

PANEL ONE OF THE TENTH HEARING OF THE NATIONAL COMMISSION ON
TERRORIST ATTACKS UPON THE UNITED STATES
SUBJECT: "LAW ENFORCEMENT AND THE INTELLIGENCE COMMUNITY"
THOMAS H. KEAN, CHAIR; LEE H. HAMILTON, VICE CHAIR PHILIP D.
ZELIKOW, COMMISSION EXECUTIVE DIRECTOR, AND KEVIN SCHEID PRESENT
STAFF STATEMENT: "THE PERFORMANCE OF THE INTELLIGENCE COMMUNITY"
WITNESS: GEORGE TENET, DIRECTOR OF CENTRAL INTELLIGENCE

216 HART SENATE OFFICE BUILDING
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MR. KEAN: (Strikes gavel.) Good morning. As chair of the National Commission on Terrorist Attacks Upon the United States, I hereby convene our second day of hearings on "Law Enforcement and the Intelligence Community."

And as I did yesterday, I'd like to make two announcements. First, for viewers watching this hearing at home, you can obtain staff statements at www.911commission.gov. Second, I would ask our audience again to please limit your enthusiasms or lack of enthusiasms, to be polite to our witnesses, and give our commissioners more time to ask their questions and get their responses.

We'll now hear the first staff statement of the day, "The Performance of the Intelligence Community." Philip Zelikow and Kevin Scheid are the Commission staff who are going to read this particular statement.

MR. ZELIKOW: Members of the Commission, with your help, your staff has developed initial findings on the performance of the intelligence community against the danger of Islamic extremist terrorism before the September 11th attacks on the United States. These findings may help frame some of the issues for this hearing and inform your work.

In Staff Statement Number 7, we discussed our initial findings on the work of the CIA as an instrument of national policy in the areas of clandestine and covert action. Today we focus on intelligence analysis and warning, the collection of intelligence and the overall management of the intelligence community before September 11th, 2001.

This report reflects the results of our work on these issues so far. We remain ready to revise our understanding of these topics as our work continues. The staff statement represents the collective efforts of a number of members of our staff. Kevin

Scheid, Lorry Fenner, Gordon Lederman, Lloyd Salvetti and Doug MacEachin did much of the investigative work reflected in this statement.

We built upon the very significant work done on this topic in 2002 by the Congressional Joint Inquiry.

All the agencies of the intelligence community made the necessary documents and witnesses available to us, often with a considerable investment of time and effort.

I'd like to skip over the initial section of the statement that explains this creature of our government called the "intelligence community" and its relation to terrorism and just begin at the top of page 3, where we talk about their analysis of a new danger.

Information comes to intelligence agencies from many sources. These sources include the reports from other U.S. government agencies such as the State Department, from counterparts in foreign security agencies, from human agents, from signals intelligence such as communications, from imagery and from open sources like foreign newspapers. The CIA was originally created in large part to sort through all such sources and offer unbiased assessments to the nation's leaders. In other words, although the CIA became and remains a principal collector and operator in its own right, its first duty was to provide integrated analysis.

Analysis is more than a news report. A tactical analysis studies a particular case involving an individual or group as a guide to specific operations. Strategic analysis looks beyond the particular in order to see patterns, notice gaps, or assemble a larger picture on a wider time frame to guide the development of national policy.

Budget cuts in the national foreign intelligence program from fiscal years 1990 to 1996, and essentially flat budgets from fiscal years 1996 to 2000 -- except for the so-called Gingrich supplemental of fiscal year 1999 -- caused significant staffing reductions that constrained the numbers and training of analysts. Analysis was already a relatively minor part of intelligence budgets devoted mainly to collection and operations.

Meanwhile, during the 1990s the rise of round-the-clock news shows and the Internet reinforced pressure on the diminishing

number of intelligence analysts to pass along fresh reports to policymakers at an ever-faster pace, trying to add context or supplement what their policy consumers were receiving from the media. Many officials told us that the demands of providing current intelligence and briefings to more and more consumers, both in the executive branch and in Congress, drained scarce resources away from systematic, reflective, strategic analysis.

In the late 1990s, weaknesses in all-source and strategic analysis were spotlighted by independent panels critiquing the intelligence community's failure to foresee the India-Pakistan nuclear weapons tests in 1998 and its limited ability to assess the ballistic missile threat to the United States in 1999.

The first panel was led by Admiral David Jeremiah, the second by Donald Rumsfeld. Both panels called attention to the dispersal of efforts on too many priorities, declining attention to the craft of strategic analysis, budget constraints, sophisticated denial and deception efforts by adversaries, and security rules that prevented adequate sharing of information.

We found similar shortcomings with the quality of finished intelligence on transnational terrorism prior to 9/11. While we now know that al Qaeda was formed in 1988 at the end of the Soviet occupation of Afghanistan, the intelligence community did not describe this organization, at least in documents we have seen, until 1999. As late as 1997 the Counterterrorist Center characterized Osama Bin Ladin as a financier of terrorism. This was at a time when the intelligence community had recently received a major input of new information revealing that Bin Ladin headed his own terrorist organization with its own targeting agenda and operational commanders.

This new information also revealed the previously unknown involvement of Bin Ladin's organization in the 1992 attack on the Yemen hotel quartering U.S. military personnel and the 1993 shoot-down of U.S. Army Black Hawk helicopters in Somalia, and quite possibly in the 1995 Riyadh bombing of the American training mission to the Saudi Arabian National Guard. Nor had analysts worked through answers to questions about links between Bin Ladin and his associates with the bombing of the World Trade Center in 1993 and the Manila airlines plot of 1994.

The most impressive piece of analysis on the emerging transnational terrorist threat was the 1995 National Intelligence Estimate entitled, "The Foreign Terrorist Threat to the United States." It judged at the time that: "[T]he most

likely threat of an attack in the United States would be from transient groupings of individuals similar to those drawn together by Ramzi Yousef. Such groupings lack strong organization but rather are loose affiliations."

The NIE warned of terrorist attacks in the United States over the following two years. It was updated in 1997. As we mentioned in Staff Statement No. 5, by early 1997 the United States had received dramatic new information about the organization of al Qaeda and its efforts to mount catastrophic attacks against the United States.

The 1997 update failed to reflect this new information. No comprehensive National Estimates were subsequently produced on terrorism prior to the attacks on 9/11.

Thousands of particular reports were circulated. A number of very good analytical papers were distributed on specific topics, such as Bin Ladin's political philosophy, his command of a global network; analysis of information from terrorists captured in Jordan in December '99; al Qaeda's operational style; and on the evolving goals of the international extremist movement.

Hundreds of articles for morning briefings were prepared for the highest officials in the government with titles such as "Bin Ladin Threatening to Attack U.S. Aircraft," 1998; "UBL Plans for Reprisals Against U.S. Targets, Possibly in U.S.," 1998; "Strains Surface Between Taliban and Bin Ladin," 1999; "Terrorist Threats to U.S. Interests in Caucasus," '99; "Bin Ladin to Exploit Looser Security During Holidays," '99; "Bin Ladin Evading Sanctions," 2000; "Bin Ladin's Interest in Biological and Radiological Weapons," February 2001; "Taliban Holding Firm on Bin Ladin for Now," 2001; "Terrorist Groups Said Cooperating on U.S. Hostage Plot," May 2001; and "Bin Ladin Determined to Strike in U.S.," August 2001.

Despite such reports, and a 1999 paper on Bin Ladin's command structure for al Qaeda, there were no complete authoritative portraits of his strategy and the extent of his organization's involvement in past terrorist attacks. Nor had the community provided an authoritative depiction of his organization's relationships with other governments, or the scale of the threat his organization posed to the United States.

A few analysts within the CTC were dedicated to working on Bin Ladin. One of them had developed a lengthy, comprehensive paper on his organization by 1998. Her supervisor did not

consider the paper publishable and broke the topic down into four papers assigned to four other available analysts. As an indicator of the scarcity of analysts and the press of current intelligence reporting work, it took more than two years for two of these papers to be published at all. The other two were not finished until after 9/11.

Some officials, including Deputy DCI John McLaughlin, are skeptical about the importance of comprehensive estimates. McLaughlin has been in charge of the estimate process. He told us such estimates are time-consuming to prepare, judgments are watered down in negotiations, conclusions may duplicate those already circulated in more specific papers, and he and others said that key policymakers understood the threat.

Other officials, however, stress the importance of such estimates as a process that surfaces and clarifies disagreements.

Through coordination and vetting views the community comes to a collective understanding of the nature of the threat it faces, what is known, unknown, and a discussion of how to close these gaps.

Most important, our interviews of senior policymakers in both administrations revealed a fundamental uncertainty about how to regard the threat posed by Bin Ladin and al Qaeda. After 9/11 the catastrophic character of this threat seems obvious. It is hard now to recapture the old conventional wisdom before 9/11. For example, a New York Times investigation in April 1999 sought to debunk claims that Bin Ladin was a terrorist leader with the headline, "U.S. Hard Put to Find Proof that Bin Ladin Directed Attacks."

The head of analysis at the Counterterrorist Center until 1999 regarded the Bin Ladin danger as still in the realm of past experience, discounting the alarms about a catastrophic threat as relating only to the danger of chemical, biological or nuclear attack, which he downplayed, referring in 2001 before 9/11 to the overheated rhetoric on the subject. In other words, before the attack we found uncertainty among senior officials about whether this was just a new and especially venomous version of the ordinary terrorist threat America had lived with for decades or was radically new, posing a threat beyond any yet experienced.

Some pointed out to us that, before 9/11, al Qaeda was considered responsible for the deaths of less than 50 Americans, all of them overseas. Former officials, including an NSC staffer working for Richard Clarke, told us the threat was seen as one that could cause hundreds of casualties, not thousands. Such differences affect calculations about whether or how to go to war. Even officials who acknowledge a vital threat intellectually may not be ready to act upon such beliefs at great cost or at high risk.

Therefore, the government experts who believed there was such a danger needed a process that could win and acknowledge broad support for their views or at least spotlight the areas of dispute. Such a process could also prompt action across the government. The national estimate process has often played this role, and it is sometimes controversial for this very reason. It played no role in judging the threat posed by al Qaeda.

In the Counterterrorist Center, priority was given to tactical analysis to support operations. Although the Counterterrorist Center formally reports to the DCI, the center is effectively embedded in the CIA's Directorate of Operations, or was. The center had difficulty attracting talented analysts from their traditional billets in the agency's Directorate of Intelligence.

The Counterterrorist Center also was especially vulnerable to the pressures that placed reporting ahead of research and analysis. Strategic analysis was a luxury that the strained cadres of analysts in the center could rarely indulge.

In late 2000, DCI Tenet recognized the deficiency of strategic analysis against al Qaeda. He appointed a senior manager to tackle the problem within the Counterterrorist Center. In March 2001, this manager briefed DCI Tenet on creating a strategic assessment capability. The CTC established a new Strategic Assessments Branch during July 2001. The decision to add about 10 analysts to this effort was seen at the time as a major bureaucratic victory. The CTC labored to find analysts to serve in that office. The new chief of that branch reported for duty on September 10th, 2001.

Warning and the case of aircraft as weapons. Since the Pearl Harbor attack of 1941, the intelligence community has devoted generations of effort to understanding the problem of warning against surprise attack. Rigorous analytic methods were developed, focused in particular on the Soviet Union. Several

leading practitioners within the intelligence community discussed them with us. They have been articulated in many ways, but almost all seem to have about four elements in common: one, think about how surprise attacks might be launched; two, identify telltale indicators connected to the most dangerous possibilities; three, where feasible, collect intelligence against these indicators; and four, adopt defenses to deflect the most dangerous possibilities or at least get more warning.

Concern about warning issues arising after the end of the Gulf War led to a major study conducted for DCI Robert Gates in 1992 which recommended several measures, including a stronger national intelligence officer for warning. We were told that these measures languished under Gates' successors. The national intelligence officer for warning yielded responsibility to the Counterterrorism Center in handling warnings related to a terrorist attack. Those responsibilities were passed to an Intelligence Community Counterterrorism Board that would issue periodic threat advisories.

With the important exception of al Qaeda efforts in chemical, biological, radiological, and nuclear weapons, we did not find evidence that this process regularly applied the methods to avoid surprise attack that had been so laboriously developed over the years. There was, for example, no evident intelligence community analysis of the danger of boat bombs before the attack on the *U.S.S. Cole* in October 2000, although expertise about such means of attack existed within the community, especially at the Office of Naval Intelligence.

Amid the thousands of threat reports, some mentioned aircraft in the years before 9/11. The most prominent hijacking threat report came from a foreign government source in late 1998 and discussed a plan for hijacking a plane in order to gain hostages and bargain for the release of prisoners, such as the "blind sheikh."

As we mentioned yesterday in Staff Statement Number 10, this 1998 report was the source of the allusion to hijacking in the President's Daily Brief article provided to President Bush in August 2001.

Other threat reports mentioned the possibility of using an aircraft laden with explosives. Of these the most prominent asserted a possible plot to fly an explosives-laden aircraft into a U.S. city. This report was circulated in September 1998 and originated from a source who walked into an American

consulate in East Asia. Neither the source's reliability nor the information could be corroborated.

In addition, an Algerian group hijacked an airliner in 1994 in order to fly it into the Eiffel Tower, but they could not fly the plane. There was also in 1994 the private airplane crashing into the White House South Lawn. In early 1995, Abdul Hakim Murad, Ramzi Yousef's accomplice in the Manila airlines bombing plot, told Philippine authorities that he and Yousef had discussed flying a plane into CIA headquarters. A 1996 report asserted that Iranians were plotting to hijack a Japanese plane and crash it in Tel Aviv.

These past episodes suggest possibilities. Alone, they are not warnings. But returning to the four elements mentioned above:

The CTC did not analyze how a hijacked aircraft or other explosives-laden aircraft might be used as a weapon. If it had done so, it could have identified that a critical obstacle would be to find a suicide terrorist able to fly large jet aircraft. This had never happened before 9/11.

The CTC did not develop a set of tell-tale indicators for this means of attack. For example, one such indicator might be the discovery of terrorists seeking or taking flight training to fly large jet aircraft, or seeking to buy advanced flight simulators.

The CTC did not propose, and the intelligence community collection management process did not set, collection requirements against such tell-tale indicators. Therefore, the warning system was not looking for information such as the July 2001 FBI report of terrorist interest in various kinds of aircraft training in Arizona, or the August 2001 arrest of Zacarias Moussaoui because of his suspicious behavior in a Minnesota flight school. In late August, the Moussaoui arrest was briefed to the DCI and other top CIA officials under the heading, quote, "Islamic Extremist Learns to Fly," close quote. The news had no evident effect on warning.

Neither the intelligence community nor the NSC policy process analyzed systemic defenses of aircraft or against suicide aircraft. The many threat reports mentioning aircraft were passed to the FAA. We discussed the problems at that agency in Staff Statements 3 and 4.

Richard Clarke told us that he was concerned about this threat in the context of protecting the Atlanta Olympics in June 1996, the White House complex, and the 2001 G-8 summit in Genoa.

But he attributed his awareness to novels more than any warnings from the intelligence community. He did not pursue the systemic issues of defending aircraft from suicide hijackers or bolstering wider air defenses.

Let's turn now to the issues of intelligence collection and management, and for that, I'd like to ask Kevin Scheid to continue.

MR. SCHEID: Mr. Chairman, the Counterterrorism Center and the larger intelligence community tried to understand the emerging terrorist threat with their traditional collection methods of human source collection, or the use of informants; information provided by foreign intelligence services; signals collection, or the intercept of communications; and open sources, or the systematic collection of print, broadcast and, in the late 1990s, Internet information.

Imagery intelligence was extremely valuable for targeting cruise missiles, interpreting Predator videos and identifying training camps in Afghanistan. This form of intelligence collection worked well, but its sustained effectiveness depended on cues provided by other sources of intelligence.

Human source intelligence is conducted by both the CIA and the Defense Intelligence Agency, DIA. Gaining access to organizations or individuals who have access to terrorist groups has proven extremely difficult for both the CIA and the DIA. This has led to a heavy reliance on "walk-ins" and on foreign intelligence services.

Often CIA's best sources of information on terrorist organizations have been volunteers or "walk-ins," who approach U.S. personnel at embassies and other places for a variety of reasons. But evaluating these volunteers and walk-ins is a time-consuming and sometimes risky proposition. The ratio of valuable information providers to charlatans, fabricators or double agents is about 1 to 10. That is, for every 10 walk-ins, only one produces information of value to the intelligence community and U.S. policymakers.

Yet some of the best sources on al Qaeda during the 1990s were walk-ins. One of these individuals, Jamal al Fadl, began providing information in 1996 and has testified in open court.

Foreign security services also played a critical role in understanding the terrorist threat. The United States government relied and relies today heavily on this assistance. A major function of the intelligence community is the development and maintenance of these information-sharing relationships, which may include expenditures to help the foreign agency improve its own capabilities.

Before 9/11 the U.S. government developed especially helpful relationships with several governments in the Middle East and Southeast Asia. Where these relationships work, the local services have an enormous advantage in collecting intelligence. Of course, the quality of these relationships varied.

The German government provided the U.S. government information on an individual named "Marwan" who was acquainted with the target of a German investigation. The common first name and a phone number in the United Arab Emirates were provided as a possible lead in 1999. The CTC pursued this lead for a short time, but with the scant information provided, the CTC found nothing to provoke a special effort on this lead. The CIA did not ask any other agency in the intelligence community for assistance. We now know that "Marwan" was Marwan al Shehhi, who later piloted United Airlines Flight 175 into the south tower of the World Trade Center. He used the UAE telephone number in the period prior to the 9/11 attacks. We're continuing to investigate this episode.

We also corroborated that some countries did not support U.S. efforts to collect intelligence information on terrorist cells in their countries or did not share the American assessments of the threat.

According to a former chief of the CTC, before 9/11 many liaison services were "highly skeptical," and, quote, "frankly thought we were crazy," close quote. They saw Bin Ladin as more of an "oddball" than a real terrorist threat. This was especially true for some of the European services.

Most importantly, from our interviews it is clear that the community has no comprehensive and integrated foreign liaison strategy. Each agency pursues foreign partnerships unilaterally,

and has done so for many years with minimal interagency coordination.

Signals intelligence has been another source of terrorist-related information. The United States spends a great deal on signals intelligence capabilities. Signals intelligence provides global reach through land, air, sea and space-based systems. But U.S. capabilities have been challenged by the use of modern systems and the operational security practiced by the current generation of terrorists. Moreover, serious legal and policy challenges arise for foreign intelligence agencies when dealing with communications between the United States and foreign countries. The National Security Agency is also prohibited from collecting intelligence on people residing in the United States, whether they are U.S. citizens or not, without a warrant under the Foreign Intelligence Advisory Act.

Signals intelligence is a source of measuring "chatter," which is an indicator of terrorist activity. Interpreting chatter is difficult. For example, the press reported that the Congressional Joint Inquiry was told about intercepted communications collected on September 10, 2001, saying "tomorrow is zero hour," and about the imminent beginning of "the match." Additional information later came to light within the intelligence community, however, that suggested this information was connected with the opening of the Taliban and al Qaeda military offensive in Afghanistan against the Northern Alliance, following on the September 9 al Qaeda assassination of the Northern Alliance's leader rather than the 9/11 attacks.

Finally, open sources, the systematic collection of foreign media, has always been a bedrock source of information for intelligence. Open sources remain important, including among terrorist groups that use the media and the Internet to communicate leadership guidance. This mission was performed by the Foreign Broadcast Information Service. That service has been "shredded," as one official put it to us, by budget cuts during the 1990s. But by 2001, the FBIS had built a significant translation effort for terrorism-related media. The FBIS believes its charter bars open source collection of foreign language media within the United States.

The overall management of the intelligence community's collection efforts is critical. Beginning in 1999, both Assistant DCI for Collection Charles Allen and CTC Director Cofer Black devoted significant attention to improving the collection of intelligence against the al Qaeda sanctuary in

Afghanistan. In Staff Statement No. 7 we mentioned "The Plan" developed to energize the recruitment of human agents.

These efforts complemented ingenious efforts already underway to improve the collection of signals intelligence. In these SIGINT efforts the CIA relied heavily on its own efforts, sometimes working well with NSA, sometimes quarreling. But they ultimately failed to achieve an adequate combined effort.

There were some commendable initiatives. Backed by the White House, Assistant DCI Allen worked with military officers in the Joint Staff during the spring and summer of 2000 to come up with innovative collection ideas. One of these was the Predator drone that first flew over Afghanistan in September 2000.

Strategic collection management depends upon strategic analysis to define the baseline of what is known, what is not known, and to guide the setting of clear, agreed requirements. This process did not occur. Assistant DCI Allen concentrated on day-to-day collection challenges with enormous energy and dedication. However, there was no comprehensive collection strategy to pull human -- pull together human sources, imagery, signals intelligence and open sources. Even "The Plan" was essentially a CIA plan, not one for the intelligence community as a whole.

Mr. Chairman, I'll move to page 10, towards the bottom.

DCI Tenet's war. On December 4, 1998 DCI Tenet issued a directive to several CIA officials and the DDCI for Community Management stating: "We are at war. I want no resources or people spared in this effort, either inside CIA or the community." Unfortunately, we found the memorandum had little overall effect on mobilizing the CIA or the intelligence community.

The memo was addressed only to CIA officials and the Deputy DCI for Community Management, Joan Dempsey. She faxed the memo to the heads of the major agencies of the intelligence community. Almost all our interviewees had never seen the memo or only learned of it after 9/11. The NSA director at the time, Lieutenant General Kenneth Minihan, told us he believed the memo applied only to CIA and not NSA since he had not been informed -- since he had -- since no one had informed him of any NSA shortcomings. On the other hand, CIA officials thought the memorandum was intended for the rest of the community, given the

fact that they had already been doing all they could and they thought that the community needed to pull its weight.

The episode indicates some of the limitations of the DCI's authority over the direction and priorities of the intelligence community. Congress attempted to strengthen his authority in 1996 by creating the positions of deputy DCI for Community Management and assistant DCIs for Collection, Analysis and Production, and Administration. Perhaps their authority is not great enough. Perhaps it is not used enough. The vision of central coordination, however, has not been realized.

The DCI did not develop a management strategy for a war against terrorism before 9/11. Such a management strategy would define the capabilities -- the capabilities the intelligence community must acquire for such a war, from language training to collection systems to analysts. Such a management strategy would necessarily extend beyond the CTC to the components that feed its expertise and support its operations, linked transparently to counterterrorism objectives. It would then detail the proposed expenditures and organizational changes required to implement these capabilities.

DCI Tenet and the CIA's deputy director for operations told us they did have a management strategy for war on terrorism. It was called "Rebuilding the CIA."

They said the CIA as a whole had been badly damaged by prior budget constraints and that capability needed to be restored across the board. Indeed, the CTC had survived the budget cuts with less damage than many other components within the agency. By restoring funding across the CIA, a rising tide would lift all boats. They also stressed the synergy between improvements in every part of the agency and the capabilities that the CTC or stations overseas could draw upon in the war on terror.

As some officials pointed out to us, the trade-off of this management approach is that by attempting to rebuild everything, the highest priority efforts might get only an average share, not maximum support. Further, this approach tended to take relatively strong outside support for combating terrorism and tried to channel it -- tried to channel this support into across-the-board funding increases. Proponents of the counterterrorism agenda might be less inclined to loosen the purse strings than they would have been if offered a convincing counterterrorism budget strategy. The DCI's management strategy was also primarily focused on the CIA.

DCI Tenet and his predecessors had not developed the management and administrative tools to run the intelligence community that most federal departments use to monitor and rationalize their resources against priorities. The intelligence community did not have a financial accounting system, a chief financial officer or a comptroller. The CIA had these tools for its own operations; the intelligence community did not. Instead, to manage the community as a whole, the DCI relied on a variety of financial systems maintained by different agencies and without standardized definitions for expenditures.

Lacking a management strategy for the war on terrorism or ways to see how funds were being spent across the community, it was difficult for DCI Tenet and his aides to develop an overall intelligence community budget for the war on terrorism.

The Administration and Congress relied on supplemental appropriations to increase counterterrorism funding. While supplementals were a useful one-time plus-up, the DCI was not able to build long-term capabilities.

The community also lacked a common information architecture that would help to ensure the integration of counterterrorism data across CIA, NSA, DIA, the FBI, and other agencies. In 1998, DCI Tenet called for such an integration in his Strategic Intent for the Intelligence Community with a vision of greater unity and horizontal integration across the community, but the intelligence community did not develop a plan to achieve it before 9/11.

