threat Integration Center (TTIC) and is proud to be a partner with the CIA, the Department of Homeland Security, the Department of Defense, and all the other participating agencies. The FBI's experience in conducting complex criminal and terrorism investigations has shown that analysts are most effective when they are in constant and close communication with investigators. For this reason, the FBI strongly supports and looks forward to the expeditious implementation of plans to co-locate the FBI's Counterterrorism Division (CTD) with the CIA's Counterterrorism Center (CTC), the Department of Homeland Security, and other U.S. agencies participating in the TTIC.

As you may know, the FBI has established sixty-six Joint Terrorism Task Forces (JTTFs) in FBI field offices around the country and a National Joint Terrorism Task Force (NJTTF) at FBI Headquarters. The JTTFs partner FBI personnel with hundreds of investigators from federal, state, and local agencies. These partnerships provide an effective and efficient mechanism to collect domestic threat-related information. The TTIC will fuse the information collected domestically by the FBI's JTTFs with threat-related information gathered abroad. The fusion of domestic and international threat-related information at the TTIC is critically important for the FBI to accomplish its mission of preventing terrorist attacks in the future.

The FBI views the TTIC as an important resource. The TTIC will not only provide all-source, integrated analysis to the FBI, but also to the officials in state and local law enforcement who are essential partners in the fight against terrorism. We recognize that the two-way flow of information between federal and local law enforcement is necessary to continuously sharpen both the collection and analysis of threat-related information. Once again, the dozens of FBI JTTFs around the country provide an effective channel to share the TTIC's analytical products with our partners in state and local law enforcement. The FBI is committed to working with the Department of Homeland Security to push information and analysis out of the TTIC to other federal agencies, and to state and local officials.

We are expanding our ability to collect, analyze, and disseminate intelligence. The centerpiece of this effort is the establishment of an Executive Assistant Director for Intelligence who will have direct authority and responsibility for the FBI's National Intelligence Program. Specifically, the EAD for Intelligence will be responsible for ensuring that TTIC's reporting requirements are met by field offices.

Our support of the TTIC will not change our mission, priorities, or operations. In fact, the TTIC will only strengthen our capabilities. The FBI is uniquely positioned to bring both national security and law enforcement authorities to bear in the war against terrorism. Recently, the ability to develop intelligence on terrorist activities and use law enforcement powers to disrupt them was exemplified in Buffalo, New York, where we arrested seven al-Qaeda associates and sympathizers indicted in September 2002 for providing material support to terrorism. Every FBI agent is trained to recognize that along with these broad authorities comes the responsibility to implement them fairly and in accordance with the protections provided by the Constitution. It is important to note that the FBI's role, and the roles of all TTIC participants, must and will remain consistent with the protections provided by privacy laws, Executive Orders, AG Guidelines, and other relevant legal authorities in order to protect Constitutional liberties and privacy interests.

Again, I offer my gratitude and appreciation to you, Madam Chair Collins, and the Governmental Affairs Committee, for dedicating your time and effort to this issue and I would be happy to respond to any questions.

RESPONSES TO POST-HEARING QUESTIONS FROM ASSOCIATE DIRECTOR WILEY
SUBMITTED BY SENATOR AKAKA

Terrorist Threat Integration Center (TTIC)
Responses to Congressional Questions for the Record
Dated 26 February 2003

Question #1: Earlier this year, Congress passed legislation which made research funding for the Total Information Awareness (TIA) System dependent upon a report to Congress on TIA's privacy and civil liberties implications. It also required Congressional approval for deployment of any technology related to the program. At the heart of the system was the use of data mining activities to gather information on American citizens.

- What databases of personal information would TTIC have access to? Would information be bought wholesale from private data aggregators or would TTIC rely on personal information held by the government?
- Will data mining of personal information be used by TTIC? If so, what personal information will be mined?