Finally, the community had not institutionalized a process for learning from its successes and failures. We did not find any after-action reviews sponsored by the intelligence community after surprise terrorist attacks such as the embassy bombings of August 1998 or the *U.S.S. Cole* attack in October 2000. The Community participated in inspector-general inquiries conducted by individual agencies, but these reviews were perceived as fault-finding, without enough constructive emphasis on learning lessons and discovering best practices. What we did not find was anything between the extremes of no investigation at all, and an adversarial inquiry triggered by a public outcry. We did not find an institution or culture that provided a safe outlet for admitting errors and improving procedures.

MR. ZELIKOW: In conclusion, our investigation so far has found the intelligence community struggling to collect on and analyze the phenomena of transnational terrorism through the

mid- to late 1990s. While many dedicated officers worked day and night for years to piece together the growing body of evidence on al Qaeda and to understand the threats, in the end it was not enough to gain the advantage before the 9/11 attacks.

While there were many reports on Bin Ladin and his growing al Qaeda organization, there was no comprehensive estimate of the enemy either to build consensus or clarify differences.

With the important exception of attacks with chemical, biological, radiological or nuclear weapons, the methods developed for decades to warn of surprise attacks were not applied to the problem of warning against terrorist attacks. In intelligence collection, despite many excellent efforts, there was not a comprehensive review of what the community knew, what it did not know, followed by the development of a community-wide plan to close those gaps.

The DCI labored within and was accountable for a community of loosely associated agencies and departmental offices that lacked the incentives to cooperate, collaborate and share information. Like his predecessors, he focused his energies on where he could add the greatest value, the CIA, which is a fraction of the nation's overall intelligence capability. And as a result, the question remains: Who is in charge of intelligence?

(Pause while witness is seated.)

MR. KEAN: Our first witness today is the Honorable George J. Tenet, director of the Central Intelligence Agency. I notice he's accompanied by the distinguished deputy director, Mr. John McLaughlin. This is Director Tenet's second appearance before us in open public session, and we are very pleased with his help and pleased again to welcome him.

Director Tenet, will you please rise and raise your right hand? Mr. McLaughlin also, I guess, if you're going to join him.

Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?

MR. TENET: I do.

MR. MCLAUGHLIN: I do.

MR. KEAN: Thank you very much. Please be seated.

Director Tenet, if you'd like to proceed with your opening remarks.

MR. TENET: Thank you, Mr. Chairman. I welcome the opportunity to be here again.

On March the 24th, I expressed my personal feelings for the loss I felt for the families who lost loved ones.

My colleagues at CIA and throughout our intelligence community feel the same sense of loss. That we did not stop these attacks haunts all of us to this day. And what we're doing here is essential not only because we have to be open and honest about the past, but also because we have to be clear-minded about the future.

Mr. Chairman, some context. By the mid-1990s the intelligence community was operating with a significant erosion in resources and people, and was unable to keep pace with technological change. When I became DCI I found a community and a CIA whose dollars were declining and whose expertise was ebbing. We lost close to 25 percent of our people and billions of dollars in capital investment. The pace of technological change challenged the National Security Agency's ability to keep up with the increasing volume and velocity of modern communications. The infrastructure to recruit, train and sustain officers for our clandestine services, the nation's human intelligence capability, was in disarray. We were not hiring new analysts, emphasizing the importance of expertise, or giving the analysts the tools they needed. I also found that the threats to the nation had not declined or even stabilized, but had grown more complex and dangerous.

The rebuilding of the intelligence community across the board became my highest priority. We had to invest in the transformation of the National Security Agency to attack modern communications. We had to invest in a future imagery architecture. We had to overhaul our recruitment, training and deployment strategy to rebuild our human intelligence, critical to penetrating terrorist cells. And we had to invest in our people. And while we were rebuilding across the board, we ensured that investments in counterterrorism continued to grow while other priorities either stayed flat or were reduced.

Mr. Chairman, I'm not going to go through what the rest of the world looked like. You understand it.

Building our overall capabilities would be instrumental in how we positioned ourselves against al Qaeda, its terrorist organizations that represented a worldwide network in 68 countries and operated out of a sanctuary in Afghanistan. We also needed an integrated operations and collection plan against al Qaeda. We had one. I have previously testified about the 1999 strategy that we call "The Plan." "The Plan" required that collection disciplines be integrated to support worldwide collection, and disruption and penetration operations inside Afghanistan and other terrorist sanctuaries.

In 1998, after the East Africa bombings, I directed the assistant director of Central Intelligence for Collection to ensure that all elements of intelligence in the community had the right assets focused on the right problem with respect to al Qaeda and Bin Ladin. He convened frequent meetings of the most senior collection specialists in the community to develop a comprehensive approach to support the Counterterrorism Center's operations against Bin Ladin. He told me that, despite progress, we needed a sustained, longer-term effort if the community was to penetrate deeply into the Afghan sanctuary.

We established an integrated community collection cell focused on tracking al Qaeda leaders, identifying their facilities and activities in Afghanistan. The cell, which often met daily, included analysts, operations officers, imagery officers, and officers from the National Security Agency. We used these sessions to drive signals and imagery collection against al Qaeda and to build innovative capabilities to target Bin Ladin and the al Qaeda organization. We moved to satellite to increase our coverage of Afghanistan.

CIA and NSA designed and employed a clandestine collection system inside Afghanistan. The imagery agency intensified its efforts across Afghanistan and more imagery analysts were moved to cover al Qaeda. The imagery agency gave al Qaeda interests and targets its highest priority in the intense daily competition for overhead imagery resources. We established an integrated community collection cell that focused on tracking al Qaeda leaders and identifying and characterizing their facilities. When the Predator began flying in the summer of 2000, we opened it in a fused all-source environment within the Counterterrorism Center. All of this collection recognizes the primacy of human and technical penetration of the al Qaeda leadership and network and the necessity to get inside the sanctuary in Afghanistan.

This integration was the context of the plan that we put into place in 1999. Between 1999 and 2001 our human agent base against terrorist -- the terrorist target grew by over 50 percent. We ran over 70 sources and sub-sources, 25 of whom operated inside of Afghanistan. We received information from eight separate Afghan tribal networks. We forged strategic relationship consistent with our plan with liaison services that, because of their regional access and profile, could enhance our reach. They ran their own agents into Afghanistan and around the world in response to our tasking.

The period of early September 2000 to 2001, was also characterized by an important increase in our unilateral capability. Almost half of these assets and programs in place in Afghanistan were developed in the preceding 18 months. By September 11th, the map would show that these collection programs and human networks were operating throughout Afghanistan. This array meant that when the military campaign to topple the Taliban and destroy al Qaeda began in October, we were already on the ground supporting it with a substantial body of data and a large stable of assets.

Mr. Chairman, I've outlined in my statement our analytical product. I don't mean to short-shrift it, but I know you want me to stay within 10 minutes. I think that there was depth and clarity across a range of products and a range of venues. I believe that that product got to our policymakers, including the most senior policymakers, in many forms.

How do I assess our performance? The intelligence that we provided our senior policymakers about the threat al Qaeda posed, its leadership and its operational span across over 60 countries, and the use of Afghanistan as a sanctuary was clear and direct. Warning was well understood, even if the timing and method of attacks were not.

The intelligence community had the right strategy and was making the right investments to position itself for the future against al Qaeda. We made good progress across intelligence disciplines. Disruptions, renditions and sensitive collection activities no doubt saved lives.

However, we never penetrated the 9/11 plot overseas. While we positioned ourselves very well, with extensive human and technical penetrations, to facilitate the take-down of the Afghan sanctuary, we did not discern the specific nature of the plot.

We made mistakes. Our failure to watchlist Hazmi and Mihdhar in a timely manner, or the FBI's inability to find them in the narrow window at the time afforded them showed systemic weaknesses and the lack of redundancy. There were at least four separate terrorist identity databases at State, CIA, the Department of Defense and the FBI. None were interoperable or broadly accessible. There were dozens of watchlists, many haphazardly maintained. There were legal impediments to cooperation across the continuum of criminal intelligence operations. It was not a secret at all that we understood it, but in truth, all of us took little action to create a common arena of criminal and intelligence data that we could all access.

Most profoundly, we lacked a government-wide capability to integrate foreign and domestic knowledge, data operations and analysis. Warning is not good enough without the structure to put it into action.

We all understood Bin Ladin's attempt to strike the homeland, but we never translated this knowledge into an effective defense of the country. Doing so would have complicated the terrorists' calculation of the difficulty in succeeding in a vast, open society that, in effect, was unprotected on September 11th.

During periods of heightened threat, we undertook smart, disciplined actions, but ultimately all of us acknowledge that we did not have the data, the span of control, the redundancy, the fusion or the laws in place to give us the chance to compensate for the mistakes that will always be made in any human endeavor.

This is not a clinical excuse. Three thousand people died. It was not -- no matter how hard we worked or how desperately we tried, it was not enough. The victims and the families of 9/11 deserve better.

Mr. Chairman, I've gone into changes that have been made -- the Terrorist Threat Integration Center, other things that we have done through, beginning, during and after 9/11 in terms of the integration of the community.

We can talk about those things.

I wanted to close just on four or five points about the future of intelligence and issues that you may want to consider as you think ahead to structures you may want to propose.

The first thing I would say is we've spent an enormous amount of time and energy transforming our collection, operational and analytic capabilities. The first thing I would say to the Commission is that the care and nurturing of these capabilities is absolutely essential. It will take us another five years to have the kind of clandestine service our country needs. There is a creative, innovative strategy to get us there that requires sustained commitment, leadership and funding. The same can be said for our other disciplines. Something has to be said about the importance of intelligence and how we look at this discipline for the country quite publicly.

Second, we have created an important paradigm in the way we have made changes in the foreign intelligence and law enforcement communities, beginning with the Counterterrorism Center and evolving through the creation of TTIC, with the fusion of all-source data in one place against the critical mission area. This approach could serve as a model for the intelligence community to organize our most critical missions around centers where there is an emphasis on fusion, the flow of data, the full integration of analytical and operational capabilities. Capabilities are important. The organization around missions where those capabilities are fully integrated in whatever structure you want to create I think is the way ahead in the future, and that's the way we're moving.

Third, in the foreign intelligence arena, the most important relationship, aside from the President, that a DCI has is with the secretary of Defense. Rather than focus on a zero-sum game of authorities, the focus should be on ensuring that the DCI and the secretary of Defense work together on investments tied to mission. Why? Because together, the investments that we make together in accounts that we don't jointly manage, I believe have enormous power when they're synchronized. And the secretary of Defense and I have been working just to achieve that.

Fourth, the DCI has to have an operational and analytical span of control that allows him or her to inform the President authoritatively about covert action and other sensitive activities.

Finally, our oversight committees should begin a systematic series of hearings to examine the world we will face over the next 20, 30 years, the operational end-state we want to achieve in terms of structure, and the statutory changes that may need to be made to achieve these objectives. And none may be

required, but I believe some will be. I have no doubt others will have other ideas.

That completes my opening statement, Mr. Chairman.

MR. KEAN: Thank you very much.

Questioning this morning will be led by Commissioner Kerrey.

MR. KERREY: Director Tenet, first of all, before I get into the questions, I want to say that I think there's five general things that's got to be understood that made the job of being director of Central Intelligence in the '90s exceptionally difficult.

The first is that -- and we're going to have to deal with it and report that there were significant numbers of Cold War residual problems that we had to deal with.

And I think part of the problem was we were so busy celebrating our victory in the Cold War, we didn't pay attention to Yugoslavia, we didn't pay attention to the trouble that could occur as a consequence in the Middle East, we were struggling to figure out how to deal with transitional problems of the former Soviet Union, et cetera; and indeed I think Afghanistan is one of those Cold War residuals that a lot of us in the 1990s simply were not paying enough attention to.

Secondly, I do think, with great respect to your last statement, I do think that you lack authority and have substantial responsibilities that aren't matched up. And the evidence of that is the last time I checked, I think 35 congressional committees call you up from time-to-time to ask you to testify on a variety of different subjects, which, to say the least, sucks up a lot of your time.

Thirdly, absent political leadership, there's nothing you can do. You're providing intelligence; you don't make the decisions.

Fourthly, I think congressional oversight is exceptionally weak, especially on the Senate side.

Fifthly, let me point out, because some of my questions deal with your term prior, that there was a very tough transition. John Deutch left in December 1996, Tony Lake was nominated, it took forever, I think you were not confirmed till July of 1997.

That was a very, very difficult and very risky transition, in my view.

And lastly, let me say that unlike other DCIs, you probably for the rest of your life will be like Judge Kevin Thomas Duffy, who was the judge in the World Trade Center case, the Bojinka case, you're likely to be -- forever to be a target. In other words, you have taken considerable risk beyond what former DCIs have done, and I want to thank you for that.

That said, let me get into some questions. I'm going to first talk about the *Cole*. A lot of our commissioners have asked questions about the *Cole*, Director Tenet. It's been raised repeatedly. And my own view is that it goes to the heart of our problems of dealing militarily with a significant unconventional military challenge. And what's hard for me to come to grip with today is why, with the evidence that we had that the attack was al Qaeda, and an operative that was connected to the bombings of the embassy in Nairobi, why were we so cautious? And why did both President Clinton and President Bush -- why couldn't they see military alternatives to cruise missiles and basically the Normandy invasion? And it seems to me that our failure to respond militarily, in particular the presidential directive that was put together in 1998 that failed to give the Department of Defense primary authority in dealing with al Qaeda and terrorism, it seems to me that that contributed substantially to our failure to prevent 9/11.

I'll just give you a chance to respond to that because there are several questions tucked in there, but do you think PDD 62 was a mistake? Do you think that we waited too long to respond militarily to an organization that we knew had declared war on us and had called to jihad thousands of Islamic men to fight the United States of America?

MR. TENET: Senator, you've talked to all the policymakers. And I'm not going to fudge the question. I'm not the policymaker. They have to calculate the risks, the geopolitical context, what was going on at the time, the nature of the Pakistani regime, what Central Asia looked like, whether or not force could have been used -- I can't make those decisions.

I will say -- I will say that -- and I've said publicly -- the most important strategic decision that was ultimately made was to take down the sanctuary. When you took down the sanctuary, your operational -- your operational opportunities increased, intelligence increased, you put the adversary on the

run. It generated an enormous amount of intelligence opportunity. It was very helpful.

MR. KERREY: But we heard yesterday that -- Mr. Pickard tell us that Bin Ladin and the Afghan sanctuary -- in those camps he was turning out more individuals than we were turning out either at the CIA, FBI. And yet, our military leaders, who had -- through both the Clinton and the Bush administration would give you all kinds of reasons why the targets weren't sufficient, and yet, after we were attacked on 9/11, we deployed those special operations in connection with your individuals that were enormously effective. It seems to me that we had capability, in short, that either didn't get to the attention of the President -- he didn't know about it -- or for some reason it wasn't used. And it seems to me that it would have had a very negative impact upon al Qaeda's capability of attacking the United States.

MR. TENET: Senator Kerrey, I can't take you beyond my previous answer. These were tough and difficult policy calls that people were making, and I'm just going to have to leave it at that. You've heard from all the policymakers. They all thought about these issues. They were complicated issues. And I'll leave it at that.

MR. KERREY: Well, let me -- again, in my second line, and again, this -- I'm going to focus on a period of time and during the transition. So some of this you're going -- your transition, so some of this you're going to have to be answering both for yourself and perhaps for Director Deutch as well, or whether not the communication came to you.

But one of the most remarkable things that the staff has uncovered, and we heard it -- you heard a piece of it in the testimony -- the staff statement -- was that Jamal al Fadl comes into court in 2001 and describes what he said when he walked in in 1996. What he said was that al Qaeda was a significant military force. What he said was that Osama Bin Ladin headed a terrorist organization of his own. He said it was an organization that was far more than a mechanism to raise money for his terrorist financing role. What he said was that this organization was intended to be the foundation for an Islamic army, and it had declared the United States as its main enemy long before the public declaration in August of 1996. What he said was that Osama Bin Ladin had sent top leaders of its weapons trainers into Somalia to shoot down -- to provide the Somalis with the weapons used to shoot down the U.S. helicopters and train them in how to use them to accomplish exactly what

they did in October 1993. What he said was that Bin Ladin's organization had done the same thing to the Yemeni squad that carried out the attack aimed at the United States troop in Aden less than a year before.

And you heard again in the staff statement, we had a National Intelligence Assessment in '96 I believe, or '95, and what --

MR. TENET: '95 and '97.

MR. KERREY: -- and what we got is an update that didn't include any of this. What we got was an update that didn't include the information that was -- that this individual says in court that he delivered to us, and he said it was corroborated. So why? Why was it not in the update? Why didn't the President of the United States and the key policymakers get this information?

MR. TENET: Well, I'm sure -- well, now you're making the assumption that because it was not in the National Intelligence Estimate this data was not broadly disseminated, explained and understood by people at the time, and I believed it was.

John?

MR. MCLAUGHLIN: One of the -- I don't recall, Senator, whether that particular individual in his testimony was included specifically in the '97 update. What I do know is that in the staff statement, the staff statement failed to note that in the '97 update we included information that Bin Ladin had been surveilling; people associated with Bin Ladin had been surveilling institutions in the United States and that, therefore, we concluded the likelihood was growing that he would attack in the United States. That was, I think, the most significant finding in the '97 NIE. And it was also in this period, 1996, that we formed the Bin Ladin Issue Station, so we were very focused on this issue.

MR. TENET: Senator, this is a critical issue.

MR. KERREY: I think so.

MR. TENET: No, it's a critical issue. You're making an assumption that because it's not in a National Intelligence Estimate that the way we were organized to brief people, pass product out, talk to them about this, meant that people weren't getting this kind of data. That's just not true.

MR. KERREY: But I'm not making that presumption. I'm making, first of all, the presumption that the NIE is a foundational document that lots of people use and that -- I mean, that's a very specific set of information that he said in trial he provided to us. And we continue to regard Bin Ladin, you heard in the staff statement, we continue to regard him as a relatively small threat. I didn't know. I didn't know in 1996 or 1997 that Bin Ladin was responsible for sending forces down into Somalia to shoot down our Black Hawk helicopters. I didn't have a sense that this is what he was doing.

Let me just ask you -- I know that this is your transitional moment, so -- this is '96 to '97. Did you ever have a conversation with President Clinton where you told him that al Qaeda was a substantial military effort, that they were responsible for shooting down our helicopters in Mogadishu, that there was a substantial military threat to the United States of America, that we ought to ramp this guy up to the top of the list?

MR. TENET: Sir, I will go back and look at my -- I didn't come prepared with what happened in '97 -- I'll go back and look at my records, look at the data dissemination, go back through the meetings that were held at the time and give you an answer to the question.

MR. KERREY: I say, Director, this is -- the reason I think this is central -- because we have heard -- I mean, I've heard a series of excuses from Sandy Berger, Bill Cohen, Madeleine Albright, Don Rumsfeld, Condoleezza Rice, all kinds of rationalizations. And one of the things I've heard over and over and over was the American public wouldn't have supported any action had we taken action before 9/11.

Now, I got to tell you, I think if the President of the United States of America had come and said that Osama Bin Ladin, al Qaeda is responsible for shooting down a Black Hawk helicopter in Mogadishu in 1993, I believe that that speech would have galvanized the United States of America against Bin Ladin. And would have prevented -- I think would have given you permission to do operations that you didn't have permission to do. It would have changed the whole dynamic.

I mean, I just can't believe that if the President of the United States had said that in 1994, '95, '96, whenever -- you get the walk-in in '96. If you had done it in '96 or '97, I

just can't believe that public opinion wouldn't have been on his side just like that. Don't you think so?

MR. TENET: Sir, I'll go back and look at it all and come back to you.

MR. KERREY: Well, I mean, it --

MR. MCLAUGHLIN: I might mention in that connection since, Senator, you're talking about the extent to which various publications in this period included warnings about Bin Ladin and also his activities and the role of Afghanistan, and so forth, I mentioned what I had said earlier about the '97 NIE. In 2001 there was an NIE, that I don't think your staff statement mentions, about Afghanistan. It included an extensive discussion of the camp structure, the camp architecture in Afghanistan. It noted that the *Cole* bombers had trained in those camps. It noted that Ressaam, who had been involved in the Millennium plot, had been in those camps. So that's something that was laid out in a National Intelligence Estimate --

MR. KERREY: Well --

MR. MCLAUGHLIN: -- and it's -- as the director has pointed out, it's a matter of argument whether that galvanizes policy to do something or not.

MR. KERREY: Mr. McLaughlin, I appreciate. We heard -- and now that we've seen this August 6th Presidential Daily Briefing, after we've seen that August Presidential Daily Briefing, it causes me to sort of have serious questions about how these daily briefings are organized.

But my guess is the President has not seen the -- President Bush has not seen the information about who al Qaeda was. My guess is that President Bush today -- he may just be discovering it for the first time, that we knew in 1996 that Bin Ladin was responsible for shooting at helicopters in Mogadishu. You know, and this is in -- but, you know, this was in the trial in 2001. And it doesn't appear to me that he was briefed in transition; it doesn't appear to me that that was brought to his attention. In other words, I mean, I think even as late as 2001 we were describing Bin Ladin as a terrorist, not somebody who had a substantial army and substantial capability and a history that went back long before 1998.

I mean, do you -- I mean, you -- the President says you meet with him practically every day. Did you bring that presentation to him? Did you describe, as the walk-in did in 1996, as he described in the trial in 2001, did you bring that information to the President and say this is an army that's been engaged in an effort against the United States of America all the way back at least to 1993?

MR. TENET: Whether I took it back to '93 or not, sir, I don't recall. But we certainly walked through al Qaeda, its organization, the threat it posed, its previous affiliation with bombings and activities over a concerted period of time. But I'll go back and look at whether that was specifically raised. I don't recall it.

MR. KERREY: Well, I appreciate it. And I'm going to do something I shouldn't do, which is yield back my time before my green light -- before my red light goes on. So, Mr. Chairman.

MR. : Can I have it?

MR. KEAN: First time you've done that, sir! (Chuckles.)

Commissioner Lehman.

MR. LEHMAN: Thank you.

Director Tenet, I want to join Bob in expressing my real admiration for the job you've done. I mean, you are a very entrepreneurial, gutsy guy who has worked very, very hard on this problem.

You were one of the few officials who grasped the threat very early on, and you were responsible, your leadership, for making the agency run faster and jump higher during your Tenet -- during your tenure. And I admire you for that.

Another one of your virtues is that you're a team player, and I think you have resisted the temptation to join in on recommendations for changes, because you're part of the Administration.

But last night, I think, things changed a bit, in that the President has now endorsed major reforms, institutional reforms. And I think that frees you up a little more to answer some questions.

First, we've been struck by -- and when I say "we," I mean most of the Commissioners and all of the staff -- by a real difference between our interaction with FBI and our interaction with the agency. The Bureau, while it's been defending various actions and issues, has fundamentally admitted they're in an agency that is deeply dysfunctional and broken, and make no bones about it; whereas the attitude we kind of get from CIA is -- and institutionally -- is that, "Hey, you know, we're the CIA" -- kind of a smugness and even arrogance towards deep reform.

And I'm not ready for your answer yet -- (chuckles) -- but -- (laughter) -- this is all preamble. (Laughter.)

(Laughs.)

MR. TENET: I'm warming up, sir.

MR. LEHMAN: So -- go ahead. You can interrupt. (Laughs.)

MR. TENET: No, sir. You're on a roll.

MR. LEHMAN: But that report that you heard this morning was a damning report, not of your actions or the actions of any of the really superb and dedicated people that you have, but it was a damning evaluation of a system that is broken, that doesn't function.

And all I have to do is re-read the PDB which the agency resisted so strongly our declassifying, and the key line is, "We have not been able to corroborate some of the more sensational threat reporting, like the intention of Bin Ladin to hijack U.S. aircraft." All the king's horses and all the king's men in the CIA could not corroborate what turned out to be true and told the President of the United States almost a month before the attack that they couldn't corroborate these reports. That's a institutional failure.

And I'm here to tell you -- and I'm sure you've heard it before -- there is a train coming down the track. There are going to be very real changes made. And you are an invaluable part of helping us come to the right conclusions on that.

So now I have a few questions. First, why shouldn't we have a DCI who worries about the community, with the authorities to do that, without having to worry about the day-to-day running of the CIA?

MR. TENET: Can I get a little preamble time myself?
(Laughter.)

MR. LEHMAN: As long as it's on his time.

MR. TENET: It's on Senator Kerrey's time.

First of all, I want you to know that I have serious issues with the staff statement as it was written today. I have serious issues about how the DCI's authorities have been used to integrate collection, operations. When the staff statement says the DCI had no strategic plan to manage the war on terrorism, that's flat wrong. When the staff statement says I had no program, strategic direction in place to integrate, correlate data and move data across the community, that's wrong.

I just want to say to you that I would like to come back to the committee and give you my sense of it, at the same time telling you it ain't perfect. And by no stretch of the imagination am I going to tell you that I've solved all the problems of the community in terms of integrating it and lashing it up, but we've made an enormous amount of progress.

I would tell you also that -- and this is the perspective I lived. Nobody else can live what I lived through. I believe that if you separate -- if you separate the DCI from troops, from operators and analysts, I have a concern about his or her effectiveness, his or her connection. Now, you may want to have a different structure, you may want to have a different CIA, sir, in terms of how you manage it, so there may be some things we can do there, but I wouldn't separate -- I wouldn't separate the individual from the institution.

You may manage it differently, because I believe that one of the concerns I have is if you create another layer and another staff between something that's supposed to provide central organization, all source analysis and operations, we've created another gap and a distance.

So I wouldn't design America's intelligence community, 56 years later, the way the National Security Act designed it. I would recognize that the key operational principle is not who is in charge of the wire diagrams, but the way data flows is integrated between analysis and operations. And in the 21st century, technology is your friend, not an enemy. And from a security perspective, it also makes your life easier. I would be very focused on organizing around missions and ensuring the

capabilities were built but the mission focused and centers drove the way we operated against the things that mattered most to us in terms of a foreign intelligence target.

You can structure on top of that, you can lay anything you want on top of that, sir, but I think that that integration is what's key. And you can figure out the wire diagrams and the authorities any way you want, but I would tell you that the lesson is, yeah, of course we need more change, of course -- I think -- you know, if I can tell you, if I've failed or made a mistake, I've been evolutionary in terms of the community. Maybe I should have been more revolutionary. I sit back at night and look at a war in Iraq, a war on terrorism, conflict in Afghanistan and all the things I have to do, and recognize, you know, no single human being can do all these things. I understand that. So maybe some structure is required. But I would also urge the Commission, and I will come back to you formally, to take a look at some significant things that have happened -- in the management of the community, of our resources, of our people, of our collection, of our training, of our education -- because they are building blocks that, quite frankly, I'm proud of.

MR. LEHMAN: Well, I think that you're really making my point. I think that -- my experience in this town has been there are only two things that matter in doing management and oversight because everybody makes the same amount of money. You can't give bonuses to people, and your hiring and firing is somewhat limited. You've got the ability to hire and fire the top people if they don't perform and pick the ones that do perform and promote the ones that do perform, and you've got appropriations power, and neither of those things you have for the responsibilities of cross-community. You've wielded them very well within your agency, but all you have for cross-agency -- cross-community is exhortation and the power of your logic, which has been powerful but not powerful enough against big bureaucracy.

So why shouldn't you -- let's step into my "Alice in Wonderland" and you've been detached from CIA. You don't have to run it any more. You are now a DCI who is principally seized of solving the problems that we have identified and you've struggled with for these years. Why shouldn't you have the power to hire -- and fire, more importantly -- the head of NSA, the head of the FBI intelligence section or a separate MI5, the head of the CIA, the head of all of the alphabet soup that are really national intelligence assets? Why shouldn't you have that?

MR. TENET: Well, let me talk to you about my "Alice in Wonderland" just to talk through this a little bit.

You could do that, sir, but I want to bring back an issue that I think is quite important here. We need to get -- we need to understand the relationship between the DCI and the secretary of Defense in a very, very fundamental way. Why? You have an organizational structure today that basically has three or four of the major organizations or combat support organizations. They provide tactical support to the military as well as support the national intelligence needs. And somehow in the structure that you create he must be a partner in designing this framework to ensure that we don't miss or don't crack a seam that we're trying to build together because he executes tactical and other programs that, in effect, add to the power of what the DCI can do. But we have to wrestle with that in some way.

So everybody wants to empower this individual with all kinds of powers, and all I'm asking is yeah, should -- could a DCI be more powerful, have more executive authority, execute budgets, joint personnel policies, you know? The question ultimately is, is there a Goldwater-Nichols framework here that works? Is there some new framework that we have to put in place?

All I want to focus on is don't throw the baby out with the bathwater. Don't miss the capabilities that have to be grown. Don't separate those capabilities from a chain of command that can only execute them and then figure out how that mesh works.

Now, the person you describe probably would survive for about 20 minutes in terms of what's going on in this town. And you probably went a little bit too far. But look, we have to be open to thinking like this. You know, I've done it one way -- it ain't the perfect way -- and within the structure that I lived in. And the power of persuasion and cajoling is absolutely important because, you know, at the end of the day, you still have to lead. You can have all the authority you want; it may not matter.

So it's a little bit more complicated. But all of it should be -- all I'm saying to you, Commissioner, is it should all be on the table.

But before we rush to a judgment, don't we want to know what the world's going to look like? Don't we want to understand with some precision where you want to end up? And I think you have to focus on that fusion of capabilities around mission, first and

foremost, and then decide the rest. It will flow from there. The power of forcing that collaboration in and of itself breaks down the walls.

MR. LEHMAN: Well, I agree that the people and the personalities are the most important of all. But for instance, no matter how forceful you are, you have been unable -- and no one without the real authority over appropriations could sort out the chaos of our security system, our background investigations, our classification system -- no one can do that without power.

The networking -- Goldwater-Nichols is not one of my favorite pieces of legislation, but one of the things that it really achieved, which is a tremendous improvement, is forcing the -- and giving the CINCs the ability to force the ability to the services to work together. For instance, Special Operations forces operated off aircraft carriers. They could never do that before because there was an authority that could force the commonality, the protocols, if you will. Like everybody in the commercial world uses the Internet protocols. There are no protocols for the intelligence community for sharing. This is an IT problem, it's a deep, embedded functional problem throughout the community for common protocols for information. That is really an issue of appropriations being cut on the Hill or not being allocated within the agencies to do it. We heard testimony from the FBI who wanted to do that kind of thing and still hasn't done it because of the appropriations.

So why shouldn't you, as the new DCI, have that appropriations authority at the top level, not -- one of the bad things about Goldwater-Nichols is that it's increased the layers of bureaucracy at the center. We don't want that.

MR. TENET: No, we don't.

MR. LEHMAN: But the GE and other good company model, where you have a very small, powerful staff at the center, and execution done in the departments, is the model that is beginning to take shape in our mind. What do you think of that?

MR. TENET: It's a good model, sir. I mean, the power -- the power -- the smaller the staffs, the more power you have over execution, the better off you're going to be at the end of the day with real metrics and power to move people and data as you need to to achieve better execution, is a smart way to think about this discipline for the future.

MR. LEHMAN: Now, I said this train is coming down the track, and you used the word revolution rather than evolution. And I think that's a perfect way for people to understand this. You've done a terrific job in the evolutionary change, but it's clearly not been enough. Revolution is coming. How do you do revolution without losing sight of the business that you're in? You can't take your eye off the ball. Do you think this can be done in a rational way?

MR. TENET: Frankly, my personal view is that you really do need an outside group engagement, recommendations to come forward. I think it's -- people like me and John and people working in the business can certainly inform. I've got a group now I put together on revolutionary change in the intelligence community -- and ideas that are flowing to me. I think you need something established to come back to you, react to you, push you and prod you and get you out of your skin and your daily responsibilities to get this done in the right way. I think it's hard when you're sitting -- I mean, the day I retire I'll be a great person to sit on one of these things. But -- (laughter) -- and I'd love to do it. But I think that the important thing is it's very hard for people when they're sitting in the inbox and the crisis of the day to be reflective. And occasionally I have reflective thoughts -- it's not often enough -- to deal with the problem like this.

I think you've got to separate the current group to allow -- we can give you the data, give you our experience and talk to you about -- but I think you almost need a separate group of people who have been around this. But you also need people who have revolutionary ideas about technology and how it works, and a new mindset, because the people you're recruiting aren't 30-year veterans anymore. You're attracting a whole new labor force that doesn't remember the Cold War. And they expect a structure that's going to be more agile and mobile and more technologically proficient. So we've got take this in a different direction.

The only thing I -- I have to keep coming back to a point. My worst nightmare is that somebody's going to show up and say all that human investment is wrong, all that technical investment is wrong. Where we've positioned ourselves has to be sustained, creatively and innovatively, and I think you've got a way ahead in that regard that's quite impressive. And once people lose sight of where the country needs to be -- the starts and fits and cycles that this community has gone through has to stop, you know. Let's get budgeting on a two- or three-year cycle. Let's

allow us to build programs in depth. Let's really look at basic expenditures over the course of time. Let's put the metrics in place. But I tell you, you can't build this community in fits and starts. It won't happen. And the country will suffer. And you know, this I think is a debate that has to be joined quite publicly.

Everybody talks about military capability, or law enforcement capability. Well, we sit behind the green door. And for the bang for the buck, the American taxpayer gets a hell of a lot for what we give them.

And you know, we had to find a way to talk to the American people about it as well, because I think they'd be supportive.

MR. LEHMAN: Well, I had the preamble. I guess I ought to let you have the closing peroration. Thank you. That's very helpful.

MR. TENET: Thank you, sir.

MR. KEAN: Thank you.

I just have a couple of questions, if I could. First of all, I'd like to say in many ways how much I admire you, how much I admire you in a town that's as polarized as I've ever seen it, you're the only high official who has managed to get the confidence of two presidents, and I think that's very much to your credit, sir.

The -- I'm waiting -- I will wait anxiously -- the staff statement is an indictment, in many ways, of the agency. I await your answer to some of those things in the staff statement.

I also recognize it is an agency which was devastated earlier by, in many cases, I think, mistaken critics in the Congress, mistaken or otherwise. A lot of good people left. It was very hard to rebuild the agency. You were unable to recruit on most of the good campuses in this country for a number of years.

But when you tell me to -- you said it the second time now -- five years to rebuild, I wonder whether we have five years. And that's what -- when you say five years to rebuild the agency, that worries me a little bit.

MR. TENET: No, five more years to rebuild the clandestine service. Well, sir, you know, you have an infrastructure, you have a recruiting framework, you have a quality control, you

have a student- to-faculty ratio, and you have a big pipeline. We built all of that in to make sure we can get this done. Nobody was paying attention to the plumbing. It's not sexy. You got to pay attention to the plumbing.

And the bottom line is, to do this right, to build the platforms and access and cover and technology that we need -- it's budgeted for; the President has recognized it -- it's going to take another five years to build the clandestine service the way the human intelligence capability of this country needs to be run. That's just the fact, from my perspective. We've made an enormous amount of progress in the first five years because we had a plan. We had a rhyme. We had a reason. We had a discipline. And I don't think people appreciate that the way they should.

MR. KEAN: Probably the most important criticism -- one of the most important criticisms made of the whole intelligence apparatus is, you don't talk to each other, or haven't in the past, and its lack of communication.

I guess specifically I'd like to ask what actions are being taken now to make sure, for instance, that the FBI's legal attaches and the CIA's station chiefs at least are working in tandem?

MR. TENET: Well, Mr. Chairman, it's interesting. Back five or six years ago, when the FBI first started to go overseas in big numbers, the first thing that Louis Freeh and I sat down and decided was that we were going to start having training, conferences and interaction between the chiefs of station and the legats. And it's migrated over the course of time. And I think if you go overseas and talk to my chief of stations and our legats around the world, you will an intimacy and an understanding about the responsibilities and roles that is the basis of interaction and communication from senior levels, the way we train and the way we talk to each other.

So I know that there was a lot that wasn't right about communication, but I'll tell you the first thing I did with Director Freeh is, every quarter we sat down with the senior management of the FBI and the CIA.

Every year, four times we sat down and looked through common problems how we could work through them: operations, investigations, how we could train better and work better together. And that started as soon as I became director.

Now what we needed and have worked on consistently -- and doing that all has to be migrated down to training and education at the earliest levels of people's career, cross-training. We're going to have an FBI special agent come through our clandestine training course for the first time in history in the next running of that course. It's important because we need to give them more training and insight about intelligence operations. We went over there and helped them -- are helping them build their analytical capability. We're trying to help them build the reports cadre. Their communications architecture is something Bob has to fix himself to ensure that that communication is fulsome across lines.

I would also say that the implication of the intelligence community can't talk to each other is wrong. There is architecture, data flow and movement of data across our agencies every single day. Building that bridge with the law enforcement community, as the Terrorist Threat Integration Center will do -- when you have FBI case files, our operational files, domestic databases sitting in one place -- is exactly the model that will succeed, but the data has to show up.

MR. KEAN: Let's -- you are very good at building relationships with your colleagues in government. There's no question about that, but one of your successors might not be. Who has responsibility if there's a dispute, for instance, between the two agencies regarding the best strategic -- best strategy, let's say, against a particular enemy? And do people in the field understand how those disputes are resolved?

MR. TENET: Well, the way it operates today, deputy chief of our Counterterrorism Center is a senior FBI official. There are over 20 FBI officers who sit in my center today. We have officers over there. I've invited the committee to come out to sit through a 5:00 meeting. We have real operational issues that we put on the table. We have now an American division inside of CTC that basically talks to the Bureau about how do we best manage this case, what's the data that we seek, what's the operational strategy that we should employ? And we're fusing that in a very real way.

Now, when the Counterterrorism Center and the Counterterrorism Division and TTIC all go to one building, the image you should have is not you walk into the building and the CIA goes right, the FBI goes left and TTIC sits on the throne. The image you should have is that Bob and I are going to sit down and figure out what are the integrative structures across

those lines that will create the kind of operational fusion that we need so that we're fully informed about how best to proceed in a specific case. That's the future of the cooperation.

MR. KEAN: Thank you, sir.

Commissioner Ben-Veniste.

MR. BEN-VENISTE: Good morning, Director Tenet.

MR. TENET: Good morning, Commissioner.

MR. BEN-VENISTE: Let me first say that I have enormous respect for your dedication and the dedication of CIA officers who I have met in their desire to complete the mission.

The people at Alex Station -- and that has come out earlier, that name has come out earlier in these hearings, not by us -- who I have interacted with are heroes and dedicated individuals who I sense died that day on September 11th in a way that many Americans did, but perhaps more particularly because of their efforts over a long period of time to deal with these committed, brutal, inhuman enemies of the United States.

I want to talk about the PDB briefly. I think the individual who produced this PDB and her supervisor are entitled to a debt of gratitude for attempting to bring to the attention of the President of the United States the possibility -- given all the information we knew -- that despite indications leading to the notion that this incredible threat level that we were experiencing in the summer of 2001, leading to the horrific, dramatic, horrendous -- whatever adjective you want to use, because there were many employed -- spectacular attack by Bin Ladin, might well occur in the United States to me is extraordinary. She was prescient. She was right.

The biggest word I saw in the PDB, aside from the title, was the word "nevertheless," leading the second paragraph, second-to-last paragraph. And that is despite the fact that the information could not have been corroborated regarding the use of the hijacking of airplanes, she said, "Nevertheless, FBI information since that time indicates a pattern of suspicious activity in this country consistent with preparation for hijackings or other forms of attack." And then goes on to talk about FBI efforts.

Now, obviously, she did not get the best information from the FBI, but she got what she could. We know that the director of the FBI at that time did not get the PDB information and was not contacted, nor was the attorney general, to pulse the FBI to get all of the information currently extant.

You had indicated, when we last spoke -- and I reminded you of the information sent to our commission by CIA, which was commenting on our staff statement before your testimony, which was derived from the statement made to us privately by Dr. Rice who said that this PDB was prepared at the President's request. At that time, on March the 19th, you said to us, "The author of this piece, and others familiar with it, say they have no information to suggest that this piece was written in response to a question from the President. We do not know who reported that to the Commission, but we do not believe it's accurate. The information we have is that it was prompted by an idea from another CIA employee."

Subsequently, you wrote to us, "The PDB article was in response to a series of events. Throughout the spring and summer the President was shown a number of pieces outlining intelligence indicating that al Qaeda was planning a large attack. During these discussions, the President raised questions about whether the intelligence pointed to threats inside the United States. Although there was no formal tasking, the President's questions were discussed at a PDB planning session. At that time it was decided to do a piece laying out what we knew about Osama Bin Ladin's interest in striking inside the United States.

When this item was presented in the PDB on August 6th, with Dr. Rice present, the briefer introduced the piece by referring to the President's earlier questions. In summary, although the August 6th PDB piece was technically self-initiated, it was prompted by the President's questions and interest."

Now -- incidentally, Dr. Rice has testified she was not present.

MR. TENET: She was not present. We were in error --

MR. BEN-VENISTE: Okay. Let me talk about the issue of planes as weapons.

MR. HAMILTON: The gentleman's time has expired. (Laughter.)

MR. BEN-VENISTE: Boy, that was a fast 10 minutes.

MR. HAMILTON: It was quite a preamble.

MR. BEN-VENISTE: Well, it was only five. May I --

MR. HAMILTON: Do you have questions?

MR. BEN-VENISTE: Yes, I do, if I may.

MR. HAMILTON: Go ahead and ask your questions.

MR. BEN-VENISTE: Let me just follow up on this one area -- although I have several.

The G-8 planning, which I think the G-8 occurred in July of 2001.

MR. TENET: That's correct.

MR. BEN-VENISTE: We know that the Italians closed the airspace over Genoa, and indeed they closed it over Naples for the pre- planning session, and then over Genoa. I don't think that was noise control. I think that had to do more with a threat of a use of airplanes used by suicide pilots. But even a couple of months before September 11th, we know that there was a planning session by NORAD where military officials considered a scenario in which a hijacked foreign commercial airliner flew into the Pentagon. Months before. And so people clearly were thinking about this possibility.

You had information in August that came from the FBI regarding an Islamic jihadist in the United States named Zacarias Moussaoui, who had been in a flight school in Minnesota and he had been trying to learn to fly a 747, despite the fact he had absolutely no background in aviation, he could not explain a bank account of 30-odd-thousand dollars deposited in cash, he could not explain his presence in the United States, he could not explain why he was trying to learn to fly a 747.

Now, this information came to you via the FBI because the FBI could not, in their interpretation, use the information to get a warrant to search Moussaoui's computer, et cetera, under FISA according to their thinking.

So they looked to CIA to get that information. The FISA court protects against improper prosecution, violating laws with

respect to the potential of prosecuting this man. My question is this --

MR. HAMILTON: Mr. -- go ahead --

MR. BEN-VENISTE: My question is this: Given the threat level, given the knowledge about planes as weapons, given the fact of Moussaoui's arrest, why was it that you didn't put the question of prosecuting Moussaoui to the side and go after the information, which may well have led to unraveling this plot?

MR. TENET: I'd have to go back and look at all the -- when we've talked in private session, we wanted to come back to Moussaoui. I have not gone back and reviewed all of that data at the time as to why I would make a decision to forego prosecution. It's not a call I could make, but I -- Commissioner, I want to go back and prepare and look at all of the things that were on the table at the time. And I'd be happy to sit down with the Commission and walk through everything that was happening at the time. And I'm not trying to duck, but we need to sit down and go through this. And we've said we would when we last --

MR. BEN-VENISTE: And I'll tell you parenthetically, the FBI agent was criticized for going directly to the CIA, instead of going and running this through headquarters, which would have taken even more time.

MR. HAMILTON: Mr. Roemer.

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

Nice to see you, Mr. Tenet. I want to just say on behalf of the Commission that there probably is nobody that we've interviewed that has been as generous with his time and as helpful to the 9/11 Commission as you. And we very much appreciate that time and that attention and your expertise.

I want to try to ask as many questions as Mr. Kerrey, Ben-Veniste and Lehman put together in my five minutes and see if you can help me by giving me some short answers, Mr. Tenet.

MR. TENET: Depends on the questions, but go ahead, sir.
(Laughter.)

MR. ROEMER: Let's see. In the Woodward book, you say immediately upon learning of the 9/11 attacks that it's al

Qaeda, and you mention somebody in a flight school. I assume that's Moussaoui. Is that correct?

MR. TENET: These are words attributed to me. I don't recall that piece of it. But I know I got up immediately and said it's got to be al Qaeda.

MR. ROEMER: And you have the information at that point on Moussaoui?

MR. TENET: Yes, I was briefed on Moussaoui in late August.

MR. ROEMER: August what?

MR. TENET: I believe it's the 23rd or the 24th.

MR. ROEMER: August 23rd or 24th. Is Mr. Pavitt or Mr. McLaughlin briefed on that as well?

MR. MCLAUGHLIN: Yes, sir. I was briefed I think several days before.

MR. ROEMER: Before the --

MR. MCLAUGHLIN: The director was out of town. I heard it first in a very abbreviated manner and then I think the director was briefed in a periodic update.

MR. ROEMER: What was the date that you were briefed?

MR. MCLAUGHLIN: I can't recall.

MR. ROEMER: Middle of August? August 15th? Earlier?

MR. MCLAUGHLIN: No. I just don't recall. It was some time in August. It was just a couple of days before the director.

MR. ROEMER: Now, do you all share this information then with other people at CTC and FBI and other places? What do you do with this information?

MR. TENET: I believe that the context of the information -- and again, I've got to go back and review all of this carefully -- the context of this information is that it came to us from one of our domestic field stations who was asked to provide some assistance in dealing with this FISA request.

So that's the context it came to us. And I believe in that time period we immediately tried to undertake a way to figure out how to help the FBI get data and deal with this particular problem. But I'd really want to go back and check records.

MR. ROEMER: With this interesting, curious, fascinating piece of data, do share this data at the September 4th principals' meeting with other people in the room at that point, when you're discussing this policy that has taken seven months to make its way through the process on al Qaeda?

MR. TENET: It wasn't discussed at the principals' meeting, since we're having a separate agenda. My assumption at the time was, Mr. Roemer, that this was something that would be laid down in front of the CSG and people working this at the time.

MR. ROEMER: Why would you assume that that would be --

MR. TENET: Because all terrorist --

MR. ROEMER: Why not bring it up to the principals? This is the first principals' meeting in seven months on terrorism. Why wouldn't that be something that you would think would be interesting to this discussion?

MR. TENET: The nature of the discussion we had that morning was on the Predator, how we would fly it, whether we would --

MR. ROEMER: But it's an overall policy discussion about al Qaeda and how we fight al Qaeda --

MR. TENET: Well, it just wasn't -- for whatever reason, all I can tell you is, it wasn't the appropriate place. I just can't take you any farther than that.

MR. ROEMER: Would it -- made any difference if you had mentioned -- did you ever mention it, for instance, to the President -- you're briefing the President from August 6th on --

MR. TENET: I didn't see the President. I was not in briefings with him during this time. He was on vacation. I was here.

MR. ROEMER: You didn't see the President between August 6th, 2001, and September 10th?

MR. TENET: Well, no, but before -- saw him after Labor Day, to be sure.

MR. ROEMER: So you saw him September 4th, at the principals' meeting.

MR. TENET: He was not at the principals' meeting.

MR. ROEMER: Well, you don't see him --

MR. TENET: Condoleezza Rice -- I saw him in this time frame, to be sure.

MR. ROEMER: Okay. I'm just confused. You see him on August 6th with the PDB.

MR. TENET: No, I do not, sir. I'm not there.

MR. ROEMER: Okay. You're not the -- when do you see him in August?

MR. TENET: I don't believe I do.

MR. ROEMER: You don't see the President of the United States once in the month of August?

MR. TENET: He's in Texas, and I'm either here or on leave for some of that time. So I'm not here.

MR. ROEMER: So who's briefing him on the PDBs?

MR. TENET: The briefer himself. We have a presidential briefer.

MR. ROEMER: So -- but you never get on the phone or in any kind of conference with him to talk, at this level of high chatter and huge warnings during the spring and summer, to talk to him, through the whole month of August?

MR. TENET: Talked to -- we talked to him directly throughout the spring and early summer, almost every day --

MR. ROEMER: But not in August?

MR. TENET: In this time period, I'm not talking to him, no.

(Pause.)

MR. ROEMER: Does he ever say to Dr. Rice or somebody else, "I want to talk to Tenet; Tenet is the guy that knows this

situation, has been briefing me all through the spring and the summer; Tenet understands this stuff; his hair's been on fire; he's been worried about this stuff"? Is that ever asked, or are you ever called on to --

MR. TENET: I don't have a recollection of being called, Mr. Roemer, but I'm sure that if I wanted to make a phone call because I had my hair on fire, I would have picked up the phone and talked to the President.

MR. ROEMER: It was just never made?

MR. TENET: No.