Answer: The full array of databases containing personal information that will be accessible by TTIC analysts is not yet known. When TTIC opened for business on 1 May 2003, analysts had access to partner agency data holdings¹. In so far as TTIC mission partners have access to personal information gathered in accordance with current Federal law and policy regarding U.S. citizens and legal residents, so too does TTIC have access to such information. However, each member of the TTIC joint venture has responsibility for the underlying data that any tool set would query; those data sets will be built in such a way as to ensure we are protecting the rights of U.S. citizens and acting in accordance with our authorities and responsibilities. As TTIC moves toward full operational capability, it is expected that the amount of personal information made available to TTIC analysts will increase, and that it will come from commercial as well as Federal sources. Any such personal information will be used for the sole purpose of satisfying TTIC's mission to enable the full integration of the U.S. Government terrorist threat-related information and analysis.

TTIC mission partners providing personal information to TTIC remain responsible for collecting and disseminating that information in accordance with all existing statutes and policies regarding the original source of the data. TTIC analysts, in turn, are responsible for analyzing information holdings collected by others across the Federal Government to "connect the dots" regarding terrorist threats at home and abroad. TTIC analysts will use a variety of tools and techniques – perhaps including 'data mining' - to identify the travel patterns, plans, and potential targets of individuals with known or suspected links to terrorist organizations.

¹ TTIC was established as a joint venture, composed of partner organizations including Department of Justice/Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), Department of Homeland Security (DHS), Department of Defense (DoD), and Department of State (DoS).

- **Has the data mining program to be used at TTIC been evaluated or any determinations made as to the effectiveness or feasibility? If so, what are the results of these evaluations or feasibility studies?**
- **What privacy laws are implicated? How would current privacy law policies regulate this data mining activity? How have individual privacy rights been considered in the development and implementation of this data mining program?**

Answer: A specific data mining development program does not currently exist for TTIC. TTIC management is evaluating several data exploitation tools to assist with the center's mission. None of the tools under consideration are designed specifically to collect information on U.S. citizens covered by privacy laws. Rather, the tools will process information collected by TTIC's mission partners in accordance with applicable Federal laws, policies and regulations. Among the tools under consideration for this effort are the FBI's SCOPE program, CIA's Quantum Leap program, elements of DoD's Terrorist Information Analysis program (a report was recently forwarded to Congress on TIA's privacy implications), and elements of NSA's Advanced Analysis Lab. Any tools selected for TTIC will be tested and evaluated by the agencies responsible for their development. Many of the most promising tools identified so far are still in the development stage by their parent organizations. TTIC management will have a legal review conducted of any tools selected for incorporation into the overall information management architecture to ensure those tools are compliant with applicable laws when used in the TTIC environment.

- **How would information culled from data mining activities be used by law enforcement, intelligence, and other government agencies?**

Answer: TTIC has no operational responsibility. Its use of information culled from any data mining activity would be to "connect the dots" regarding terrorist threats at home and abroad. Other agencies within the federal government that have access to this type of information will be responsible for using that information in accordance with their respective counterterrorism missions and authorities.

Question #2: According to the information provided by the White House, TTIC would maintain an up-to-date database of known and suspected terrorists that would be accessible to federal and non-federal officials. How would errors and bureaucratic mistakes affect innocent individuals inside the U.S? If errors are made on this list, how would they be fixed?

Answer: The Identities Tracking Database (ITD) is the database within TTIC that is being developed as the focal point for terrorist identities information for the U.S. Government. This database is currently used by the CIA, but it is envisioned that a broader

segment of the U.S. Intelligence Community (IC) will be permitted access to a portion of the ITD, where highly sensitive information on sources and methods has been removed. It is also possible that certain portions of this database can be extracted for use in a Sensitive But Unclassified (SBU) network, which would permit access by individuals who do not possess a security clearance.