MR. ROEMER: Last question, and I'll be quick. On the NSC staff, Mr. Clarke is there for a long period of time. People have various opinions of Mr. Clarke. There is a great deal of turnover on the NSC staff from 2001 on. Is that correct? Mr. Clarke resigns or moves on in 2001; General Downing, General Gordon, Fran Townsend -- is that correct, the lineup of people? How does that impact your ability to get information and communicate with the CSG, if at all?

MR. TENET: I don't believe that it does because there's a standing structure in place. Somebody else may be running it, but my understanding is it continues to work the way it always has.

MR. ROEMER: Despite the importance of personal relationships -- you are one of the best in this town at --

MR. TENET: Well, I don't go to the CSG myself, but I think if we talk to our people I think our people will say we continue to go to these meetings and provide data.

MR. ROEMER: But you talked extensively with Dick Clarke is my understanding.

MR. TENET: Well, I don't know if "extensively" is correct.

MR. ROEMER: Okay. Often?

MR. TENET: Well, you know, I don't know how often in that time period. I mean, there were phone calls, but I can't tell you it was "extensive" during this time period.

MR. ROEMER: Okay. Thank you, and thank you for helping me with the questions.

MR. TENET: Thank you.

MR. KEAN: Commissioner Thompson.

MR. THOMPSON: Mr. Director, I'm going to try one more time on the PDB of August 6th, then I'm going to stop talking about it because sometimes when the PDB is read here or on television stations it's only sort of half read. So I'd like to read the whole sentence, if I can.

On the first page of the PDB -- and you'll grant me, I suspect, that almost all of the information in the PDB relates to the period 1998 or 1999, three years before September 11th. Is that correct?

MR. TENET: Most of the data is in this time period. And the second page, as you know, is more current data as the result of the specific walk-in that comes in that there is -- the CSG held on May 15th or May 16th, and then there's this specific data about surveillance in New York. So there's -- most of it at the front end is historical in nature, or it's background is what I call it, older data, and then you flip the page and you get to more current data.

MR. THOMPSON: Okay.

Near the bottom of the first page, it said "Al Qaeda members -- including some who are U.S. citizens -- have resided in or traveled to the U.S. for years, and the group apparently maintains a support structure that could aid attacks." If we are to credit Tom Pickard's testimony yesterday, the 9/11 plotters in fact did not turn to any group of supporters within the United States to aid their attacks. Is that correct?

MR. TENET: I think, to the best of our knowledge, that's true.

MR. THOMPSON: Okay.

MR. MCLAUGHLIN: What the analyst was thinking about there was the fact that some of the defendants in the East Africa bombing trial had resided in the United States at one point in their past.

MR. THOMPSON: Right.

MR. MCLAUGHLIN: So she was connecting dots, if you will.

MR. THOMPSON: Right.

Last paragraph on that page: "We have not been able to corroborate some of the more sensational threat reporting, such as that from a service in 1998" -- three years earlier -- "saying that Bin Ladin wanted to hijack a U.S. aircraft to gain the release of 'Blind Sheik'" or "other U.S.-held extremists." And that turned out not to have anything to do with September 11th.

Is that right?

MR. TENET: And the concept of corroboration, of course, is -- Commissioner Lehman -- is did you get another piece of HUMINT, did you get another piece of SIGINT, is there a walk-in that's come in to tell you the same plot? So corroboration is, is do you have more than one source, and is it valid? So that's what we meant by corroboration.

MR. THOMPSON: At the top of the second page: "Nevertheless, FBI information" -- so this is something coming to you from the FBI, not yourself generated -- "since that time indicates patterns of suspicious activity in this country consistent with preparations for hijackings or other types of attacks." But the only reference here is, "including recent surveillance of federal buildings in New York," which turned out to be, according to the FBI, Yemeni tourists. Is that right?

MR. TENET: That's what we've been told, yes.

MR. THOMPSON: "The FBI is conducting approximately 70 full field investigations throughout the U.S. that it considers Bin Ladin-related."

FBI testimony here yesterday sort of downplayed the notion that there were 70 full field investigations going on because, they said, each person being looked at constituted a separate full field investigation, something that was sort of news to us on the panel yesterday.

MR. TENET: I'd have to leave it to the director this afternoon to clarify whether the number is correct or incorrect.

MR. THOMPSON: Okay. On page eight of your prepared statement, Mr. Director, you say, "Fourth, the DCI has to have an operational and analytical span of control that allows him or her to inform the President authoritatively about covert action and other very sensitive activities."

What does that mean?

MR. TENET: It means to me that there are a range of activities; the President grants authorities for the director of -- you pick whatever you want him to be -- that I believe that that person has to be intimately tied to the Directorate of Operations carrying out that covert action, and has to have an ability to understand other sensitive collection and other activities with some intimacy to be able to tell the President authoritatively not only how you're operating, but what the risks are, what the political downsides are. Somebody has to be responsible and tied to the people who are carrying out those activities, is what I meant.

MR. THOMPSON: And we don't have that now?

MR. TENET: No, we do. We do. You have it in the form of the current DCI.

MR. THOMPSON: You?

MR. TENET: Yes.

MR. THOMPSON: Okay. And we should not change that, in your view?

MR. TENET: Well, I think it's something you need to think about quite carefully. I wouldn't.

MR. THOMPSON: Okay.

MR. TENET: You can -- you can -- again, as I came back, you can restructure the way I'm structured, but I would not take that kind of line authority from a person that has a direct report to the President, who also has a chain of command to the people that are executing these operations.

MR. THOMPSON: Is there any reason why the domestic intelligence functions of the FBI could not be placed under the CIA?

MR. TENET: Lots of good historical reasons, lots of privacy reasons, lots -- just lots of reasons, sir. (Laughter.) I think that this is -- this is not appropriate. I would not want to be in a position where the DCI, given our statutory framework, our laws, our privacy, our history, I don't think it's appropriate.

MR. THOMPSON: Why is --

MR. KEAN: This is the last question, Commissioner.

MR. THOMPSON: Why is privacy more of a concern under the CIA than it would be under the FBI?

MR. TENET: Well, sir, since -- I don't want to be flip about this -- since we operate almost extensively in an overseas environment, we operate with a certain degree of impunity with regards to other countries' laws. Since we're operating clandestinely and collecting clandestinely, and we're not going to a judge to tap somebody's -- whatever we're doing, or launching surveillance, it's a different context for us.

MR. THOMPSON: Mm-hmm. But you could do what the FBI does now, right?

MR. TENET: Probably not, sir.

MR. THOMPSON: Couldn't. Okay. Thank you, Mr. Director.

MR. TENET: Not with the criminal arrest, legal and other things; that is not something that I think we are competent to undertake in the current structure.

MR. THOMPSON: Okay. Thank you, Mr. Chairman.

MR. KEAN: Commissioner Gorelick.

MR. GORELICK: Thank you, Mr. Chairman.

And Mr. Tenet, welcome back. You've given us a great deal of your time, and we very much appreciate it.

It's very important, I think, for us to understand your roles as both director of Central Intelligence and as head of the CIA, both before 9/11 and afterwards. So let me ask you just two sets of questions.

You have gone to great lengths to say to us that you are not a policymaker. Is that right? That you don't play a policymaking role.

MR. TENET: Yes, that's my belief.

MS. GORELICK: Yet when Dr. Rice was testifying before us about the summer of threat, what she says is that there was indeed an intensity across the government, she says, coming from the top because the President was meeting with the director of Central Intelligence. And so my question, just to be very clear about it, is you don't have any authority currently -- and maybe ever, if you have your druthers -- over the FBI, do you?

MR. TENET: (Chuckles.) No.

MS. GORELICK: And you don't have any authority over the Department of Justice, do you?

MR. TENET: No.

MS. GORELICK: Or the FAA; is that correct?

MR. TENET: Correct.

MS. GORELICK: And in fact, though your folks briefed the attorney general, you did not instruct any of these other agencies to do anything after your briefings; is that correct?

MR. TENET: That's correct. I believe that the data that we provide in the context of the CSG and the structure then informs actions that people are going to take.

MS. GORELICK: Right. So your principal role is to inform and have that information on its own generate whatever activities within their domain.

MR. TENET: Yeah. Now, from to time, particularly in the foreign environment, when we're going to deal with a foreign leader, you know, I may cross the line because of my knowledge of the individual or previous conversations, and so you're asked a question in that regard. So, you know --

MS. GORELICK: Everyone -- right. And we know about the role you played in Middle East peace and so forth. And we appreciate that.

MR. TENET: So there's occasionally --

MS. GORELICK: But in this context, there was nothing emanating, no operational activities outside of the intelligence domain emanating from your briefings or instructions that you carried.

MR. TENET: I'm sorry, I don't understand the question.

MS. GORELICK: Okay. You've answered my question.

MR. TENET: Okay.

MS. GORELICK: I want to go on to the policy question.

MR. TENET: Okay.

MS. GORELICK: Looking to the future, you had a very interesting exchange with brother Lehman about what you might or might not be open to advising us to do as a country to restructure the way in which we are organized in the intelligence community, bearing in mind that 80 percent of the intelligence resources now reside outside -- at least 80 percent -- outside your span of control.

Now, in the spring of '01, the President of the United States, much to his credit, asked you in NSPD-5, in a presidential order, to stand up an outside group to look at the structure of the intelligence community. And he asked Brent Scowcroft to -- the former national security advisor and current head of the President's Foreign Intelligence Advisory Board -- to lead that effort. And that report came in, I believe, in late '01, or maybe it was turn of the year. But not long after 9/11. Brent Scowcroft has briefed us on his recommendations and, in fact, we now have a copy of his report.

And so I would like to ask you very specifically, if I can, and not to pin you down to definitive proposals, but really to ask you your view on some of these ideas, which were never implemented. One, he says, it's very important to have a separate appropriation that goes directly to the director of Central of Intelligence, for the CIA, the NSA, the other offices that currently reside over at the Department of Defense, so that you have the ability to direct that activity. Do you think that is a good idea or a bad idea?

MR. TENET: I'm not certain.

MS. GORELICK: Okay. How about that the director of Central Intelligence have the ability to hire and fire the heads of those agencies?

MR. TENET: Look, I'm not -- look, let's put all the cards on the table here. Okay? I talked about a relationship with the secretary of Defense that I really believe in. Okay? And you know, this is the kind of issue he and I have to sit down, sort out and talk about. And I -- you know, and I'll come back and we can talk about it. I just think, you know, I am sitting in the middle of a structure. I do have a relationship with the secretary. I care about it a great deal. And I haven't reflected on all of these ideas. You have questions and I just need a bit more time to think about where I am.

MS. GORELICK: I think that's fair enough. And we were all just hoping that since the President had indicated a new openness to change, maybe you were a little more liberated to talk about it now. And if this is not the right time, we'll be happy to hear from you in whatever way you would like to get back to us. But we do have some very good work product created by people that --

MR. TENET: And I'd be pleased to do that.

MS. GORELICK: -- do meet the description of an outside group of thoughtful people. And we would very much like your views on it.

MR. TENET: And I would appreciate it.

MS. GORELICK: Thank you very much.

MR. TENET: Thank you.

MR. KEAN: Commissioner Fielding.

MR. FIELDING: Thank you, Mr. Chairman.

Director, thank you for coming back. You know, you've been called an evolutionary. I think we all also appreciate the terrific job that you did candidly as a rehabilitator, which you had to do before you could become an evolutionary. And we're just trying to figure out where the revolutionary phase of this comes in.

But understand that there are criticisms that could be leveled and there are a lot of probing questions, and the reason for that is the obvious reason: we've had a terrific intelligence failure, and it gets worse as we probe a little deeper and learn more about it. And to get back to Commissioner Lehman's train coming down the track, we also at this phase want to make sure that when we get there we don't have a -- we don't create a train wreck, if you will, ourselves. So we need your advice and we need your guidance to the extent that you're comfortable giving it to us.

There is a great deal of concern, and I understand from your testimony today that you really don't share with us the concern of wearing the hat of DCI and running the CIA because we wonder, with your enthusiasm, how you can do both.

MR. TENET: Well, I might structure the CIA a bit differently. I might have a different span of control. If I -- for example, if you were going to organize the community around these mission centers, I might have a separate deputy to handle that piece. I might create a new structure for me in terms of inside this organization. There are ways to do this in terms of its reorganization. I could do that without statute, by the way, unless we had a bigger piece. So I'm not averse to the idea. I'm saying that there may be structural ways to do this smarter once you think about what end state you want to achieve is all I'm saying.

MR. FIELDING: Well, no, I appreciate that clarification because I had misunderstood.

Now let me throw you into the pool a little more since we're probing for ideas. Would it assist you now -- as DCI and in charge, if you will, of the intelligence community, would it assist you if the FBI's domestic intelligence function was separate from its investigative and its law enforcement and prosecutorial function?

MR. TENET: I don't believe so, and I'll tell you why. First of all, I would say the first thing that's important -- and Bob Mueller will talk about this this afternoon; I'm not going to go into the changes and how he thinks about this -- we've been running operations with the FBI against targets for 30 years in terms of their tradecraft and how they operate with us and how we jointly recruit people. This is well known and well understood between us.

Where he's trying to take the organization is to put a primacy -- particularly in the terrorism arena, put a primacy on the intelligence-gathering aspect of it and put the prosecution of it behind. I think he would also argue that the prosecutorial power may actually have a benefit in terms of his ability to recruit someone, in terms of an enticement, an enhancement or how you talk to somebody.

But I think that the way to do this is to keep that together and then grow within the FBI a separate kind of officer with a separate kind of training and a separate kind of career path where the intelligence mission is not divorced from the prosecutorial mission, but is something, you know, you can grow in quite a different way. I mean, the devil is all in the recruiting, the training, the promotion precepts and how you reward that individual for the work is really where you're going to make hay here. But I wouldn't separate it.

MR. FIELDING: And do you think that the culture is amenable to that in the FBI?

MR. TENET: Well, I know the director's amenable to it, and I know the director's working on it. And I think if you look at -- yes, I think the answer is yes, I think the institution understands that this is absolutely essential.

MR. FIELDING: Thank you. Let me just ask one other question. In your March testimony, you called al Qaeda a learning organization. And obviously, we know that DOD has got rigorous lessons-learned projects on everything that they do, and it improves their performance. I don't sense that the intelligence community has that kind of a lessons-learned across the board. What steps can you take to accomplish that?

MR. TENET: Sir, I think we do it a bit differently than the defense structure does. I mean -- John, you may want to comment on this since you've been around a while. I'll let you comment.

MR. MCLAUGHLIN: I think you'll find in the defense structure, as you know, sir, that they have a formalized process. In the intelligence business, because it's so fast-moving and so iterative, I would call our lessons-learned process more of an iterative one. We're constantly reevaluating what we do. We're constantly looking at efforts we've had under way and asking ourselves, "Why did that work? Why didn't this work?" So it isn't as formalized, it isn't done by panels, although on

occasion we do commission a group within the agency to step back --

MR. TENET: Or outside.

MR. MCLAUGHLIN: -- and look at -- as, for example, we are on some of our Iraq work now. We're doing, for six months, an extensive, in-depth look at every single source we used, and we are developing lessons from it.

In the terrorism arena, because it's been such a fast-paced fight, and really a war -- I think as Cofer Black made the point yesterday, that we've literally been at war on this problem for years -- the lessons learned have been incorporated into our daily activity, much you do in the middle of a battle, much the way you do on the battlefield.

MR. FIELDING: I understand that. But sometimes memories shape as time passes. And that's the reason I would urge that you reconsider that.

MR. MCLAUGHLIN: Not to say -- I wouldn't suggest to you for a moment that this is perfect or that there aren't things we could do better on this score. But I'm just suggesting that we have a different rhythm and pattern than the military on this.

MR. FIELDING: Okay. Thank you, thank you both very much.

Thank you, Mr. Chairman.

MR. KEAN: Senator Gorton.

MR. GORTON: Mr. Tenet, we're here, of course, because of a massive intelligence failure. But you point out at the very beginning of your testimony that you had -- that there were other challenges facing the United States, and you list four: China/Taiwan, North Korea, India/Pakistan, and the Balkans.

In those cases, just for balance here, do you believe that you supplied your two presidents with accurate enough and complete enough intelligence so that they were enabled to make wise policy decisions in those four arenas?

MR. TENET: In each case, I would tell you -- for example, the Balkan crisis obviously was a different crisis, because you were supporting military operations. You know, without getting into all the targets here, each of these particular cases, if you

separate the conflict, have different gaps in knowledge that we constantly seek to close, and I don't want to do a net assessment in front of you. So depending on the question, performance is going to be plus or minus.

MR. GORTON: Well --

MR. TENET: But I think we did well, but you know, on a --

MR. GORTON: I wanted to give you an opportunity to answer yes, and you've given me a qualified yes.

MR. TENET: Yes. Well, but to be honest, because it's not perfect across the board while you're building capability and closing gaps, but --

MR. GORTON: Now I want to go -- and I'm going to -- with my limited time, I'm going to ask you three questions in one speech, and I hope you can remember each of them and answer each of them. But they have to deal with the last page of your testimony, in which you make five recommendations. And they relate to number two, number three and number four, which I may say, editorially, seem to me to be perfect Beltway recommendations. The rhetoric is impressive, and the actual policy advice is practically zero, at least as far as I'm concerned.

MR. TENET: Well, I wrote them, sir, so I appreciate that.

MR. GORTON: The second -- yeah, the second of those starts with that wonderful line "we have created an important paradigm," which scares me at the beginning. But it has to do with the reorganization of a mission of fusing intelligence information and speaks about the Counterterrorist Center and the creation of TTIC.

So the portion of the question is, do you mean in this statement that we now have a very good structure for this fusion, and we simply need to perfect it, personally, in the way in which you answered a question to the chairman of the Commission, or do you think that the structure still needs to be changed in one respect or another?

Now I'm going to finish this, because the light will go off.

The third -- yeah -- your number three has to do with this relationship about which you've been asked previously, between

the DCI and the secretary of Defense. And I'd like you to tell me just a little bit more about whether you feel that the present structure is a workable structure really simply depending on the relationship between the DCI and the secretary of Defense, or whether you think that there could significantly be structural changes there, but you just don't want to talk to them about them now, because you're getting along pretty well with Rumsfeld, and you want to be on the same page when you make such a recommendation.

And then the fourth one really troubles me. In the fourth one, you say the DCI has to have an operational and analytical span of control that allows him or her to inform the President authoritatively about covert action and other very sensitive activities. Does that mean that prior to 9/11 or post-9/11, you do not believe that you could authoritatively advise the President about covert action and sensitive activities?

MR. TENET: Let's work backwards. No, the answer, of course I did. I'm trying to say in a future model. What I don't want you to do is separate those functions from an individual. That's all I'm trying to say to you.

MR. GORTON: Okay. So just let it alone.

MR. TENET: Yeah. Create whatever structure you want; just don't separate that span of control, because something will break. That's all I'm trying to tell you.

MR. GORTON: Okay.

MR. TENET: With regard to the second one, yeah, the relationship is absolutely the essential component of what makes this work. The creation of a structure at the Department of Defense that Don has put in place, to build a tactical program and mesh it with a national program is quite substantive and important.

And the other thing I'll say to you is nobody cares more about intelligence than this secretary of Defense. Is it in large part a relationship issue? The answer is yes. Can you count on that relationship in the future? The answer is no. So you need to think about it in structural terms.

The first question is, the structure is a good one because it's up and running, is going to mature, and you've got the right principles in place. Now we have to populate it and move

it, but it's in the right place. The most important thing about its success is we need to make sure that the domestic data shows up.

That's the most important thing, because unless you have all the data in one place, you can't talk about competitive analysis, you can't talk about red-teaming, it all has to be there. So the most important thing that has to happen is that architecture to ensure that the data shows up. And we need to keep pressure to make sure that happens. Otherwise, you're going to have a lot of data and no left hand to meet the right hand.

MR. GORTON: Thank you. Those were all precise and enlightening answers.

MR. KEAN: One final question, Commissioner Ben-Veniste has asked, and told me he can do it in 30 seconds.

MR. BEN-VENISTE: I never said that. (Laughter.) But I do have one question, Mr. Director.

First, the Commission was provided with the SEIBs, the Senior Intelligence -- Executive Intelligence Brief, and I want to refer to the one of August 7, 2001. And I want to compare it to the PDBs, and particularly the PDB of August the 6th, 2001.

Let me just tell you that the information, in comparison, has deleted from the SEIB -- in the sentence, "Al Qaeda members, including some who are U.S. citizens, have resided or traveled to the U.S. for years and the group apparently maintains a support structure," the words "that could aid in attacks" doesn't appear in the SEIB, nor does the final two paragraphs of the PDB, which contain all of the updated and current information.

Now, the attorney general of the United States testified yesterday that he was out of the loop, did not receive the PDBs, but he did receive the SEIB, as did other Cabinet officials who have responsibility for law enforcement, such as Customs, INS and so forth.

Can you tell us who it was that makes the decision to send material on to the other executives who do not get the PDBs?

MR. MCLAUGHLIN: Commissioner, the -- it's a little difficult to reconstruct all of that looking back, but in talking to people about it, a couple of factors on the table here. The SEIB

was a very new publication at that time. We were still developing the rules for how to do it. I think the first omission you mentioned I'm guessing was probably an editorial change by someone on the staff who was shortening the article for the SEIB. The latter changes that you referred to -- the rule that we were using at the time was that information we did not have written documentation for, which in this case some of that information fell into that category --

MR. BEN-VENISTE: But others --

MR. MCLAUGHLIN: -- because the analyst had gotten it on the phone from her FBI colleague, we didn't put in the SEIB unless we had written documentation. And other information we didn't put in if it had an operational content; that is, there was an ongoing operational matter, as there was in the case of the call-in in Dubai, where we were aggressively following up, trying to find this person. And those are essentially the reasons that we -- sometimes we will also not include information if there's a law enforcement dimension to it that could be affected by disseminating it widely. But a mix of reasons like that was behind it, and the decision is made in our Directorate of Intelligence, where these publications are put together.

MR. BEN-VENISTE: Thank you, Mr. Chairman.

MR. KEAN: Thank you, Commissioner.

Director Tenet, Mr. McLaughlin, thank you again for your cooperation. Thank you for all your help today.

MR. TENET: Thanks.

PANEL II OF THE TENTH HEARING OF THE NATIONAL COMMISSION ON
TERRORIST ATTACKS UPON THE UNITED STATES
SUBJECT: "LAW ENFORCEMENT AND THE INTELLIGENCE COMMUNITY" THOMAS
H. KEAN, CHAIR; LEE H. HAMILTON, VICE CHAIR
WITNESSES: JOHN BRENNAN, DIRECTOR, TERRORIST THREAT INTEGRATION
CENTER; LIEUTENANT GENERAL PATRICK HUGHES, DHS ASSISTANT
SECRETARY FOR INFORMATION ANALYSIS; JOHN PISTOLE, FBI EXECUTIVE
ASSISTANT DIRECTOR FOR COUNTERTERRORISM AND COUNTERINTELLIGENCE;
JAMES PAVITT, CIA DEPUTY DIRECTOR OF OPERATIONS

216 HART SENATE OFFICE BUILDING
11:22 A.M. EDT, WEDNESDAY, APRIL 14, 2004

MR. KEAN: We call the hearing back to order.

I will now introduce the panel that will over the course of
the next two hours discuss with us ways in which the United
States can prevent future attacks inside its borders.

The panel will consist of Mr. John O. Brennan, director of
the Terrorist Threat Integration Center; Lieutenant General
Patrick M. Hughes, assistant secretary for Information Analysis
at the Department of Homeland Security; Mr. John S. Pistole,
executive assistant director for Counterterrorism and
Counterintelligence at the FBI; and Mr. James L. Pavitt, deputy
director of Operations at the CIA.

Welcome, all.

Gentlemen, would you rise and raise your hands, please?

Do you swear or affirm to tell the truth, the whole truth and
nothing but the truth?

WITNESSES: I do.

MR. KEAN: Gentlemen, your prepared statements will be entered
into the record in full. We would ask you to summarize your
opening remarks, and in the interest of time, we'd ask you to
hold your opening remarks as close as possible to five minutes,
so we can proceed as fast as possible to questions.

Mr. Brennan, are you going to first, sir?

MR. BRENNAN: Thank you.

Good morning, Chairman Kean, Vice Chairman Hamilton and commission members.

I welcome the opportunity to represent the men and women from throughout the government who have joined forces in an unprecedented manner in the new Terrorist Threat Integration Center, or TTIC.

As members of the Commission and the American public well know, the scourge of international terrorism poses a serious threat to U.S. interests, both at home and abroad. More terrorist attacks are in the planning stages, and U.S. lives and property are being actively targeted by al Qaeda and other terrorist organizations.

We learned some painful lessons on September 11th, 2001. We learned that while we had developed a wide array of U.S. government counterterrorism capabilities and accrued a vast amount of information about those who would do us harm, we lacked a government-wide ability to integrate knowledge, expertise, mission, data systems and capabilities, which are the critical weapons in the fight against terrorism.

It is only through such integration of effort that we will be able to prevent future 9/11s.

A key objective of the U.S. government's counterterrorism strategy today is to ensure that all agencies and departments involved in the fight against terrorism share threat information and finished analyses that can be used to prevent terrorist attacks. At the direction of the President, TTIC began its mission May 1st, 2003, specifically to achieve this objective.

TTIC represents a new way of optimizing the U.S. government's knowledge and formidable capabilities in the fight against terrorism. For the first time in our history, a multi-agency entity has access to information systems and databases spanning the intelligence, law enforcement, homeland security, diplomatic and military communities that contain information related to the threat of international terrorism. This unprecedented access allows us to gain a comprehensive understanding of terrorist threats to U.S. interests, and most importantly, to provide this information and related analysis to those responsible for detecting, disrupting, deterring and defending against terrorist attacks.

A key objective of TTIC is to develop an integrated information technology architecture so that sophisticated analytic tools and search capabilities can be applied to the many terabytes of data available to the federal government. We must be able to cross-check these different data sets in a manner that identifies terrorists and their supporters before they reach our shores, or when they emerge within our midsts. Simply put, we need to create new knowledge from existing information.

There exists within the TTIC joint venture real-time collaboration among analysts who sit side by side sharing information and connecting the scattered pieces of the terrorism puzzle. These partners include not only the FBI, CIA and the Departments of State, Defense, and Homeland Security, but also other federal agencies and departments, currently including the Capitol Police, the Department of Energy and the Nuclear Regulatory Commission. The integration of perspectives from multiple agencies and departments represented in TTIC is serving as a force multiplier in the fight against terrorism.

On a strategic level, TTIC provides the President and key Cabinet officials a daily analytic product on the most serious terrorist threats and related terrorism information that serves as a common foundation for decision-making regarding the actions necessary to disrupt terrorist plans. Threat information analyses are also transformed into alerts and advisories to better prepare the nation, as well as to warn of potential terrorist attacks.

TTIC also is actively working to ensure that terrorist threat information and finished analyses are disseminated to those who play a role in protecting U.S. interests at home and abroad. TTIC is working with the Department of Homeland Security, the FBI, the intelligence community to fulfill the statutory obligations related to information sharing. Specifically, TTIC sponsors a Top Secret website that has in excess of 3.5 million terrorism-related documents, at various levels of classification, from the intelligence, law enforcement, homeland security, diplomatic and military communities.

The website currently is available to over 2,600 users at every major federal department and agency involved in counterterrorism activities.

TTIC is also responsible for integrating and maintaining a single repository of all U.S. government international terrorist

identities information. To date, TTIC has approximately 100,000 known or suspected international terrorist identities catalogued, including U.S. persons engaged in international terrorism. This information is provided to the FBI-administered Terrorist Screening Center, which ensures that front-line law enforcement officers, consular officials, and immigration and border personnel identify individuals known or suspected to be terrorists before or even after they enter the United States.

I cannot tell you that all of these efforts have enjoyed smooth sailing, as there are many challenges associated with crafting a new national terrorism analysis and information sharing framework to better protect this nation. We need to implement this revolutionary concept in a thoughtful and evolutionary fashion, as I believe we cannot afford to have the global war on terrorism adversely affected by dislocations. My colleagues and I have a special obligation to continue the task of implementing a national counterterrorism strategy that maximizes the security and safety of all Americans.

In my personal opinion, the organizational and information-sharing status quo that existed on September 11th, 2001 was inadequate to safeguard America. While significant progress has been made since then, I believe that we as a government are not optimally configured to deal with the terrorist threat. And as a nation, there is more that we can do to orchestrate our collective efforts.

This commission, with its studied and comprehensive review of the events and factors that resulted in the tragedies of September 11th, is well suited to take a look at how the eclectic parts of the national counterterrorism effort fit together, and whether we need to adopt new and better ways to organize ourselves, which I believe is the case.

Thank you.

MR. KEAN: General Hughes.

GEN. HUGHES: Good morning, Chairman Kean, Vice Chairman Hamilton, and distinguished members of the Commission. I hope you can hear me better now. (Chuckles.) I am privileged to appear before you today to discuss the role of the Office of Information Analysis at the Department of Homeland Security as well as IA's role in the intelligence community.

I was present at the Pentagon minutes after the plane struck, and I saw once again something I have become all too familiar with over the years: a violent outcome of a terrorist attack against unwarned and unprotected people. Co-workers, soldiers, all lay in the wreckage. The damage was done. I am at my place of work at the Department of Homeland Security in part because of that experience.

On 17 November, 2003, I became a direct part of this department's effort when I took the job of assistant secretary for information analysis, part of the Information Analysis and Infrastructure Protection Directorate.

The philosophical underpinning of IA, Information Analysis, is to provide the connectivity, the integration, the communication, the coordination, the collaboration and the professional intelligence work necessary to accomplish the missions of and the products and capabilities necessary for the customers and the leadership of DHS, the Department of Homeland Security. Simply put, we perform the intelligence work of the department. I am privileged to lead that effort.

The Office of Information Analysis is unique in its ability to communicate timely and cogent threat products to our customers. We're responsible for accessing and analyzing the entire array of intelligence relating to threats against the homeland, and making that information useful to responders; state, local and tribal authorities; and to the private sector.

We also provide the full range of intelligence support to the secretary and deputy secretary, to other DHS leadership and to all DHS components.

Additionally, IA ensures that the best intelligence information informs the application of the Homeland Security Advisory System.

We have made tremendous progress. The dedication and devotion of duty of those persons who do the work of intelligence at DHS is, in my view, unparalleled. However, not every position is filled. Not every capability we need is present. But we are working hard to acquire what we need to do the job.

A brief note about the threat:

It is real. Terrorists are obviously at work around the world. We continue to receive substantial information concerning

terrorist intent to strike us again in our homeland. As we approach the period of our national political process and the many associated events, it is my view that we are entering of period of significant risk, perceived by those who would strike us as an opportunity to tear our societal and cultural fabric. We who do the work of intelligence and law enforcement must persevere and provide insight and knowledge to those who lead and decide.

We are on course with our partners and colleagues to continue to achieve. We are fully connected to the U.S. intelligence community and well-informed. We are integrated into the workings of the domestic security structure. We are integrated with law enforcement.

We have working analysts poring over the arcane and esoteric detail of intelligence and law enforcement, reporting -- to discover the hidden patterns and concealed threads of terrorist activity and the manifestation of other threats to America from crime with national security implications and from other threatening conditions that come our way.

We have a great sense of purpose, and we have embarked on what has never been done before with regard to information fusion to understand fully the threat and the conditions extant in the new normal context of our homeland. The pre-9/11 attacks; the December 2003, February 2004 period of heightened concern; the recent attack in Madrid; planned but largely interdicted attacks elsewhere; and the fact of biological attack here in the United States combine to form this new normal condition of constant possibility that we cannot ignore. At the same time, we are -- I am most mindful of the need to protect the constitutional liberties of our citizens, and to preserve and defend our Constitution and our way of life. In the end, we are -- I am focused on defeating the terrorists before they can strike again.

This conclude my oral statement, Mr. Chairman. I'd also like to say hello to Senator Bob Kerrey, a personal friend of mine. Good day, sir.

MR. KEAN: Mr. Pistole.

MR. PISTOLE: Chairman Kean, Vice Chairman Hamilton, members of the Commission, it is my privilege and honor to be here before you this morning.

I would like to start off by addressing a question that arose yesterday concerning the 70 individuals who were under investigation by the FBI that was mentioned in the August 6th, 2001 Presidential Daily Brief. We've gone back to look at those numbers, and just to provide a little bit of clarity about that at the outset, there were actually 67 actual investigations ongoing. The PDB said approximately 70 and it turned out to be 67. Of those, there are a number that are still ongoing investigations, obviously no links to 9/11. But there are a number of individuals still under investigation.

Twelve of those investigations were closed because it was determined there were no ties to al Qaeda or other Sunni extremists. Four were closed because individuals were arrested on INS violations; they were out of status. Two of the subjects, who are well known in the East Africa bombings, were indicted and arrested. One was charged with a non-terrorism fraud violation; basically money laundering, financial crime. Six subjects moved abroad, and we coordinated with the CIA and the foreign liaison services to then track them. One was an unidentified subject. We were never able to get additional information, and that case was closed. And then two subjects died, which leaves the total of 67. So just to try to provide a little bit of clarity on that and to address any questions you may have about that later.

I want to take a moment just to thank you for the opportunity to speak on behalf of the dedicated men and women of the FBI, who are working around the clock around the globe to combat terrorism, and also to our intelligence community and law enforcement partners both here in the U.S. and around the world that we work closely with. I also want to take a moment to thank the Commission for the extensive work that has been done thus far, some of the clarity that's been brought to the issues pre-9/11 and post-9/11.

To the victims and family members that suffer as a result of the horrific attacks of September 11th and all acts of terrorism, the FBI has been heartened by your gratitude and also mindful of your criticism. And it is in the spirit of both of those aspects that we look forward to move forward. A process of considered review has not only begun, but we have engaged in an unprecedented transformation since 9/11. Today the FBI is in the best position we've ever been to fulfill its highest priority, that of protecting the U.S. from terrorist attack.

The FBI obviously applies a multi-faceted strategy, employing its over 28,000 employees to combat terrorism. The FBI is positioned in a way that we can exploit the inherent nexus between terrorism and the crimes that are committed in pursuit of terrorism. We know that to be of value, intelligence must be collected, exploited and shared. The FBI's ability to deploy anywhere in the U.S., or if requested, worldwide, at a moment's notice has proven invaluable in providing us with an understanding of the tradecraft of terrorism.

Since September 11th, the FBI and our partners have investigated over 4,000 threats to the U.S., and the number of active FBI investigations into potential terrorist activity in the U.S. has grown dramatically. Working with our partners, we've also disrupted terrorist activities on multiple occasions inside the U.S., primarily focusing on terrorist financing operations in support of terrorist activity.

In order to achieve these successes on the war on terror, we've transformed the FBI's counterterrorism efforts from one that excelled in the evidence collection and prosecution of matters to one that is primarily focused on intelligence, while maintaining the prosecutive options. We've integrated our criminal and counterterrorism efforts with our intelligence aspects, which you'll hear more about this afternoon from Director Mueller and Executive Assistant Director Baginski. I'd like to touch on a few of the highlights of those changes from an operational perspective.

We have played a key role in either creating or help create a number of different entities which are in furtherance of the counterterrorism effort. First, the Foreign Terrorist Tracking Task Force; second, the Terrorist Screening Center; third, the National Joint Terrorism Task Force. Obviously, we've heard from John Brennan, and the FBI has committed significant resources to the Terrorism Threat Integration Center.

We established flying squads within the FBI, highly mobile teams with specialized expertise in counterterrorism language and analysis. We established the Counterterrorism Watch, CT Watch, a 24-hour clearinghouse for terrorist threats and intelligence within the FBI.

We established the Communication Exploitation Section, the Document Exploitation Unit, which is gleaning information from millions of documents that have been accumulated worldwide.

We established the interagency Terrorist Financing Operations Section, which is devoted entirely to the financial aspects of terrorism investigations and liaison with financial services industry. Since September the 11th, the FBI and partners have frozen millions of dollars in financial assets of the organizations that support terrorism worldwide.

We crafted and promulgated to all of our 56 field offices the Model Counterterrorism Investigative Strategy, which is the blueprint for conducting intelligence-driven, intelligence-focused investigations. All international terrorism investigations conducted by the FBI now follow this prescribed approach.

Before September 11th, due to limitations of the legal law, which we've heard a lot about, intelligence agents and criminal agents working on the same terrorist subject were not able to share information in a productive way. A number of shortcomings have been addressed. In short, we were fighting terrorism with one hand tied behind our back.

The PATRIOT Act, as we've heard, and the FISA court of review decision have eliminated that wall and enabled unprecedented information-sharing not only within the FBI but with all of our partners.

In addition to those activities, we have disseminated thousands of information intelligence reports to the intelligence community and state and local law enforcement, where permissible. We established the FBI Intelligence Bulletin, which is disseminated weekly to more than 17,000 state and local police departments around the U.S. and to 60 federal agencies. Many of these bulletins are joint publications with the Department of Homeland Security.

We've shifted 480 agents to the counterterrorism effort. Thanks to bipartisan congressional support, the FBI counterterrorism program has experienced a 99 percent increase in total personnel and 101 percent increase in total funding since 9/11.

MR. KEAN: You want to wind it up. We're going a little bit over.

MR. PISTOLE: Yes, sir.

We centralized program management at FBI headquarters, which allows us to transcend the territorial boundaries which we have experienced.

In conclusions -- in conclusion, I'd just like to state that there's been a fundamental paradigm shift in the FBI since 9/11, not just in counterterrorism but in all investigative activities, recognizing the significance of integrating all FBI resources toward the 9/11 priority.

With that, I will conclude. Thank you, sir.

MR. KEAN: Mr. Pavitt?

MR. PAVITT: Good morning. It's a privilege for me to be here before the Commission on an issue of such incredible, vital importance to our nation.

By virtue of my position in the CIA, I am not a public person. Indeed, in the history of the CIA, no one in my position has ever testified publicly before.

And like my colleagues here at the table, I'm a public servant, dedicated to defending the security of our nation. The last five years of my 30-year career in intelligence, I've had the honor of leading a unique organization, the Directorate of Operations, known to some of you as the clandestine service of America.

I'm remarkably proud of this extraordinary group of dedicated professionals, their commitment and their accomplishments. Many of the men and women of my organization operate abroad in dangerous locales and always in secret. They cannot publicly appear before this commission. I'm here to represent all of them.

The threat posed by terrorists prior to 9/11 was unambiguous. The threat was not just outlined in sensitive intelligence documents. Two highly regarded commissions, the Bremer Commission, the Hart-Rudman Commission, were prophetic in laying out in unclassified context the terrorist threats that we faced, including the possibility of terrorists inflicting mass casualties both overseas and on American soil.

Two and a half years ago, that adversary shattered the sense of security the people of this country have come to cherish. We fought this enemy through the 1990s, but it was the tragedy of

September 11th that unified and focused this country and allowed us to counter this threat as never before.

The damage to al Qaeda since that tragedy has been striking: the pre- 9/11 al Qaeda leadership, almost gone; Bin Ladin and Zawahiri, in hiding; clandestine operations at the heart of some of the most dramatic takedowns of the al Qaeda organization; covert action, working hand in glove with the U.S. military to oust the Taliban and al Qaeda from Afghanistan, in an intelligence and military partnership that already is seen as a model.

I will answer all the questions you have today. But my first responsibility here is to look at where we are in this campaign and to give you a sense of where we are headed. As you know, I cannot publicly describe our operations in any detail. But I can give you, I hope, a clear sense of how we see things at this time, and how we want to chart the next steps forward.

As I paint this picture, I want to return to a few themes. One, working with partners here and abroad, we are in the midst of inflicting irrevocable damage on the al Qaeda organization. Two, al Qaeda has poisoned an international movement with an ideology that is fueling attacks from Madrid to Manila. Our mission will not end as long as members of this broad movement see the killing of innocents as an acceptable cost of achieving their ends. Three, the demise of Bin Ladin and al-Zawahiri will be a signpost, not a turning point. All of us -- you, me, the American people perhaps watching today -- must realize that this is a war with no clear end in sight.

Let me turn to where we are, by taking a step back for a moment. Think back to October 2001, and imagine what you would have said if someone had described the following future to you: Taliban and al Qaeda, essentially ousted from Afghanistan; international recognition of new leadership in Afghanistan with a political process in place; periodic times of heightened alerts in this country, but no further attacks on our soil; about three-quarters of the al Qaeda leadership gone; a worldwide coalition of partners, dozens and dozens, cooperating in a global behind-the-scenes war of massive, indeed unprecedented, proportions.

Despite all we have left to do, the vision I just described is as real today as it was unimaginable even 30 months ago. The clandestine service I lead is at the heart of some of this transformation. Men and women who are committed to helping their

countrymen gain some -- regained some of the sense of security, the American way that was so tested in these past few years.

Where does this lead us today? Where does it leave us in this campaign?

This adversary is hurt, but by no means, though, through. I think al Qaeda was surprised by the ferocity of our reaction to September 11. They had no coherent escape plan from Afghanistan. They fled, east into and through Pakistan, and west into and beyond Iran. They tried to reconstitute a command structure and they failed.

Pakistani cities are no longer a hub of senior leadership plotting, cleared of senior leaders by clandestine operations in partnership with Pakistan and its courageous leader President Musharraf. Iran detained many of the leaders who fled west. As these leadership nodes eroded, the operational cells they directed or inspired -- in North America, the Arabian Peninsula and Southeast Asia -- coiled to strike back. And they did, in Bali, Saudi Arabia, East Africa, Morocco and elsewhere, at an operational pace that was no less intense after September 11th than it was before.

But our operations, in concert with our partners, are gaining ground against the core of al Qaeda. Again, for a second, look back. Two-and-a-half years ago we would have listed our top concerns: Yemen, Saudi Arabia, Southeast Asia. And we remain concerned about extremists operating in those areas. But today, for example, almost every senior target is gone in Yemen, killed or captured.

We have targeted leadership through smart operations, human sources and joint work with partners. Khalid Sheikh Mohammed, Abu Zubaydah, Hambali, Nashiri, all senior al Qaeda leaders or associates, all taken down directly as a result of human source operations that is a fuel for our successes today.

Complimenting these classic clandestine operations is a covert action capability that became critically important two-and-a-half years ago. My officers remain in the field in Afghanistan today, providing the intelligence eyes that are helping to drive the operations of our military partners. This capability did not appear overnight. Remember, our ability to move quickly in Afghanistan, one of the most successful covert actions ever, grew out of the strategic decision we made in the

late 1990s to maintain a relationship with the Northern Alliance.

The Washington end of this story today is no less vibrant. Visit my building. Let me tell you what you will see. On covert action, interaction and coordination with the U.S. military, that is not just regular; it is daily, every single working day. We talk with military field operators daily. And Pentagon civilian and military officers sit in our Counterterrorist Center, privy to any operational detail we discuss.

You would see the same cooperation with law enforcement. On any given day, some 20 full-time FBI officers sit in our Counterterrorist Center. They know our operations and they know our human agents. We still need to learn how to continue improving this partnership, but we started learning well before September 11th when we first posted a senior FBI officer as one of the deputy directors in the center. We can and we will do better still.

People outside this circle have access to what we know, including information about our operations. We provide our backbone database, a highly sensitive combination of intelligence reporting and operational detail, to officers across the community who are sitting in the Terrorist Threat Integration Center. We have a large cadre of officers whose sole job now is to disseminate intelligence information to the intelligence community and beyond.

MR. KEAN: You're wrapping up, right, Mr. Pavitt?

MR. PAVITT: Yes sir.

Well, let me wrap up by simply making a personal comment. Seated behind me are family members of the victims of the terrible attacks. I told you that I represented the men and women of the Directorate of Operations, those people who cannot be with me today, who cannot come before a camera and have their faces shown if they're going to do their jobs. But I want everyone to know, and I particularly want the families to know, that those men and women were working ceaselessly, day in and day out, in a frenetic pace that I personally observed, doing all they could to stop what we knew was coming. We extend to all of the family members our genuine and our heartfelt condolences for the extraordinary loss that this nation and they suffered on the 11th.

We sounded an alarm. We knew the threat was lethal, unambiguous, and we knew it was coming at us. We put our hearts and our souls into disrupting and preventing those attacks. We did all we knew how to do, and we failed. We are committed to doing everything we can do, as intelligence officers, as Americans, and to work with this commission, to ensure that we do our best to never let that failure happen again. In my business there is no perfection, but we will do everything we can to be as perfect as we can.

Thank you.

MR. KEAN: Thank you, sir.

The questioning will be led by Commissioner Fielding.

MR. FIELDING: Good morning, gentlemen, and thank you all for being here. Thank you for the introductory remarks and your prepared statements.

Your panel represents the heads of the key intelligence-gathering offices of the United States government and of the intelligence community, and you're responsible for collecting, analyzing, warning and operations against terrorism. And you know, we had a chart prepared, and if you look at the chart it tries to compare -- they all start with the President and then down to your level. It seems fraught, to me, with the opportunity for duplication, replication and redundancy.

And we've all been in the government long enough to know how easy that can happen. And obviously, that's a deterioration, that's a waste of time, that's a waste of effort. So our concern is that any reformation of the process post-9/11 must avoid the pitfalls that we've all seen too much in the past.

So, what I'd like to do, just so we can all kind of sort out where you are, is see who is responsible -- which entity is responsible for which function so we can talk this out and see if there is an apparent overlapping or what there is. The real question: Is the system better than we had before, or is it just different? Will it work, or will it just cause confusion and mix the message and mess the message? And what fine-tuning might be needed as we talk, and as you've been into this for periods of time, and what fine-tuning do you see that might be useful? I mean, we've got this new word now -- fusion. But is it fusion or is it confusion? That's what we really have to figure out.

So, to inform us, I'd like to ask you all to go through kind of a grim drill, if you will. Let me -- let's presuppose that your office is operating in 2001 the way it's operating today. And let's say that the Phoenix memo surfaces. So it would come from the FBI. Okay, would you lead off and tell me what you would -- with the configuration, with the function -- and we've got to be bluntly honest today, because as we walk through this, let's find out if there's duplication, let's find out if there's any holes.

So would you start, sir, and then each of you take a crack at this.

MR. : Yes --

MR. : Yes -- I'm sorry. Excuse me. I'm sorry. No, John, I'm sorry.

(Laughter.)

MR. : He's been reading your mail. He has your information.
(Laughter.)

MR. : I thought you pointed at me, Commissioner.

MR. PISTOLE: Well, in regards to your first part of the question, does the system work, I think clearly there is an agreement and understanding that the 84 Joint Terrorism Task Forces around the country are the operational arm of the U.S. government when it comes to the investigation of international terrorism within the U.S.

So given that confine where, for example, there's 38 different agencies that participate in the National Joint Terrorism Task Force, and over 4,200 federal, state and local police officers and members of the intelligence community that are part of those task forces, there is a much better system now for the sharing of information at the grassroots level, out in the field where it counts, and then feeding that information back into the constituent agencies as represented on those Joint Terrorism Task Forces.

That -- that's an operational perspective.

When it comes to the Phoenix EC -- and I'll start off by saying that clearly that should have been pushed more aggressively, more vigorously so there would have been a greater

recognition of the possibilities. I think the Commission and the American people who are aware of this realize that that was a theory that was posited by an astute agent who said, This is a possibility. Now, we know that the pilots had already received, the four pilots had already received their license by that time. The memo came in, and he was looking at schools and universities that addressed -- or Middle Eastern males may have been conducting flight training through these schools and universities. So in that regard it was an excellent theory that should have been more vigorously pursued. The system we have in place now is a push from each field office to the centralized management of FBI headquarters and to the other agencies that are represented on the National Joint Terrorism Task Force. That push of the information like that comes very quickly now to at least my level and then on to the director in a very short matter of time through the twice-daily briefings that we provide the director in preparation of him to brief the President every morning. So, given that push and the operational aspects that we have implemented, we are in a much better position to take that information. The other side of it is the information technology fix, which I believe Director Mueller will address more in more expansive mode this afternoon. But given the technology fix that is in place in progress in the FBI now, the visibility of that Phoenix EC would be global in a very short amount of time as opposed to going to one office, for example at the headquarters, may be given to New York because they were heading up the al Qaeda investigations. There would be global visibility of that, and a maximum number of eyes and ears could look at that and say, Yeah, that's a good idea, let's do that, let's take a look at that and see what we can do with it.

MR. FIELDING: Okay. But have you taken it outside of your organization at that point?

MR. PISTOLE: Yes. The -- through the JTTF and the visibility that everybody on the JTTF has to all those type things. The other aspect is the Terrorist Threat Integration Center, where that information, non-FBI employees have complete access now to -- who are members of TTIC have complete access to all counterterrorism matters of the FBI. So even if an FBI employee did not pick up on that, there's a redundancy built in that the TTIC employees will be able to do that.

MR. FIELDING: Okay.

Mr. Pavitt.