Since most human endeavors are not perfect, we will address potential future mistakes in two ways: First, we will establish written guidelines for standards to enter, maintain and remove individual names from the database. By doing so, we will attempt to provide clarity for the basis for inclusion, exclusion and removal of individual names. Second, we are building into the organization a quality control component, which will audit the decisions made by the personnel who make the decisions to enter, exclude, or delete individuals from the ITD. If information on individuals contained in the ITD is provided to other databases, and subsequently determined to be inaccurate, the agencies receiving the incorrect data will be promptly notified.

QUESTIONS FOR THE RECORD
CONSOLIDATING INTELLIGENCE ANALYSIS:
A REVIEW OF THE PRESIDENT'S PROPOSAL
TO CREATE A TERRORIST THREAT INTEGRATION CENTER
26 FEBRUARY 2003

Question 3: Passage of the Homeland Security Act and the USA Patriot Act removed many barriers to the sharing of information between law enforcement and intelligence officials. However, there is concern over how information gained from intelligence sources may be used in court. As TTIC will integrate law enforcement and intelligence information, what procedures will be in place for the use of such information in the courtroom?

Answer:

The principal statutory mechanism for handling classified information in a criminal prosecution is the Classified Information Procedures Act (CIPA), which balances the rights of the defendant, the requirements and obligations of law enforcement, and the protection of intelligence sources and methods and other classified information important to our national security. The Intelligence Community, and the DCI's Counterterrorist Center in particular, has substantial experience in working with the law enforcement community. In both criminal and civil cases, early and ongoing coordination among law enforcement and intelligence components involved in a case to identify the goals and needs of each is the best way to address potential conflicts. Sometimes the needs of law enforcement will take precedence, at other times the needs of intelligence components. The goal is always, however, to meet the needs of both law enforcement and intelligence. The establishment of TTIC will not require, and is not expected to create a need for, changes in existing procedures; TTIC may enhance the intelligence and law enforcement coordination process.

Question 4: The intelligence community is subjected to federal laws to prevent the collection of intelligence on the activities of American citizens. These measures are in place to protect against past abuses of civil liberties. By law, the CIA is specifically prohibited from collecting foreign intelligence concerning the activities of Americans. By direction of Executive Order 12333, the CIA is restricted in the collection of intelligence information directed against U.S. citizens.

According to the President's proposal, the CIA's Counter Terrorism Center (CTC) will analyze foreign intelligence, the FBI will analyze domestic intelligence, and the TTIC will have access to both. The TTIC will be housed at the CIA under the [control?] of the Director of Central Intelligence (DCI).

- **Does the creation of a TTIC preserve existing firewall between the foreign and domestic intelligence to protect the privacy and civil liberties of Americans? If so, how?**
- **Will the creation of the TTIC provide the CIA access to information on the activities of American citizens?**

Answer:

It is important to reiterate what was said at the hearing. The role of the TTIC is not to collect intelligence, and it does not have distinct authority to do so. Law enforcement and intelligence components will collect intelligence, as they do now, and provide it to TTIC (among other entities), which will integrate the intelligence for analysis and dissemination purposes. While TTIC will play a lead role in developing collection strategies, the actual collection activities will continue to be conducted by the operational elements of the law enforcement and intelligence communities.

This distinction is important because the creation of TTIC does not require, and does not imply, any change to the authorities of law enforcement and intelligence agencies to collect intelligence. Accordingly, the privacy and civil liberties of American citizens will continue to be protected by the statutes and regulations currently in place. This framework of authorities and constraints includes the

National Security Act of 1947, the Foreign Intelligence Surveillance Act of 1978, and Executive Order 12333 concerning United States intelligence activities, issued in 1981, including its Attorney-General approved implementing procedures. Under these and related rules, the Intelligence Community, under specified circumstances and for specified purposes, is authorized to collect foreign intelligence about United States citizens. Exercise of First Amendment rights and other lawful activities do not constitute "foreign intelligence." Congress exercises direct oversight of intelligence activities via the Senate and House intelligence committees, established in 1976 and 1977, respectively.