MR. PAVITT: Commissioner, we have placed CIA officers from the directorate of operations primarily into approximately two-thirds of the JTTFs that now exist in the United States. And because of that lash-up we're going to have dialogue real time. And that dialogue real time will see my officers communicating with the FBI and also communicating back with me.

Since the 11th, as Ambassador Black mentioned yesterday, we have seen an incredible infusion of dollars and people to do what we're doing. CTC, which is a part of what we do in the operations world, is three times larger than it was on the 10th of September. In fact, larger still, if you count contractor personnel. The CTC budget since 9/11 has increased a thousand-fold since the 10th of September. And because of that, instead of being only in triage mode -- and we are still, given the thrust of what's coming at us, in triage mode -- but we are vastly able to make sure that we run everything to ground.

The director has invited the Commission to come to CIA and to sit in one of our 5:00 meetings. Perhaps it's presumptuous on my part, but let me invite you as well, because what happens at that is the fusion that you talked about. It may look confusing, but it is fusion.

That memo, I am certain, would have surfaced, and it would have generated not because it was necessarily really hard, source-specific intelligence, but would have generated a very energetic discussion. And we would have started doing things that we didn't do before.

MR. FIELDING: Okay. Thank you.

General Hughes?

GEN. HUGHES: In the context of your question, sir, I represent 180-plus thousand people who are involved in all aspects of this activity -- many of them, by the way, participating members of the JTTF structure. I represent the United States Coast Guard, the United States Secret Service, the Transportation Security Agency, the Customs and Border Protection Agency, the Immigration and Customs Enforcement, the Federal Protective Service, and the Emergency Preparedness and Response Organization, which used to be known as FEMA.

I would notify all of those intelligence entities relating to those organizations immediately, as I do now, of any intelligence of interest to them. And in this case, in the case

of the Phoenix memo, that would be passed to them immediately, as a matter of intelligence interest.

I would notify state, local, tribal, major city and private-sector entities, quite often directly, rapidly, by telephone, if indeed there was a need for immediate warning. And I would do that on occasion unilaterally to the homeland security elements, but in almost every case I would now do it in partnership with my FBI colleagues. We would do it together, in parallel or singularly, as a joint effort.

I would interact with what is currently my best partner, by the way, in this effort, the Terrorism Threat Integration Center. They perform a tremendous service, encompassing the entire global condition with regard terrorism, a true integrated organization that does integrate and fuse intelligence. And that synergy did not exist before. It does now. I think I'm portraying to you something that does exist now, that can get better in the future, as we also evolve into this new form of cooperation.

Last but not least, I have to tell you that I would of course do what I'm really in business to do: assist the government, assist the government from the local level and the private sector to the national level, with my own intelligence viewpoint, my own analytic view about whatever the intelligence says, an independent voice which is newly created. And I think that's a source of strength in this community.

Yes, it can be viewed as duplication or redundancy. In this case, I would call it necessary, vital, important and realistic redundancy to represent the domestic condition.

MR. FIELDING: Now, General, that's very helpful, but just to follow up -- and anybody else pick this up, too -- at that point, when you have that information and you're got this vast audience that are your constituents at that point, are you going to make a separate analytical judgment as to whether that's important, valid, prioritize? Will you make that at that point?

GEN. HUGHES: Yes, I would. I would give my view in the appropriate, professional environment. At some point we would no doubt reach conclusion within our community, but I have the authority and the right on behalf of my secretary to give my view.

MR. PISTOLE: And I would just add to that, Commissioner, that the FBI now has a strategic analytic component and ability that we did not have prior to 9/11 which should pick that up, but the extra set of eyes and ears that would also see that would lend to that.

MR. BRENNAN: Commissioner Fielding?

MR. FIELDING: Yes, sir.

MR. BRENNAN: Whenever the FBI moves electrons from the field to FBI headquarters, in this case the Phoenix EC or electronic communication, TTIC analysts have real-time access to that. We don't have to rely on the FBI to push it to us. We have full visibility into it. Within TTIC, then, that means that FBI analysts, CIA analysts, analysts from the Department of Homeland Security, the Transportation Security Administration, and other entities represented in TTIC would be able to have read that memo or will read that memo today, and then will discuss it among themselves and then interact with their home organizations as appropriate. As Mr. Pavitt said and Mr. Pistole, then also there are regular meetings throughout the day to discuss the events of the day in terms of what has come in.

Regarding the analysis of that, right now within the U.S. government the TTIC has the primary responsibility for terrorism analysis at the national level. Each of the other elements has responsibility for doing analysis in support of their respective missions and operational requirements. And so, just as General Hughes said that DHS would do its analysis to make sure that its folks within the broad constituencies of DHS are enabled and empowered, they would help to do that within their department. But at the national strategic level, TTIC, representing the partner agencies, does it on behalf of all of them in an integrated, fused fashion.

MR. FIELDING: Okay. And you still have -- I hope you have more than 123 people assigned to you these days. Do you have --

MR. BRENNAN: We have 124. (Laughter.)

MR. FIELDING: Oh. Oh, good. (Laughter.)

Let me ask you -- the question across the panel, then. Let's say there's a disagreement as to how important this is. Who's the final arbiter, or I hope we don't have four arbiters?

MR. BRENNAN: Let me start off, Commissioner.

First of all, we have 124. We are moving out to our new building, co-located with the Counterterrorism Division and Counterterrorism Center. At that time we will have several hundred.

When something like this comes in and there has to be an assessment done on it, TTIC will work collaboratively with the partner agencies, interacting with the analysts and the individuals back at the home agencies to put together an assessment.

Maybe it's a daily product. Maybe it's something that takes longer than a day. And if there are, in fact, differences of view within the community on this issue, those differences will be reflected in the product. What we're trying to do with this integrated infusion is to not give the policymaker a menu of options and different products that are going in so that they have to do the comparison. What we're trying to do is bring it together and tell them if there are differences of view within the community. So it provides this one-stop shopping, but reflective of the considered opinions and analytic views of the broad community.

MR. FIELDING: General?

GEN. HUGHES: In my case, I'd like to reflect on the senior decision-making groups, the deputies committees, the principals committees and the intimate meetings with the President where these issues would be taken up. All the views would be aired, I believe. But at that level, decisions would have to be made on operational response.

There are always going to be different views in the intelligence community of the United States on what one piece of information means at any given time. We are a very complex organism. But deciding upon it is the province of those leaders who are elected and appointed, who are in position to take operational response actions on it. And we owe them contrary views, alternative ideas. We owe them some clarity. We're trying to give it to them.

And by the way, I think often we do give relative community clarity on any given topic. But there are always going to be some issues that can be debated. I think that's good. I think it's a source of strength for our country.

MR. FIELDING: Mr. Pistole?

MR. PISTOLE: I believe that in the post-9/11 environment, there is an intentionality and focus of work that would preclude any inaction on something like that. And in the interagency world, to get to your question, I would pick up the phone and discuss it with my partners in the other agencies. And thus far, in the two years that I've been involved in this, that is the way we've been able to resolve things.

MR. FIELDING: Mr. Pavitt?

MR. PAVITT: I think given that kind of an issue with the Counterterrorist Center, the Office of Terrorist Analysis in CTC would, if you will, if it's a controversial issue or one there's disagreement on, would mix it up with those with whom they should mix it up. My part of that, as the person who runs the spy service, would be, if appropriate, to go out and try and find more information, seek additional information to help get clarity to an issue that might be subject to disagreement.

MR. FIELDING: Thank you all very much. I see that red light's on, but I hope somebody else on the Commission will ask you if you have any problems that you really think still do need fixing. But thank you all very much.

Thank you, Mr. Chairman.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: Thank you.

And thank you all for being here today.

We have had described to us an enemy, in al Qaeda and in Bin Ladin, who is agile and entrepreneurial. And so the question that I have tried to ask throughout these hearings is, who is our quarterback?

Who is the person in the U.S. government responsible for facing off against this enemy with all the tools that we have available? And you are the leaders of the key entities in that fight, putting aside the military aspect, for the moment.

So what I'd like to do is ask each of you, in the time I have available to me, one question. Now the question has six parts.

(Laughter.) I'm learning from Slade. (Laughter.) So if you have a pen, I would like to have this answered from each of you.

Are you responsible for: One, developing our strategy against al Qaeda? Two, determining what information we need to collect? Three, ordering the collection of that information across all agencies of our government? Four, collecting and fusing all of the information that we have? Five, warning us when there is the possibility of a major terrorist attack? And six, running coordinated foreign and domestic operations against al Qaeda?

And maybe we can start with you, Mr. Pavitt, speaking as you are for yourself and for the CTC. You can put your pencils down and fill in the little blanks.

MR. PAVITT: Have all six parts. (Laughter.)

I'm developing -- I'm responsible for developing the operational strategy using human agents and technical activities that are enabled by human agents. So I have that responsibility to devise that strategy. Just so that's -- so I can clarify that, that would be different for other parts of the intelligence community that might have a different role in that. Charlie Allen, for example, might play a role in developing a collection strategy across the board. The human part is my responsibility. And in point of fact, the Counterterrorist Center has developed a strategy for attacking al Qaeda.

MS. GORELICK: Through human sources.

MR. PAVITT: Through human sources. Yes, ma'am. Determining what info we need to, if you will, disseminate.

MS. GORELICK: The information you need to collect.

MR. PAVITT: Need to collect.

MS. GORELICK: That is, where are the holes, and --

MR. PAVITT: Again, the collections -- the senior collection manager, Mr. Allen, would play a critical role in that. I think John Brennan would play an important role in that. But so would the men and women in CTC who are driving the day-in and day-out activity.

What do we need to collect to defeat al Qaeda? What do we need to collect to find where Osama Bin Ladin and al-Zawahiri

are hiding so we can go against them? That would be something that we would develop as well. And there, frankly, is a fusion, and you have a good many people working on that. And that's a good thing, not a bad thing. It may sound like it causes confusion, but in my business, the more data we can have and the more input we can have helps us get an answer to a tough question.

I can't read number three.

MS. GORELICK: Can you -- well, I'll help you out here. Can you order the collection of data that you don't have within your own domain?

MR. PAVITT: I can certainly request -- I cannot give an -- I can't necessarily give an order, which is the same order that would carry the same authority that the DCI's order would give, but I can go to the National Security Agency and ask for their assistance.

MS. GORELICK: Can you to the FBI and order it and ask it --

MR. PAVITT: I certainly could go to the FBI, and in fact the FBI is co-located with us. So we're doing this together, in any event. But yes, I could ask for FBI domestic activity to support something that we were doing, yes.

MS. GORELICK: And could you order it?

MR. PAVITT: Yes.

MS. GORELICK: You could order the FBI to collect something?

MR. PAVITT: Well, I could ask.

MS. GORELICK: Oh, I just --

MR. PAVITT: I wouldn't presume to order John to do anything, but I would certainly be able to work with him.

MS. GORELICK: Just -- I'm just asking --

MR. PAVITT: I cannot give that order, no. If you're asking whether, from a bureaucratic point of view, that I can give a hard order, no, I cannot.

MS. GORELICK: Collecting --

MR. PAVITT: Collecting and fusing -- we collect aggressively, and it is fused, at least in part, in CTC.

Now what I collect, I also disseminate. I disseminate an intelligence report. That goes to a broad array of customers. And that's part of my responsibility. It's human intelligence that I disseminate.

The fusing of the intelligence goes to what our analytic entity in CTC produces, and then it goes into a variety of other forums, where it again is touched and looked at.

I collect and I fuse operational information. I disseminate human intelligence.

Warning? My intelligence reporting can warn. It can say that we are going to be attacked here at the capital at such and such a time, such and such a day. That would be a warning. It is an intelligence report that I've disseminated.

Others with responsibility for warning would actually sound the alarm throughout the United States government; local, state governments.

And domestic operations -- I am proscribed by law from running operations in the United States of America.

MS. GORELICK: So you would run the foreign, and someone else would run the domestic operations against al Qaeda.

MR. PAVITT: Yes, ma'am.

Now when -- in close cooperation with the FBI, we are doing more, particularly as things have changed post-9/11, to work the target across the board. But I do not have either law enforcement responsibilities, and I have very clear, unambiguous proscriptions on what I can do domestically.

MS. GORELICK: Thank you.

Mr. Pistole.

MR. PISTOLE: Yes. In response to your first question, are we responsible for developing strategy, yes, based on the -- identifying and defining what the current threat is in the U.S. And we do that through each of our individual 56 field offices, which do threat assessments, which then is fed into a national

threat assessment, which we are migrating that in this new environment, if you will, to do that collectively with DHS and with TTIC.

But yes, we are -- we do have responsibility in developing the strategy for combating --

MS. GORELICK: But just to be clear, you are developing the strategy for your own collection --

MR. PISTOLE: Yes. Yes.

MS. GORELICK: -- and while you communicate with others, you're not responsible for the collection as a whole.

MR. PISTOLE: Correct.

Second, deciding which information to be collected -- yes, with other agencies. And for example, DHS recently just gave us our first set of requirements, information they are looking for. But yes, we can -- and getting into the third question, then -- in terms of ordering the collection, setting requirements, yes, we can clearly set requirements requesting information from other agencies, just as the other agencies can do that with us, in which they -- DHS has just recently done that with their first set of requirements.

MS. GORELICK: Again, it comes in as a request --

MR. PISTOLE: As a request.

MS. GORELICK: -- as opposed to an order?

MR. PISTOLE: Yes. It's a request, but we are -- for example, the Homeland Security Act compels us to provide that information, just as the National Security Act of '47 does in that regard. So yes, it's a request, but it's provided.

The fourth, collecting and fusing information, clearly we are one of the largest collectors of information intelligence and evidence, obviously, in the U.S., and we do fuse that with the TTIC and with DHS IAIP. So again, it's a collaborative effort, but we do have that responsibility for collecting and sharing that information.

Fifth, on the warning, our warning -- the FBI's warning -- is primarily to state and local law enforcement, where we have a

95-year history of interaction with state and local law enforcement. We provide them information. We do a number of our warnings now, if you will, with Department of Homeland Security, do collaborative pieces as opposed to individual pieces. But we still maintain that relationship, for example, through the National Academy and through other entities that have that relationship with state and local police.

On the last question, in terms of running coordinated foreign and domestic ops, obviously we don't run foreign ops, but we do have responsibility through the JTTFs for running domestic ops. And we have a number of undercover operations, a number of joint initiatives with the agency, with CTC in terms of trying to do things that will infiltrate al Qaeda.

MS. GORELICK: Thank you.

Mr. Hughes.

GEN. HUGHES: Yes. I'm responsible for intelligence strategy, not the overall strategy for the Department of Homeland Security. I am responsible for determining what intelligence collection we undertake. In my view, I would use the word managing the collection requirements that we have.

MS. GORELICK: Again, this is within your own agency?

GEN. HUGHES: Within the Department of Homeland Security. But keep in mind the subordinate agencies of the department also have their own intelligence collection capabilities and their own authorities, and we work together. But I'm the point of central coordination for all of that. I'm responsible for fusing this information together. There's no doubt about that.

MS. GORELICK: Again, within your own agency?

GEN. HUGHES: Within my own agency. I look to TTIC to do the larger fusion process for the United States in large measure overseas, but in some significant measure now domestically. And all three of us sitting here would have -- all four of us, I guess -- but in the case of fusion, we three -- the Terrorism Threat Integration Center, the Federal Bureau of Investigation and the Department of Homeland Security -- would do that together. And I don't think you can identify it as a singular activity; it has to be a form of teamwork to come to grips with all of the complexity of that.

I'm distinctly responsible for issuing warning in the context of intelligence from the Department of Homeland Security for the domestic condition.

MS. GORELICK: Okay. Just so -- I want to hone in on that. When you say "distinctly responsible," you mean across the government; that you have a responsibility for warning across the government about a terrorist threat?

GEN. HUGHES: I think my secretary actually has that responsibility.

MS. GORELICK: And you support him in that?

GEN. HUGHES: I'm the intelligence officer who will provide him with the information to make the right decisions, to take that action.

MS. GORELICK: Thank you.

GEN. HUGHES: And last but not least, I do not coordinate operations.

MS. GORELICK: Mr. Brennan.

MR. BRENNAN: With our 124 officers, we now are --

MS. GORELICK: (Laughs.)

MR. BRENNAN: -- are in the process of overseeing the overall U.S. government analytic strategy vis-à-vis al Qaeda, which is an orchestration role since there are many different elements within the U.S. government that have an analytic capability.

For example, we're orchestrating the effort that we have to undertake analytically as a government vis-à-vis the upcoming Olympics in Greece, as far as what has to be done. So it's an orchestration role.

Regarding determining what information to collect, as well as ordering collection, there is the National Intelligence Priorities Framework that the intelligence community as a whole operates within. For each intelligence area, there is a topic manager identified. As Director-TTIC, I am identified as the topic manager for the National Intelligence Priorities Framework. And so, working with the ADCI for collection and others, TTIC drives the collection process in conjunction with

the other elements there. But as the topic manager from the analytic perspective, we, in fact, play a leading role in that process.

MS. GORELICK: I just would like a little clarity on this. So you are saying that you have the responsibility for determining across our government what information we should gather together, and tasking people to gather it and bring it back. Is that what you're saying?

MR. BRENNAN: No. What I'm saying is that we are in the process of playing a leading role in that as the National Intelligence Priorities Framework topic manager on terrorism, but working in conjunction with many of the other elements and individuals in the U.S. government who have a share of that responsibility. So I wouldn't say that I am the one who determines exactly what should be collected, where and when. I play a role in that process.

I also, though, and TTIC, chair the Interagency Intelligence Committee on Terrorism, the IICT, which is an Interagency group beyond the core partner agencies that are represented in TTIC, including the non-Title 50 organizations that participate in the process, to work with them on a regular basis. And that group meets quarterly to look at the priorities that are attached to the terrorist groups and the challenges that face the U.S. That process at the IICT then is fed into the National Intelligence Priorities Framework through the normal collection requirements process system.

Regarding warning.

MS. GORELICK: Warning, yes.

MR. BRENNAN: Warning. The IICT has responsibility in the intelligence community for issuing various types of warnings: advisories, alerts, warnings, issuing assessments. TTIC has issued, by itself as well as on behalf of the community, a number of different alerts and advisories, but the intelligence community responsibility as far as the intelligence community function to issue warning alerts, advisories, rests with the IICT, and TTIC now has the responsibility.

As General Hughes said, what he will then do is to work what his responsibilities are, to ensure that that alert or advisory or warning then is propagated beyond the federal family, beyond the intelligence community. Similarly, for overseas, Department

of State takes those alerts and warnings and ensures that they are passed then to the appropriate entities.

MS. GORELICK: This is very helpful. So you have the responsibility within TTIC to determine when there should be a warning. And then you provide it to the Department of Homeland Security and they -- implement the warning? Am I understanding that correctly?

MR. BRENNAN: There is intelligence community warnings, alerts, advisories that are issued, and TTIC now has the responsibility for doing that, that is correct. And then we issue them in partnership with CIA, FBI, DHS, DIA and others.

They are frequently interagency warnings, community warnings that then are used by DHS, FBI and others to then pass that warning and to do what they need to do to issue bulletins, advisories or whatever that go out to the non-federal family.

MS. GORELICK: And if you could address the issue of the collection of all-source information and the decision of how to run coordinated foreign and domestic operations, do you have -- are you our quarterback in either of those places?

MR. BRENNAN: No, I'm not. I'm on the sidelines there. I don't have any operational or collection responsibilities. It was determined that TTIC would only have an analytic and intelligence fusion function. So the intelligence and information that Jim Pavitt's organization and John Pistole's organization and Lieutenant General Hughes' organization collect, we had a responsibility for putting those pieces together of that puzzle, but we do not collect, we do not operate.

MS. GORELICK: And one follow-up question. Can you direct any of your colleagues on what needs to be collected?

MR. BRENNAN: Through the processes that have been established, through the national intelligence priorities framework, and through the collection requirement system that is very well oiled, particularly on the foreign intelligence side, we play a role in that, a leading role, and we put our regular requirements into that that they then take as collection priorities as established by the analytic community. And again, TTIC plays a key role in that.

MS. GORELICK: Thank you very much.

MR. HAMILTON: Mr. Kerrey.

MR. KERREY: Thank you very much, Mr. Chairman. And I want to just for the record say, Mr. Chairman, that I think that we should just attempt to get from the general counsel of the White House a letter saying that this is not a precedent for the DDO to appear in public. My stomach's been turning as Mr. Pavitt's been answering questions here this afternoon. This is -- this should not be a precedent for the DDO to be called before any public hearing. And just as we did with the national security advisor, the problem is it may become a precedent if we don't get some documentation in the record that this is an extraordinary situation and it's not to become a precedent for the future.

Second, let me say I would have asked John McLaughlin had -- he answered a question earlier when I was talking about the National Intelligence Estimate that was done in 1995. And I'm going to ask General Hughes a question about this, because, I'd just say, when the court in 2001 in New York heard the testimony of this gentleman, Jamal al Fadl, he essentially told them in 2001 what he told the CIA in 1996. And it never makes it into the NIE, the National Intelligence Estimate. John McLaughlin said it was modified in 1997, but I don't see ANY of the detail that I think is important. It wasn't in the NIE, that Osama Bin Ladin, as we were told in 1996, was responsible for delivering weapons to Somalis in 1993 that may have been responsible for shooting down American Blackhawk helicopters? I mean, if the President had been told that -- and my guess is President Clinton didn't know it. My guess is that President Bush didn't know it. I mean, I -- I see that court document, I say, my God, we -- that should have been the basis for a Presidential Daily Briefing, not the stuff that was in the President Daily Briefing -- (laughs) -- on the 6th of August, because it's very compelling. And I think it does provide either one of those two presidents with the kind of information that they need to go to the public and say, We've got to take extraordinary actions.

I mean, it builds a case of an army that's been very effective, not just in 1998, but previously.

And General Hughes, I want to give you a chance to talk about this a bit, because -- I want to say for the record that I also had the privilege of watching in December 1995 -- you, when you were in charge of the Defense Intelligence Agency, implemented an exceptionally difficult treaty, the Dayton Accord, that brought peace to Bosnia, a Muslim nation. We stopped the killing

in a Muslim nation, and we did it as a result of -- I don't believe we could have done it without the DIA. I do absolutely believe that we couldn't have implemented the details of that treaty were it not for you and the men and women who worked for the DIA. I mean, you and everybody that was working in that shop should feel tremendous pride as a consequence.

But I was struck, when I saw that, of how clear the presentations were. How you processed very, very complicated data and presented and understood it and then was able to -- were able, as a consequence, to determine whether or not everybody was playing by the rules. And I just don't see that, coming to the present. I mean, look at this Presidential Daily Briefing of August 6th and you say, the top military guy is an elected civilian, kind of a busy person! You know? And you look at this document. It's not clear. It's confusing. It doesn't bring the kind of sharp focus that you did at DIA. And my guess is that you are having to do a bit of that now at the Department of Homeland Security.

Just speak -- rather than answer the question, speak about what we need to do to help these top civilian leaders acquire the information that they need to make better judgments.

GEN. HUGHES: Well, it's a very good question. And I would rather not make reference to the past, 1995-1996 time frame, because I'm not prepared to do that today. I'd be happy to discuss that later, after some review of the record, if you wish.

But I have an opinion, a personal opinion on this issue of the distillation of information -- in kind of pyramid form. The base of the information we all hold together is very broad and very, what I would call unclear, in its original form as it is delivered to us from sources, sensors and methods in the field. As it is analyzed and refined and it comes to the attention of decision-makers, the information base narrows much like a pyramid.

And hopefully, the essence of our work, of analysis and intelligence delivery to the decision-maker, is to get the right information into that top of the apex of that information pyramid. That's an art as well as a science, and a skill. And I think it's wholly dependent on conditions, circumstances, the right people in the job, many variables. I don't know how to solve that problem with some kind of a magic bumper sticker kind of saying. I think it requires constant work on our part.

But I do believe -- I hope I can speak for my intelligence colleagues in general, everyone in this business is aware of the problem of losing information, a small detail, a piece of knowledge here and there, as you move up this information chain, which might be, in retrospect, vital and very important. And it's possible that that could have happened in the past, and it's certainly possible it could happen in the future. But we together are acutely aware of that and work to prevent it as best we can.

MR. KERREY: Thank you.

MR. KEAN: Commissioner Lehman.

MR. LEHMAN: Thank you.

I'd like to ask a hypothetical question of Mr. Brennan, and then also get Mr. Pistole's answer to it.

Let us suppose there is a U.S. Attorney in an American city who happens to plan to run for political office. Been known to happen. And he is conducting a criminal investigation, let us say a drug investigation. And in, let us say, an authorized wiretap, gets his smoking gun that will get the indictment that he seeks, but it happens to be one that shows this target's link to al Qaeda. What makes you think you're going to get it before he gets the credit by getting his indictment?