The TTIC will have access to information about American citizens only within the existing legal framework of collection authorities and limitations related to U.S. persons. As noted in question 3 above, the USA Patriot Act lowered barriers to the sharing of information. To the extent that "firewalls" between domestic and foreign intelligence have been altered, they have been altered by law, not by the creation of the TTIC.

Question 5: The TTIC's mission is to enable full integration of U.S. Government terrorist-related information and analysis. During your testimony you emphasized that the creation of the TTIC is, and will always be, a work in progress. How do you see the TTIC mission changing? Will these changes include the collection of intelligence on American citizens?

Answer:

The TTIC's mission is to enable the full integration of all terrorist threat-related information and analysis that the U.S. Government has. The purpose of describing TTIC as a work in progress was simply to point out that from the vantage point of February 26, 2003, it was impossible to describe in immutable terms exactly how the TTIC would meet those responsibilities. If the TTIC can be made a more effective tool in the war on terrorism, we will make it that. As with other elements of the war against terrorism, it is crucial that the TTIC be able to adapt to changing circumstances and that its philosophy, structure, and practices be changeable in order to ensure that it completely meets the needs that define its mission. That said, there is no intention that the TTIC become an operational element that would conduct intelligence collection activities.

RESPONSES TO POST-HEARING QUESTIONS FROM
ASSOCIATE DIRECTOR WILEY SUBMITTED BY SENATOR SHELBY

Question 1: It has been reported in the past that CIA will not provide raw or unevaluated intelligence to the Office of Information Analysis at DHS. Is it the CIA's position that DHS will only have access to reports produced by CIA?

Answer:

No. The Homeland Security Act provides that the Department of Homeland Security (DHS) will receive a broad spectrum of intelligence information pertinent to its mission, including information that has not been evaluated. CIA will provide DHS, consistent with its statutory entitlement and the President's direction, both unevaluated and evaluated intelligence information that CIA has collected.

The Terrorist Threat Integration Center (TTIC) announced in the President's recent State of the Union address is one key way that terrorist threat-related information will be provided to the new Department. TTIC analysts, including those from DHS's Information Analysis and Infrastructure Protection Directorate (IAIP), will, consistent with their responsibilities, have unfettered access to all terrorist threat intelligence information - from raw reports to finished analytic assessments - available to the U.S. Government. DHS will have a dual role with respect to TTIC. DHS will provide any terrorist threat information it may obtain to TTIC and will also benefit by TTIC's access to and analysis of the full array of terrorist threat-related information available to the US Government.

DHS will be a full partner in the TTIC, which is not a new agency, but a joint venture among US Government agencies fighting the war on terror. It will both enhance the TTIC and be enhanced by it. Officers from DHS, including from the IAIP Directorate, will work day-in, day-out at the TTIC, developing and shaping TTIC products, determining requirements for additional information, and relaying information back to DHS headquarters. The functions that

these DHS employees will perform will be part of a cohesive joint venture in which DHS is an active partner.

The Homeland Security Act provides that the Secretary will, on behalf of DHS, be "provided, without further request, all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States...." We expect that DHS will generally find it helpful for CIA to provide its unevaluated terrorist threat-related information through TTIC, where it can be integrated and analyzed with other information collected both domestically and abroad to form a comprehensive threat picture. TTIC will not, however, be the exclusive means of sharing CIA terrorist information with DHS. Providing information to TTIC will not relieve CIA of any obligation it has to provide that same information to any other entity, including DHS's IAIP Directorate or any other DHS element.

Additionally, if the Secretary of Homeland Security specifically requests unevaluated intelligence from CIA, will DHS have access to that information?

Answer:

Yes. The Secretary may, on behalf of DHS, request information relating not only to threats of terrorism against the United States, but also to other areas of DHS's responsibilities, regardless of whether that information has been analyzed, processed or synthesized in any way. In such cases, the Homeland Security Act mandates that the CIA provide that information to DHS, as requested. The Secretary may also obtain information either upon request or through cooperative agreements under which such information would be provided to DHS on a regular or routine basis.