MR. BRENNAN: I would really like John Pistole to address the issue about how the -- (laughter) -- how the information would be coming, because as I said, TTIC is not a collector. What we access is all the information that has been collected by those agencies and departments that have been duly authorized to collect that information. And so information that is coming out of an ongoing case, or whatever, that the Department of Justice would be involved in, there are mechanisms in place that we can make sure that the FBI and Department of Justice are aware of our interest in information. But I would defer to John as far as how the FBI, Department of Justice then would make that information -- or how it would come up to them.

MR. LEHMAN: So you have no powers to enforce sharing? In other words, if somebody doesn't come to you and give it to you from one of the agencies, then you have no --

MR. BRENNAN: As I said, I can look into John Pistole's electronic communication databases. Anything that comes in from

the field to FBI headquarters, we have visibility into that when it comes in. I don't have to rely on John or somebody at FBI headquarters to pass it to us and package it up. We have that real-time visibility into it. So if it in fact made its way back from that place, that city, to FBI headquarters, and it was related to terrorism in any fashion whatsoever, we would in fact have the ability to see it.

MR. LEHMAN: Mr. Pistole.

MR. PISTOLE: Thank you. It's a dynamic that we deal with every day in the course of our investigations. With the focus, the shift being to intelligence collection, analysis, exploitation and dissemination, a decision is made on a daily basis as to which cases should move forward in which arena -- should it be pursued as an intelligence collection, should it move into the criminal justice arena?

The simple answer is, because the attorney general and the director discuss these issues every day, they set the tone and make the decisions as to which cases will move forward on a prosecutive track.

And so, given the support of the attorney general and, obviously, the director to look at everything from an intelligence perspective, we have a number of ongoing investigations right now that prosecution, even though available, is being deferred in lieu of further collection, exploitation, analysis and dissemination of the intelligence. Obviously, if there's any threat information that comes up, that may cause everything to change instantly. If we have the ability to pull somebody off the street with some type of criminal charge on something else, when they start talking about a possible threat, we have that ability, which is the beauty, if you will, of having the integrated focus of law enforcement and intelligence in one agency.

MR. LEHMAN: But ultimately it still depends on the altruism and judgment of the U.S. attorney running the case as to how soon he shares that with headquarters.

MR. PISTOLE: Well, a couple issues on that. The FBI, obviously, as the collector of that information, is going to have it before the U.S. attorney will, so a U.S. attorney's not going to be able to prosecute a case until they get the evidence, if you will. The FBI will make a decision in very close coordination with the Department of Justice as to what

should be moved forward on a criminal track. We have daily meetings with the attorney general, the head of the Criminal Division of the Department of Justice, the deputy attorney general, myself, the director, the head of the Criminal Division. All these people are discussing these very issues on a daily basis. Again, that's the dynamic we deal with in a post-9/11 environment.

MR. LEHMAN: But you're describing a process that is inherently going to put days, maybe weeks, of delay before it comes from the collection in the criminal case to Mr. Brennan's attention.

MR. PISTOLE: No, I disagree with that, sir, because he is still getting the information that is collected. As soon as that is collected and put into, obviously, the FBI's system --

MR. LEHMAN: But that's the key; it has to be put into the sharing system.

MR. PISTOLE: True.

MR. LEHMAN: And U.S. attorneys don't like to share.

MR. PISTOLE: The U.S. attorneys don't control that aspect of it, if you will. And obviously, they are close partners in any type of movement, whether it's material support or a material witness warrant, whatever it may be. But it is a collection that is provided through TTIC, through any number of means, but the prosecutorial decision is made at a headquarters level in close concert with the U.S. attorneys and our special agents in charge of each of the offices. But that's part of the benefit of having a centralized, integrated approach to each investigation.

MR. LEHMAN: Thank you.

I have one last question of Mr. Pavitt. In 1986, the CTC was set up precisely to fuse what was going on in the terrorist threat world. On September 11th, what went wrong?

MR. PAVITT: Well, as I said in my statement, Commissioner, we simply failed to uncover the necessary intelligence, penetrate al Qaeda at the appropriate level, at the leadership level, to stop the attacks. In 1986, I think in truly a bureaucratic, raking way, the intelligence community, the CIA in particular, looked at something, took a vice presidential commission recommendation and created a center.

It caused all sorts of issues. People fought it. People did not want to be a part of it. But what it did was merge analyst and operator in a way never merged before. It put operational traffic in the hands of the analyst. It brought in by 1989 a host of people from outside of CIA: FBI, Secret Service, FAA, NSA, and many, many others. And it was a very significant step forward in doing something against what was perceived in 1986 as an extraordinarily important target, better than we were doing it. And it set the standard, if you will, and became the model for other creations: proliferation, counterintelligence.

I cannot in public session give you the number, although I think, commissioner, you know the number of people we had in CTC on the 10th of September: WOEFULLY -- WOEFULLY inadequate to the threat that was out there. As I said, it has tripled. It's more than tripled, if you count people who are not actually staff officers of CIA or other agencies. We're still -- we're still -- struggling to deal with the volume of information that we're receiving. There's nobody who would like to be able to answer your question more definitively than I just have than me, that the reason we failed is because we didn't care, the reason we failed is because we weren't working hard, the reason we failed is because we were not recruiting spies overseas, the reason we failed is because we did not have good tactical operations. We were doing all those things. But 19 people, as Commissioner Fielding has said repeatedly, and I think most appropriately, simply beat us, all of us.

I believe that CTC was the right model. Given its staffing today, given the kind of dynamic operations and the kind of product that we're producing today -- and I mean analytic product as well -- we are making significant headways. The 11th was a terrible tragedy. Prior to the 11th, other terrible tragedies were stopped because of CTC. American lives were unambiguously saved because of what they did.

And let me make sure that I don't just put this on CTC's shoulders. CTC is an operational-slash-with analytic capability organization. But it is also something which all of my stations and bases around the world support. My chief of station in country X or country Y is driving counterterrorist operations today -- and was prior to the 11th. We tried to put the right focus on this. It was an incredibly difficult target.

Remember that absolutely chilling video that we all saw, with Osama Bin Ladin sitting with some of those who murdered our citizens, laughing and talking about -- some of those people

that were in the 19 did not know what was going to happen. That's not an excuse, sir. It's not an excuse. But it does give you some sense of just how damn difficult it was to get in there and do it.

I would like to promise this commission, I'd like to promise the people who are listening to what we're saying today that I have now in place, because of the largesse of Congress or the largesse of the executive, I have in place what's necessary to stop this from happening again. I can't say that. I know that we have in place vastly better capability, and as a result we will do much better. But the threat is absolutely ominous, it's constant, it's changing, it's evolving.

And to make sure that we don't have it happen again is something I can't stand before this commission and say I'm able to do.

MR. LEHMAN: Thank you.

MR. KEAN: Commissioner Ben-Veniste.

MEMBER OF THE PUBLIC: Sir -- (inaudible) -- I do believe that we have the power to stop terrorism by --

MR. KEAN: The committee will stand in recess for a minute while the police restore order.

MEMBER OF THE PUBLIC: (Off mike.)

MR. KEAN: Mr. Ben-Veniste.

MR. BEN-VENISTE: Thank you, Mr. Chairman.

My question is directed to Mr. Pistole and Mr. Pavitt. And I want to return back from the more general to the very specific.

On October 12th, 2000, the United States warship the *Cole* was attacked, and 17 sailors were killed. Many more were wounded. Our staff has shown us that by late December 2001 (sic), there was compelling multi-sourced information, collected by our intelligence agencies -- FBI and CIA and the NSA and others, working cooperatively -- which showed that al Qaeda was responsible for the *Cole* -- late December 2000.

Our government had previously warned the Taliban government in Afghanistan, which was harboring al Qaeda, that we would hold

it responsible for any further attacks by al Qaeda, inasmuch as al Qaeda had repeatedly rejected our diplomatic efforts, which, as you know, were very wide-ranging and did not rest entirely on U.S. efforts but through our friends' efforts as well; presumably that we would retaliate militarily against the Taliban for al Qaeda's actions, because the Taliban was harboring al Qaeda.

Now yesterday Attorney General Ashcroft was asked, I think by my friend Governor Thompson, why we did not retaliate in response for the *Cole*, given the information that we had. Attorney General Ashcroft said, in words or substance, that while it was clear that operatives of al Qaeda were responsible for the *Cole* attack, there was some issue regarding command and control within al Qaeda that did not with some specificity indicate that Osama Bin Ladin was responsible for ordering the *Cole* attack.

Now I'm very disturbed and confused by that answer.

The Taliban was protecting al Qaeda. Al Qaeda was a large organization, as we have heard by this time in late 2000. Whether or not there was an issue about command and control, and these were some rogue al Qaeda, unbeknownst to Bin Ladin, who had operated in secrecy and planned and attacked the *Cole*, the information apparently was not presented by either the FBI or CIA to the President of the United States, either President Clinton, or if we are to understand what has been said so far, to President Bush. Now, how can that be?

MR. PAVITT: Commissioner, my purpose in being here is to talk about the collection that we do in the clandestine service. We did collect intelligence on that. What we do with that intelligence is disseminate it the way we disseminate intelligence in what is called, as you know -- I won't use the name; but as we disseminate intelligence. I won't use it publicly. And that's what we did.

There was an analytic churn going on. There was a very high standard. But at the end of the day, the question that you ask is why something was not done, is a question that I can't answer because it was a decision not in my control. It was a policy decision.

MR. BEN-VENISTE: Clearly you had come to rest by December, the end of December 2000, where it was unambiguous that al Qaeda was responsible for the *Cole*. We had taken the position that the

Taliban should expel al Qaeda. If we had responded militarily in December or January or February against the Taliban, perhaps they would have gotten the message: Expel al Qaeda.

MR. PAVITT: Commissioner, in terms of what I can testify about today, and what I'm here to testify about is what I did, which is I produced intelligence and I did disseminate the intelligence, such as it was. Some was good, some was not so good.

MR. BEN-VENISTE: Let me ask Mr. Pistole.

MR. PISTOLE: Yes, Commissioner. I think the one point that I would make is the distinction between what the intelligence said in December of 2000, and the point that I think you're getting to in terms of the retaliation, was there proof from a criminal justice perspective, and honestly that's a different standard.

MR. BEN-VENISTE: Did we need proof beyond a reasonable doubt to put in a court of law?! Is that what you're saying?

MR. PISTOLE: That is --

MR. BEN-VENISTE: Is that what the attorney general is saying --

MR. PISTOLE: I can't --

MR. BEN-VENISTE: -- that we would not retaliate without proof beyond a reasonable doubt that Osama Bin Ladin ordered his operatives to attack the *Cole* before we would deal with the Taliban?

MR. PISTOLE: I obviously can't speak on behalf of the attorney general what his intent in his comment.

The question that I thought you were directing, as to what information, what evidence, if you will, did we have to prove that, is the way that your question was framed. And clearly, the intelligence indicated that Bin Ladin and others -- Badawi, Quso, others -- were involved in the *Cole*.

The question of retaliation is so far beyond my scope of -- my lane, if you will, I can't address that.

MR. BEN-VENISTE: But we have heard from both presidents --

MR. KEAN: This is the last question, Commissioner.

MR. BEN-VENISTE: Okay. We have heard from both presidents a claim that neither the FBI nor the CIA came to rest and said that al Qaeda was responsible.

And are -- if you're saying that the reason you didn't say that to the President is because you didn't have proof beyond a reasonable doubt, well, that's news.

MR. PISTOLE: Absolutely not, sir.

MR. BEN-VENISTE: Okay.

MR. KEAN: Commissioner Roemer?

MR. ROEMER: Thank you, Mr. Chairman.

Welcome. Your testimony has been very helpful to us. Let me just replay what somebody said to us yesterday. I don't know if you were watching the hearing yesterday. But I think it was Mr. Pickard with the FBI who at one point described Ramsi Yousef, one of the terrorists that was involved in a couple of the plots against the United States, and said that he could speak six languages, that he was a double major, a chemical and electrical engineer, and that he worked off a(n) encrypted laptop computer. That's the kind of adversary, or the kind of enemy, the kind of terrorist, the kind of lethal decision making that can go against the United States very quickly.

My question, my first question to you -- let me start with you, Mr. Brennan -- is can you send a classified e-mail with an attachment directly from your organization to Mr. Hughes'?

MR. BRENNAN: Yes, I can.

MR. ROEMER: Can you send it, Mr. Hughes, to the FBI and Mr. Pistole?

GEN. HUGHES: I can, senator, but not with the kind of ease that we would like to be able to do in the future.

MR. ROEMER: What's the problem? With -- is the problem with the classification, or a problem with the attachment?

GEN. HUGHES: It's the technical interface between the Department of Homeland Security and the FBI. But we have FBI

liaison officers present in the Department of Homeland Security. We would pass it to them, and they would transmit it or receive it. It gets to the FBI. Or we would use secure fax. I took your question to mean an automatic, direct link, file transfer to file transfer.

MR. ROEMER: Correct.

GEN. HUGHES: That is not in place, but we anticipate that it will be.

MR. ROEMER: You cannot do that yet. How -- how long will it take?

GEN. HUGHES: I don't know.

MR. ROEMER: Mr. Pistole, you to Mr. Pavitt or the CIA?

MR. PISTOLE: Yes. We're still building the infrastructure with DHS, but clearly with TTIC or the CIA.

MR. ROEMER: Mr. Pavitt, can you back over to Mr. Brennan and Homeland Security?

MR. PAVITT: Yes, sir.

MR. ROEMER: Directly?

MR. PAVITT: To my knowledge, yes, sir.

MR. ROEMER: You're positive.

MR. PAVITT: And if I -- and if I can't go directly, I can go directly to TTIC, without question. To DHS, I don't have the same level of confidence at this point; to the FBI, without any question.

MR. ROEMER: Okay. Okay. Let me ask you another question with respect to technology. Let's say, Mr. Brennan, one of your analysts wants to get into a database with a lead on a terrorist.

Can you get directly into Mr. Pistole's database?

MR. BRENNAN: Yes, I can.

MR. ROEMER: And can you get into Mr. Hughes' database?

MR. BRENNAN: The databases that we have within TTIC from DHS, yes, I have real-time access to those databases.

MR. ROEMER: And can you get into Mr. Pavitt's?

MR. BRENNAN: Yes, I can.

MR. ROEMER: And do you have to do those individually, then? Do you have to task each one of them separately? So your analyst is saying, "I gotta find something out right away about Ramzi Yousef." I've got to go to each one of these databases individually.

MR. BRENNAN: That's an excellent question. Yes, what we have to do right now is to do it sequentially as opposed to doing a simultaneous search. What we're doing is building the integrated architecture that allows us to pulse all of them simultaneously so we can bring something up together.

MR. ROEMER: How long will that take?

MR. BRENNAN: Good question in terms of how many of those databases we want to put together in that federated architecture, but over the course of the next year, we're going to be building that. Right now we can do it in different --

MR. ROEMER: Because you're the fusion center, right? You should be able to do that before anybody, I would hope.

MR. BRENNAN: Yes. Yes. And we are working with them collaboratively to build that type of architecture. It's going to be months.

MR. ROEMER: Last question. Who has the job of compiling and holding the government's institutional knowledge and memory of what we know about al Qaeda, inside the country and outside the country? Who does that? Which one of you?

MR. PISTOLE: The FBI has the responsibility for inside the country. We work collaboratively --

MR. ROEMER: These al Qaeda members don't care. They go everywhere. So you do it inside, and you do it outside, Mr. Pavitt?

MR. PAVITT: I don't know whether I have the responsibility, Congressman Roemer, but I can tell you that CTC and CIA's

Directorate of Operations and Directorate of Intelligence are doing that. I don't know whether I have that responsibility, but I know that we are, in fact, doing that. We have a tremendous --

MR. ROEMER: So the first question will have to be who's got the responsibility for it, and how do we figure out who has the database and how do we connect people up to it.

Thank you, Mr. Chairman.

MR. KEAN: Thank you very much.

Commissioner Gorton.

MR. GORTON: Mr. Pavitt, I am told that you testified to the Joint Inquiry and also told privately to our staff that more money would not have prevented the 9/11 attacks. Is that correct?

MR. PAVITT: Yes, sir.

MR. GORTON: On another subject, perhaps starting with you but asking each of you to comment on it, let's take the specific Mihdhar case. You know, picked up, lost, had a visa to the United States, came back here early in 2001; knowledge that he was a matter of any interest didn't get to the FBI until August, and then got there in a fairly routine, non-emergency fashion.

If an identical situation took place today, how would it be handled differently? How would it have been managed?

What role would each of you have had in it? Would it have been done more efficiently? Might we well have picked him up before 9/11?

And I think probably the greatest burden of that is on you, Mr. Pavitt, but I want everyone to comment on it.

MR. PAVITT: Senator, your second question actually relates back to your first.

MR. GORTON: Okay.

MR. PAVITT: I do not believe that additional resources, which I argued for vigorously to Congressman Roemer and to Senator Kerrey and a whole host of other people, I do not believe that

at the end of the day that would have allowed me to have a different answer than the one I gave you, which is no.

However, additional resources, particularly people, particularly people, I believe could have had a different impact on how the Hazmi and Mihdhar information was handled and dealt with. It was a mistake that certain things were not done. It was the intention not to make that mistake; it was the intention to do the right thing. It was the intention and the understanding of those who played, as I believe staff has stated to the Commission, that they thought they had done the right thing. But they can't, if you will, demonstrate that by producing a piece of paper.

I used the concept of triage in describing some of the things we were doing. Back in August of 2001, in CTC alone there were 19,000 CIA-generated messages -- 19,000, and a handful -- and I mean a handful of people dealing with them. Is that something we're proud of? Absolutely not. Is it something that contributed to the error? Yes, it did. It wasn't done the way we would do it today. We have put in safeguards. We have created training programs. We have indoctrinated. We are in lockstep with the FBI and others in the community on what we need to do when we have that kind of information. But at the time it initially surfaced, it was a blip on a very, very complex radar screen. Not an excuse, again. We actually mounted very sophisticated operations, as you know, to figure out what this was. And then the next blip came up and the focus wasn't as complete as it could have been.

MR. GORTON: Would the name have gotten to the FBI earlier, under your present set of circumstances?

MR. PAVITT: Absolutely, sir. I believe absolutely. Yes, sir.

MR. GORTON: All right, Mr. Pistole.

MR. PISTOLE: Thank you, Commissioner -- Senator. The Mihdhar/Hazmi case is a good representative of some of the challenges that the U.S. intelligence and law enforcement community dealt with prior to 9/11. In one essence, in the sense of the interdependence of the agencies upon one another, obviously we can't take action until we receive information. But it also demonstrates, for example, the inadequate tools that we were playing with at the time -- that we dealt with at the time, that the PATRIOT Act and FISA court review decisions have eliminated.

But, for example, one of the fundamental hallmarks of the American legal system is the doctrine of fairness. Obviously, defendants are entitled to a fair trial and the right to confront their accusers, and things like that. We were not playing on a fair playing field at the time. And your staff has done an excellent job of detailing some of the challenges that the FBI in New York dealt with with the agency in trying to share information of an intelligence nature with criminal investigators who had perhaps the best information to provide to shed light on it.

It's almost analogous to the military. We would never send our men and women of the armed services into combat with antiquated weapons or communications systems, yet that's exactly what we are doing to the men and women of the CIA trying to fight this battle with antiquated rules and techniques.

So that's the major change since prior to 9/11.

And then just the integration, as Mr. Pavitt mentioned, of personnel, which we had prior to 9/11, but the further integration, at an operational and analytical level, between the CIA and FBI.

MR. GORTON: General Hughes, Mr. Brennan, can you can add anything to that?

GEN. HUGHES: Yes. And with regard to things getting better, the advent of the Transportation Security Administration and the restructuring of the Immigration and Naturalization Service into the Immigration and Customs Enforcement Bureau and the Customs and Border Protection Bureau, an outgrowth of the old Customs -- U.S. Customs organization, and some features of immigration -- those three new entities, restructured or originated newly, would make everything different -- watchlists, screening of personnel, eyes on, the US- VISIT program -- any number of activities would probably have caught this person coming into the United States, with one provisio (sic), and that is that the name of the person, generally speaking, would have to be entered in the databases and the knowledge bases that we depend upon.

There is chance that this person might have acted in a way that would cause their intercept to occur without that. So I don't want to give you a hundred percent categorization that we have to have that intelligence in all cases. But generally speaking, the changes in the system that have been made since 9/11 would greatly ensure, I think, that this kind of entry by a

person known to us, like that person generally was, would now be intercepted and vectored into screening and interrogation and incarceration, hopefully, if that's what they deserved.

MR. BRENNAN: I agree. There's just been so many changes. In addition to redundancy that's been built into CIA, making sure that they have the eyes on these pieces of traffic, the Homeland Security Presidential Directive 6 of last September that the President signed, which overhauled the entire watchlisting and screening process, the establishment of the Terrorist Screening Center that is administered by the FBI -- it is a much more efficient and effective system today than it was in September of 2001.

MR. GORTON: Thank you all. Thank you, Mr. Chairman.

MR. KEAN: Vice Chairman Hamilton.

MR. HAMILTON: The chairman runs a tight ship around here, and we're at 1:00, so I know we've got to conclude. I've asked if I could just ask one thing very quickly.

Mr. Brennan, there was a sentence in your statement that really caught my eye, and I'd just like to give you a chance to comment on it briefly, if you would. At the end, you say, when you're talking about the organization and the structure, "While significant progress has been made since then" -- 9/11 -- "I believe that we as a government and as a nation are not yet optimally configured to deal with the terrorist threat," end of quote.

That is quite an extraordinary statement coming from an Administration witness. And it clearly suggests that you think there's a better way to do it, and I'm interested in what you're thinking about there.

MR. BRENNAN: Well, Commissioner, as you were talking with the DCI this morning about the potential organization issues, structural issues, the intelligence community -- I think this commission has raised a number of important issues about the fusion and integration capabilities across the U.S. government -- that maybe we as a government need to take a fresh look at how we are organized, because there are so many capabilities across the government -- people working very, very hard and the structures that have been in place have been in place for the past 50 years.

There was mention made of the Goldwater-Nichols model, or the GE model, which actually will have integration and fusion at the working level. And I think from an intelligence perspective I really see every day in TTIC the real force-multiplier effect of having the different representatives from the different entities across the U.S. government involved in the fight against terrorism, co-located and working collaboratively side-by-side. I think as we move out to the new building -- TTIC, CTC and CTD -- that the two premier elements within the U.S. government, the Counterterrorism Center and the Counterterrorism Division, are going to find new ways, in fact, to integrate and bring their capabilities together.

What I think what we want to do is take a look at how the overall business architecture of the U.S. intelligence community is organized, because as we talk about information sharing, moving information, if you don't have that business process architecture correct, you're not going to get the information sharing architecture right.

MR. HAMILTON: I don't mean to put you on the spot. It's not an easy question I've asked you. But perhaps, if you have any thoughts that you would like to convey to us privately, I'd be very pleased to hear from you about it. Of course that applies to any of you.

Your testimony this morning and now this afternoon is all -- each of you has been very, very helpful to the Commission. We're grateful to you. Thank you very much.

MR. KEAN: I'd like to join my thanks. You all have been extraordinarily helpful. Thank you very much both today and for help in the past, and perhaps for help in the future, if we have some other questions.

I would ask the audience, as I do every time, please do not leave bags or packages on your chairs, because the Capitol Police will take them away somewhere. So please take them with you.

Thank you all very much. We'll reconvene at 2:00.

**PANEL THREE OF THE TENTH HEARING OF THE NATIONAL COMMISSION ON
TERRORIST ATTACKS UPON THE UNITED STATES
SUBJECT: "LAW ENFORCEMENT AND THE INTELLIGENCE COMMUNITY" THOMAS**

H. KEAN, CHAIR; LEE H. HAMILTON, VICE CHAIR PHILIP D. ZELIKOW, COMMISSION EXECUTIVE DIRECTOR, AND CHRISTINE HEALEY, SENIOR COUNSEL, PRESENT STAFF STATEMENT: "REFORMING LAW ENFORCEMENT, COUNTERTERRORISM AND INTELLIGENCE COLLECTION IN THE UNITED STATES"

WITNESSES: ROBERT S. MUELLER III, DIRECTOR, FBI MAUREEN BAGINSKI, EXECUTIVE ASSISTANT DIRECTOR FOR INTELLIGENCE, FBI

216 HART SENATE OFFICE BUILDING
2:12 P.M. EDT, WEDNESDAY, APRIL 14, 2004

MR. KEAN: (Gavels.) I hereby reconvene this hearing.