Regardless of whether the Secretary has made any request or entered into any cooperative agreement, the Homeland Security Act requires that CIA promptly provide the Secretary with all reports (including information reports containing information that has not been fully evaluated) relating to threats of terrorism against the United States and to other areas of the Secretary's responsibility, all information concerning the vulnerability of the infrastructure of the United States or other vulnerabilities of the United States to terrorism, whether or not the information has been analyzed, and all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed.

It is important to note, in that connection, that the Homeland Security Act also requires that DHS share, retain, and disseminate intelligence information in a manner consistent with the DCI's authority to protect intelligence sources and methods and the Attorney General's authority to protect sensitive law enforcement information.

Question 2: If TTIC is to be the center for evaluating all U.S. Government information relevant to terrorist threats, how will it - as part of the Intelligence Community - fulfill this role within the IC's current rules regarding the handling of information related to "United States persons"?

Answer:

As noted above, TTIC will be a joint venture of various agencies, not a new agency. TTIC's participating agencies and those they assign to TTIC will, therefore, continue to observe the current legal requirements for handling "United States person" information. The Intelligence Community's (IC) rules on handling information concerning US persons are contained in Attorney General-approved procedures promulgated under Executive Order 12333. Those procedures govern how IC entities may collect, retain, and disseminate information that is foreign intelligence and counterintelligence, including international terrorist information. Similarly, the USA PATRIOT Act and the Attorney General's implementing *Guidelines* make clear that foreign intelligence information obtained in the course of a law enforcement investigation may be disclosed to intelligence and other national security officials to assist them in performing their official duties.

The TTIC concept is that all terrorist threat-related information the US Government has collected should be analyzed in the most thorough and efficient way in order to maximize protection of US citizens and interests. Over the past decade, numerous bodies that have studied intelligence reform issues - including the Congressional Joint 9/11 Inquiry and various national commissions spanning the political spectrum, as well as private entities - have stressed the importance of seamless integration of terrorism-related intelligence information, whether collected abroad or within the United States. Several have recommended precisely the collocation and integration of strengths that TTIC represents.

To achieve those ends, TTIC analysts must be able to assemble and analyze information of all types from every conceivable source concerning potential terrorist threats to the United States. The fundamental principle of the Attorney General-approved IC rules on US person information is that if information is lawfully collected, whether domestically or abroad, it may also be retained and disseminated. Present legal standards do, in other words,

permit TTIC analysts to analyze terrorist threat-related information regardless of whether it relates to a US person or entity. Any non-legally mandated policies or practices that might impede full realization of this core aspect of the President's vision for TTIC will, of course, be modified as necessary.

Finally, while TTIC analysis will inform individual agencies' collection strategies, it is important to stress once again that TTIC itself will neither conduct, nor direct, collection operations. All terrorism-related operations, whether in the United States or overseas, will continue to be conducted by individual agencies under their own legal authorities and command structures.

Question 3: According to the Department of Homeland Security's website, DHS "will serve as a central hub of intelligence analysis and dissemination, working with agencies throughout the federal government such as the FBI, CIA, NSA, DEA, the Department of Defense and other key intelligence sources." How does this mission differ from TTIC's proposed mission? What step will be taken to ensure that TTIC and the Office of Information Analysis at DHS are not needlessly duplicating the same tasks?

Answer:

The roles of DHS and TTIC will be complementary, not duplicative. The Homeland Security Act assigns DHS responsibilities for analyzing and disseminating information that go far beyond TTIC's role. Because of the extraordinarily broad range of its activities, particularly its contacts with state and local officials, DHS will be not only a source of raw terrorist threat-related information for TTIC, but also a regular consumer of TTIC's products.

DHS will provide any terrorist threat-related information it may obtain to TTIC. DHS will, in turn, benefit by TTIC's own access to and analysis of the full array of terrorist threat-related information available to the US Government. To cite just one example, DHS -- working with state and local governments and the private sector -- will identify our nation's critical infrastructure, assess its vulnerabilities, and map terrorist threats against those vulnerabilities. TTIC's threat assessments will inform such DHS vulnerability assessments. DHS and, in certain instances, the FBI will ensure that the substance of TTIC's threat assessments is disseminated quickly to state and local governments, private industry, and the public, as appropriate.

DHS will be a full and active partner in TTIC, and will meet the portion of its responsibilities relating to the analysis of terrorist threats through TTIC. Officers from DHS, including from its IAIP Directorate, will work day-in, day-out at TTIC, participating in processing and analyzing terrorist threat-related information, developing, shaping, and disseminating TTIC products, assessing gaps in the available information, and, of course, ensuring that TTIC products reach the appropriate DHS headquarters elements. In other words, making TTIC the US Government's hub for integration and analysis of "all-source" terrorist threat information and the gateway for policymaker requests for terrorist threat assessments in no way detracts from DHS's statutory mission. TTIC will create efficiencies for DHS and its other participating agencies; it will not duplicate their efforts.

Responses from Deputy Secretary Gordon England to
Post-Hearing Questions for the Official Record
Submitted by Senator Richard Shelby

"Consolidating Intelligence Analysis: Review of the President's
Proposal to Create a Terrorist Threat Integration Center - Day 2"

February 26, 2003

The administration announced that TTIC will be implemented through a three phase process beginning on May 1, 2003. What plan does DHS have for the formation of the Office of Information Analysis? When will the formation begin? When do you expect it to be complete?

Assistant Secretary for Information Analysis (IA), Paul Redmond arrived at DHS in late March and has been receiving briefings from staff and counterparts both inside and outside DHS to ensure IA leverages the information and intelligence throughout the US government and focuses its mission on its unique value-added, in particular mapping threats to vulnerabilities of critical infrastructure and performing risk assessments. Further, IA is responsible for providing actionable advisories and information to state and local customers, private sector owners and operators, and the public. IA currently is functioning on a small scale with detailees from the Intelligence Community and national labs, as well as officers who migrated from the National Infrastructure Protection Center. We recently began hiring through OPM. We will see steady growth through the remainder of '03 and '04.

What role does DHS envision for the Office of Information Analysis after the formation of TTIC? Does DHS believe that the establishment of two intelligence fusions centers is necessary to protect the homeland? Please explain.

The Department's Information Analysis and Infrastructure Protection Directorate will perform comprehensive vulnerability assessments of the Nation's critical infrastructure and key assets; receive and analyze terrorism-related information from the Terrorism Threat Integration Center, as well as open sources, the public, private industry, state and local law enforcement, and the entire federal family; map the threats against our vulnerabilities, in order to develop a comprehensive picture of the terrorist threat and our ability to withstand it; take and facilitate action to protect against identified threats, remedy vulnerabilities; and preempt and disrupt terrorist threats, as consistent with the operational authorities of the department's constituent agencies. In addition, it will set national priorities for infrastructure protection, strategically designed to maximize the return on the investment; take a lead role in issuing warnings, threat advisories, and recommended response measures.

The Terrorist Threat Integration Center will help the Department perform its critical missions. It will provide the Department with a full and comprehensive picture of the terrorist threat that will inform the actions of the Department.

The Department of Homeland Security, working hand in hand with the FBI, will be responsible for ensuring that threat information, including information produced by the Center, is disseminated quickly to the public, private industry, and state and local governments as appropriate. DHS is an equal partner in the fusion center and will ensure that homeland security issues take equal precedence with foreign intelligence priorities.

Does DHS expect TTIC to make it more difficult for DHS to attract and hire top-notch information analysts? Has the TTIC proposal affected DHS immediate hiring strategy for the Office of Information Analysis? If so, how?

No. DHS has a unique mission different from the CIA, FBI and other intelligence organizations. The TTIC is an opportunity to build on these missions, not compete with them. As with any new organization staffing issues are a concern, but we believe over time these confusions will be minimal and will not lead to staffing shortages.