Commission staff will now present its staff statement, "Reforming Law Enforcement, Counterterrorism and Intelligence Collection in the United States." Staff chairman -- statement will be read by Phil Zelikow and Christine Healey.

MR. ZELIKOW:

Members of the Commission, with your help, your staff has developed initial findings to present to the public on the FBI's current capacity to detect and prevent terrorist attacks upon the United States. This is the statement on the FBI today. These findings may help frame some of the issues for this hearing and inform the development of your judgments and recommendations.

This report reflects the results of work so far, and we remain ready to revise our understanding as our work continues. This staff statement represents the collective effort of a number of members of our staff. Peter Rundlet, Christine Healey, Lance Cole, Caroline Barnes, and Michael Jacobson did most of the work reflected in this statement.

We were fortunate in being able to build upon strong investigative work done by the Congressional Joint Inquiry and by the Department of Justice's Office of the Inspector General. We have obtained excellent cooperation from the FBI and the Department of Justice, both in Washington and in six FBI field offices across the United States.

It is important for us to emphasize that during the course of our investigation we met outstanding FBI and Department of Justice employees, including analysts, agents, translators, and surveillance specialists, among others, who strive daily to overcome great obstacles for little recognition in order to

safeguard our country. Their dedication, effort and sacrifice are remarkable.

On September 4, 2001, Robert Mueller became the Director of the FBI. Soon after the attacks, Director Mueller began to announce and to implement an ambitious series of reforms aimed at, in his words, "transforming the Bureau into an intelligence agency." The FBI's leadership has set in motion an impressive number of potentially significant reforms. We believe the FBI is a stronger counterterrorism agency today than it was before 9/11.

Most of the proposed reforms are a work in progress. Institutional change takes time. In field visits last summer and fall, two years after 9/11, we found there was a gap between the announced reforms at FBI headquarters and the reality in the field. There may have been additional progress since then.

We divide our discussion of these reforms and the FBI's current capacity to detect and prevent terrorist attacks in the United States into the following four broad areas, tracking the critiques in Staff Statement number 9: management priorities and strategy; intelligence collection and processing; strategic analysis; and knowledge management.

Chris?

MS. HEALEY:

Management Priorities and Strategy. After 9/11, the FBI abandoned its former opaque structure of "tiered" priorities in favor of a short, clear list of priorities. It made "protecting the United States from terrorist attack" the number one priority. It downgraded the priority attached to once sacrosanct parts of the Bureau's mission, including general crimes and narcotics enforcement, which are being left more to state and local agencies or the Drug Enforcement Administration.

FBI leadership also moved quickly to centralize the management of the counterterrorism program. This centralization represents a shift away from the pre-9/11 "Office of Origin" model in which the field office that initiated a case maintained control over it. All significant international terrorism cases and operations are directed from FBI headquarters. Director Mueller explained that "counterterrorism has national and

international dimensions that transcend field office territorial borders and require centralized coordination to ensure that the individual pieces of an investigation can be assembled into a coherent picture."

Director Mueller has also endeavored to transform the reactive law enforcement culture of the FBI. In the course of announcing reforms in May 2002, Director Mueller said, "What we need to do better is to be predictive. We have to be proactive."

Along with these changes, the FBI has received large increases in funding since 2001. Appropriations to the FBI's National Security program have nearly doubled between September 11 and today. The FBI reports that the number of counterterrorism agents has increased from about 1,350 on 9/11 to nearly 2,400 today. It has also increased the number of analysts and language translators supporting the counterterrorism mission. The FBI has also created a number of specialized counterterrorism units at its headquarters. These include a unit to analyze electronic and telephone communications, a unit to exploit intelligence gleaned from documents or computers seized overseas by intelligence agencies, a surge capacity to augment local field investigative capabilities with specialized personnel, and a section to focus on the financial aspects of terrorism investigations.

Because of Director Mueller's efforts, there is widespread understanding that counterterrorism is the FBI's number one priority.

However, many agents in the field were offended by the director's statements that the FBI needs a new, proactive culture. Some agents who had worked counterterrorism cases before 9/11 felt prevention had always been part of their mission. We also found resistance to running counterterrorism cases out of FBI headquarters. Many field agents felt the supervisory agents in the Counterterrorism Division at headquarters lacked the necessary experience in counterterrorism to guide their work. In addition, because the organizational chart for the Counterterrorism Division has changed many times since 9/11, some field office personnel told us that they no longer have any idea who is their primary point of contact at headquarters.

The expertise of agents, analysts, linguists, and surveillance personnel contribute to effective counterterrorism operations. However, FBI personnel continue to be pulled away

from counterterrorism to assist on criminal investigations. At present, the FBI attempts to address field office reassignments and disruptions primarily through its inspection process.

Director Mueller believes that while counterterrorism is the number one priority, all agents should have training and experience in traditional criminal matters. The director expects to implement by October a special agent career track that requires new agents to start at a small FBI office and be exposed to each of the FBI's four program areas for their first three years. The programs are counterterrorism/counterintelligence, cyber, criminal investigative, and intelligence. Thereafter, agents will be transferred to one of the largest field offices with a primary assignment in an area of specialization. The FBI will also require agents who seek to be promoted to assistant special agent in charge or section chief to have an intelligence officer certification.

Intelligence collection and processing. The FBI is widely regarded as one of the best post-event investigative agencies in the world. Many outside experts spoke to us about the FBI's incredible forensic abilities, as illustrated by the Lockerbie case, which enable agents to piece together evidence of a crime. The question after 9/11 has been whether the FBI can also collect intelligence that will lead to the prevention of attacks.

Director Mueller's articulation of priorities has reached the field. FBI personnel consistently told us the current policy is that no counterterrorism lead will go unaddressed, no matter how minor or far-fetched. They also told us that there should be no backlog on translations for international terrorism cases.

Many agents in the field told us that there is a new aggressiveness in pursuing international terrorism cases and a new push for agents to recruit more sources and assets. Agents are no longer required to open up parallel intelligence and criminal cases for each terrorism investigation. The "wall" is down. All international terrorism cases are now treated simply as counterterrorism investigations.

The USA PATRIOT Act, passed by Congress approximately six weeks after 9/11, provided additional investigative tools and has lowered or removed legal hurdles that were widely believed to have hindered the FBI's intelligence investigations. The Attorney General Guidelines, which set forth the standards and

parameters of the FBI's investigative authority, have also been changed by Attorney General John Ashcroft. These guidelines now allow for greater flexibility in employing investigative methods, such as permitting agents to attend public events and to search the Internet, including publicly available subscription services, before opening an investigation. These legal and policy changes have prompted significant public debate about the appropriate balance of civil liberties, privacy, and security. Many of these issues were addressed during the Commission's hearing last December.

Nearly all FBI personnel we interviewed praised these legal and policy changes. When pressed to describe which of the new authorities are most helpful to them and how they employ them, however, there was much less certainty. In fact, there appears to be widespread confusion even among DOJ and FBI personnel over what the PATRIOT Act actually allows. Although the FBI has revamped and increased its training programs, the FBI's general counsel recently conceded that much more training and guidance must be provided to personnel in the field.

Many agents in the field told us that although there is now less hesitancy in seeking approval for electronic surveillance under the Foreign Intelligence Surveillance Act, or FISA, the application process nonetheless continues to be long and slow. Requests for such approvals are overwhelming the ability of the system to process them and to conduct the surveillance. The Department of Justice and FBI are attempting to address bottlenecks in the process.

To develop a collection strategy, FBI headquarters has recently undertaken an intelligence capabilities survey of field office intelligence collection derived from all sources. This survey is an appropriate first step in an effort to obtain a comprehensive view of the FBI's capability to collect intelligence against its investigative priorities and to identify the critical gaps in collection.

Recruitment of sources has increased, but agents recognize more sources are needed. Michael Rolince, who at the time was acting assistant director of the Washington field office, told us that although the FBI knows "ten times" more now about the radical Islamic community in his territory than it did before 9/11, its knowledge is at about 20 on a scale of one to 100. A supervisor of an international terrorism squad told us the FBI has not adequately reached out to the communities in which it should be developing sources.

He believes that while agents are complying with the FBI's policy that they investigate any lead that comes in, other systematic work -- collection work is left undone. There have not been many instances in which the FBI has been able to recruit an asset to go abroad with specific collection requirements. Despite the widespread view that assets and informants are the best source of intelligence on where potential terrorists are and what they are doing, many agents complained to us that the training they received on how to recruit, validate and maintain assets was inadequate.

Another ongoing problem is the shortage of qualified language specialists to translate the intercepts. While highest priority cases are supposed to be translated within 24 hours, the FBI cannot translate all it collects. According to a recent report by the Department of Justice inspector general, "the FBI shortages of linguists have resulted in thousands of hours of audio tapes and pages of written material not being reviewed or translated in a timely manner." The choice is between foregoing access to potentially relevant conversations and obtaining such conversations that remain untranslated. Despite the recent hire of 653 new linguists, demand exceeds supply. Shortages of translators in languages such as Arabic, Urdu, Farsi, and Pashto remain a barrier to the FBI's understanding of the terrorist threat.

In addition, language specialists suffer from not being part of an integrated intelligence program. During our field visits, language specialists told us that their summaries and translations are usually not disseminated broadly, not uploaded into a searchable database, and not systematically analyzed for intelligence value. The individual case agent has the responsibility for determining whether the information should be disseminated and to whom. Several language specialists expressed concern that neither the case agents nor the analysts coordinate with them sufficiently. As a result, the language specialists often lack the proper context to understand the significance of otherwise innocuous references they hear or read. Moreover, we have learned that if a language specialist mishandles the translation, there are few checks to catch the error.

Finally, at every office we visited, we heard that there were not enough surveillance personnel to cover the requests to conduct live physical surveillance of identified terrorist suspects. Like the language specialists, surveillance personnel are not treated as part of an integrated intelligence program. In most cases, their logs are not searchable electronically and

they do not meet regularly with case agents to learn about the targets and the broader investigation.

Strategic Analysis. In response to widely recognized shortcomings, an Analysis Branch was created in the Counterterrorism Division soon after 9/11 with the mission of producing strategic assessments of the terrorist threat to the United States. The College of Analytic Studies also was created at the FBI's Quantico training facility to improve the quality of training for new analysts.

On January 30th, 2003, Director Mueller announced what FBI leadership has described as the "centerpiece" of its effort to improve intelligence analysis: the establishment of the executive assistant director for intelligence. Mueller stated that "the directed and purposeful collection and analysis of intelligence has not previously been a primary" focus of the FBI. The position was created to provide one official with direct authority and responsibility for the FBI's national intelligence program. The many responsibilities assigned to the new executive assistant director fall into four general areas: intelligence collection, analysis, dissemination, and intelligence program management.

In April 2003, Director Mueller appointed Maureen Baginski, a former executive of the National Security Agency, to this new position. Under Baginski, the FBI has embarked on a series of proposals designed to integrate intelligence into the FBI's operations. She has directed that each field office create a centralized intelligence component called the Field Intelligence Group. FBI leadership is also striving to professionalize and elevate the status of analysts.

Agents and analysts in the field had heard of these changes. But many were still confused by the pace and number of changes and are uncertain about their titles and roles. We question whether the new intelligence program has enough staff and resources to serve as an engine of reform. It is too early to judge whether the Field Intelligence Groups will develop into the centralized intelligence components they are intended to become.

We are concerned whether the qualifications, status, and role of most analysts in the field have changed in practice. In the past, analysts were often promoted from secretarial and administrative positions, and they too often served as catch-all support personnel.

We spoke with analysts who were discouraged by the pace of reform. Indeed, we heard from many analysts who complain that they are able to do little actual analysis because they continue to be assigned menial tasks, including covering the phones at the reception desk and emptying the office trash bins. As a consequence, many of the agents have very low expectations about the type of assistance they can get from analysts. Furthermore, there appears to be no process for evaluating and reassigning unqualified analysts. To retain analysts, the FBI will have to provide them with opportunities comparable to those offered by other intelligence agencies.

The FBI reports that its Counterterrorism Analysis Branch at headquarters has produced more than 70 strategic assessments. The demand for tactical analysis and executive-level briefings, however, has made it difficult for senior managers to focus their resources sufficiently on strategic analysis.

Knowledge Management. The terrorist attacks of September 11th revealed significant deficiencies in the FBI's information-sharing capabilities and processes both with respect to sharing information internally with FBI components, as well as externally with intelligence and law enforcement partners at the federal, state and local levels.

While progress has been made in addressing these deficiencies, problems remain.

Information sharing within the FBI. Although there are many explanations for the failure to share information internally, one of the most common is the FBI's outdated information technology, the Automated Case Support system in particular. It employs 1980s-era technology that is by all accounts user-unfriendly. More troubling, the system cannot be used to store or transmit top secret or sensitive compartmented information.

For a variety of reasons, significant information collected by the FBI never gets uploaded into the Automated Case Support system, or it gets uploaded long after it is learned. One of the reasons for this is the traditional approach to cases, in which information is treated as "owned" by the case agent and maintained in a paper case file. One official told us that headquarters personnel visiting the field have been amazed at the information they found in the paper files.

Agent after agent told us that the primary way information gets shared is through personal relationships. There does not

appear to be any recognition that this system fails in the absence of good personal relationships.

Some steps to address these ongoing problems have been taken. The attempt to centralize control over the field offices has been made, in part, to ensure that all of the counterterrorism information collected is brought together in one place and disseminated. These steps, driven in part by the director's responsibility since 9/11 to brief the President daily on terrorist threats, have helped get information from the field to headquarters.

However, improvements have been slow. Many current officials told us the FBI still does not know what information is in its files. Furthermore, the Department of Justice's Inspector General reported in December 2003 that the FBI has not established adequate policies and procedures for sharing intelligence.

The FBI has had a long-standing plan to upgrade its information technology systems. The FBI has upgraded desktop terminals, established new networks, and consolidated databases. However, the replacement of the antiquated Automated Case Support system has been delayed once again. The director recently told us that the new Virtual Case File system, which is supposed to enhance internal FBI information sharing, should be ready by the end of the year.

Information sharing with the intelligence community. As we described yesterday, while top-level officials had frequent contacts and exchanges of information, the overall performance of the FBI and other intelligence community agencies in sharing information was troubled. A tradition of protecting information in order to preserve it for trial, concerns about compromising sources and methods, the absence of a reports officer function, and the lack of sophisticated information technology systems have all contributed to the FBI's reputation of being what one former NSC official called an information "black hole."

In July 2002, the FBI created the new National Joint Terrorism Task Force at headquarters to "enhance communication, coordination and cooperation between federal, state and local government agencies." At present, this headquarters task force consists of 38 government agencies. Similarly, the FBI has increased the number of Joint Terrorism Task Forces, JTTFs, in the field from 35 before 9/11 to 84 today, with more than 1,500 outside representatives participating on a full-time basis.

Although the JTTFs vary in size and focus from office to office, they are designed to be "force multipliers," pooling the expertise from many agencies to assist in the collection and sharing of intelligence related to counterterrorism.

The FBI has also begun to hire and train reports officers. Reports officers glean intelligence from case files, briefing notes and elsewhere; summarize the information; and format it for dissemination to the intelligence and law enforcement communities. Although filling these new positions has gone slowly -- indeed, none of the field offices we visited had permanent reports officers in place at the time of our visits -- the program is now under way.

The passage of the USA PATRIOT Act also has facilitated greater information sharing. The act provides for the sharing of intelligence information obtained under FISA with FBI criminal agents and Department of Justice prosecutors. The act also requires the expeditious disclosure of foreign intelligence information acquired during the course of a criminal investigation to the director of Central Intelligence.

Despite all these efforts, it is clear that gaps in intelligence sharing still exist. Michael Rolince, the acting assistant director of the Office of Intelligence, put it more bluntly, "We are kidding ourselves if we think that there is seamless integration among all of the agencies." Former acting FBI Director Thomas Pickard told us that the most difficult thing about information sharing is trying to figure out what information will actually be important to someone else. John Brennan, the director of the Terrorist Threat Integration Center, told us that he is seeing a "cacophony of activities" within the intelligence community but no strategy and planning. Coordination and collaboration are insufficient, he told us. A fundamental strategy for joint work, for integration, is key. This is a problem neither the FBI nor the CIA nor any other agency can solve on its own. We found there is no national strategy for sharing information to counter terrorism.

In the field, JTTF members cannot easily obtain needed information from intelligence agencies. They are expected to go through FBI and CIA headquarters. For example, the process of obtaining name traces from the intelligence community is slow and unsatisfactory.

Compounding the problem of inadequate coordination at the field level is the lack of access by field agents to information

systems that operate at the top secret level or above. Very few field agents or analysts have access to Intelink, a worldwide web of information classified at the top secret level. Such terminals have to be maintained in Sensitive Compartmented Information Facilities, and such spaces in FBI field offices are extremely limited. To get access to such systems, for instance, many agents and analysts on the New York JTTF have to leave their building, cross the street and enter a separate building. They must then go to the secure room, which is barely large enough to accommodate a few people comfortably. Keep in mind that before 9/11, the New York office was the key FBI office working on international terrorism.

Basic connectivity is still a problem for some FBI field offices. The then-acting director of the Washington field office told us last August that he still could not e-mail anyone at the Department of Justice from his desk. He said that the Washington field office, which is the second largest field office in the country, still has only one Internet terminal on each floor.

Information sharing with state and local law enforcement. The FBI also needs to be able to coordinate effectively with the hundreds of thousands of state and local law enforcement officers around the country to prevent terrorist attacks. In recognition of the need to work better with state and local law enforcement, Director Mueller announced the creation of the Office of Law Enforcement Coordination in December 2001. The FBI also sends an unclassified weekly intelligence bulletin to over 17,000 law enforcement agencies in the United States. The FBI has granted clearances to many police chiefs and other law enforcement officials to increase information sharing.

We spoke with several state and local law enforcement officials who told us that the FBI is doing a much better job sharing threat-related information. However, the inspector general for the Department of Justice found that the reports "varied as to content and usefulness." We heard complaints that the FBI still needs to share much more operational, case-related information. We have been told that the FBI plans to move toward a "right to release" approach that would allow for more immediate and broader dissemination of intelligence on an unclassified basis.

Central to the effort to coordinate with state and local officials is the expansion of the JTTFs that now exist in every field office. Indeed, Larry Mefford, the FBI's former executive assistant director for counterterrorism and counterintelligence,

called the JTTF structure "the foundation of the Bureau's information-sharing efforts." All of the outside representatives on the JTTFs have top secret security clearances, just as all FBI agents do, and they may pass along certain information to their home agencies on a cleared and need-to-know basis.

We found, however, that the role of agency representatives varies from office to office. Information sharing is often ad hoc and depends upon the personalities involved. Although the representatives bring additional personnel to the FBI, the JTTF structure has not produced full cooperation between the FBI and state and local law enforcement.

Most outside representatives on these task forces have an understanding of terrorism that is limited to the cases they are working on. Thus, they can not reasonably be expected to be the conduit for all threat and case information that may be important to their home agency.

One state counterterrorism official told us that only a very small percentage of state and local police officers serve on the JTTFs and that "important information obtained from these national investigations does not reach the officers responsible for patrolling the cities, towns, highways, villages, and neighborhoods of our country." We heard this concern from other state and local counterterrorism officials. As a result, several state and local law enforcement agencies have begun to develop their own counterterrorism efforts separate and apart from the FBI.

MR. ZELIKOW: Looking ahead. Two-and-a-half years after 9/11, it is clear that the FBI is an institution in transition. We recognize Director Mueller's genuine attempts to transform the FBI into an agency with the capacity to prevent terrorism. He has made progress. Important structural challenges remain to be addressed in order to improve the flow of information and enhance the FBI's counterterrorism effectiveness. These challenges include: the relationship between headquarters and field offices; the relationship between the FBI, the JTTFs, and state and local law enforcement; the place of the FBI in the overall intelligence community; and the respective roles -- that we heard more about earlier today -- of the FBI, the new Department of Homeland Security, and the Terrorist Threat Integration Center.

(Pause.)

MR. KEAN: We will now hear from our last panelists. I want to bid a very cordial welcome this afternoon to the Honorable Robert S. Mueller, director of Federal Bureau of Investigation, and Ms. Maureen Baginski, executive assistant director for intelligence at the FBI.

And would you please rise and raise your right hands?

Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

WITNESSES: I do.

MR. KEAN: Please be seated.

I might say before the director starts that I think I speak for the whole commission that really nobody has been more cooperative, more available or more helpful than Director Mueller. And I just wanted to say that and publicly thank him before he starts his testimony.

Director Mueller.

MR. MUELLER: Thank you, Chairman Kean, and thank you, Vice Chair Hamilton, and members of the Commission for the opportunity to spend a few moments with you this afternoon.

We all understand that you've been given an extremely important mission, both to help America understand what happened on September 11th and to help us learn from that experience so that we may improve our ability to prevent such future acts of terrorism.

The FBI recognizes the importance of your work, and my colleagues and I have made every effort to be responsive to your requests.

Let me take a moment before addressing the specifics of the FBI's reform efforts to reflect on the losses suffered on September 11, 2001. I also want to acknowledge the pain and the anguish of the friends and families who were lost that day. And I want to assure them that we in the FBI are committed to doing everything in our power to ensure that America never again suffers such a loss.

I will say that like so many in this country, the FBI lost colleagues on that day. John O'Neill was a retired

counterterrorism investigator, one of our best, who had just started a new job as head of security for the World Trade Center. Lenny Hatton was a special agent assigned to the New York field office, a former Marine, a firefighter, an FBI agent. On his way to work he went down to help those evacuating the buildings, and he was last seen helping one person out the door and heading back in upstairs to help another.

And so it is the memory of the thousands like John O'Neill, Lenny Hatton who died that day that inspires us in our resolve to defeat terrorism.

To meet and defeat this threat, the FBI must have several critical capabilities. First, we must be intelligence-driven. To defeat the terrorists, we must be able to develop intelligence about their plans and use that intelligence to disrupt those plans. We must be global. And we must have networked information technology systems. We need the capacity to manage and share our information effectively. And finally, but as important, we must remain accountable under the Constitution and the rule of law. We must respect civil liberties as we seek to protect the American people.

This is the vision the FBI has been striving towards each day since September 11th, but it is also the vision that guided Director Freeh and the Bureau prior to September 11th.

But as you have heard, prior to September 11th there were various walls that existed that did prevent much of the realization of this vision. The legal walls between intelligence and law enforcement operations thankfully have been broken down. Those walls handicapped us before September 11th, but they have now been eliminated. We are now able to fully coordinate operations within the Bureau and with the intelligence community. And with these changes, we in the Bureau can finally take full operational advantage of our dual role as both a law enforcement and an intelligence agency.

We are eliminating the wall that historically stood between us and the CIA. The FBI and the CIA started exchanging senior personnel in 1996, and we have worked hard to build on that effort. Today, the FBI and the CIA are integrated at virtually every level of our operation, and this integration will be further enhanced later this year when our Counterterrorism Division co-locates with the CIA's Counterterrorist Center and the Terrorist Threat Integration Center at a new facility in Virginia.

We have also worked hard to break down the walls that have, at times, hampered coordination with our 750,000 partners in state and local law enforcement. We have more than doubled the number of Joint Terrorism Task Forces since September 11th.

Removing these walls has been part of a comprehensive plan to strengthen the ability of the FBI to predict and prevent terrorism. We developed this plan immediately after the September 11th attacks. And with the participation and strong support of the Department of Justice and the Attorney General, we have been steadily and methodically implementing it ever since.

As you know, this plan encompasses many areas of organizational change, from reengineering business practices to overhauling our information technology systems. Since you have a detailed description of the plan which we have provided to you I will not repeat it here today, but I would like to take a moment to highlight several of the fundamental steps we have taken since September 11th.

Our first step was to establish the priorities to meet our post- 9/11 mission. Starting that morning, protecting the United States from another terrorist attack became our overriding priority. Every FBI manager understands that he or she must devote whatever resources are necessary to address the terrorism priority, and that no terrorism lead can go unaddressed.

The second step was to mobilize our resources to implement this new priority. Starting soon after the attacks, we shifted substantial manpower and resources to the counterterrorism mission. We also established a number of operational units that give us new or improved counterterrorism capabilities.

Another step was to centralize coordination of our counterterrorism program. And this centralization, this fundamental change has improved our ability to coordinate our operations here and abroad, and it has clearly established accountability at headquarters for the development and success of our Counterterrorism Program.

As I noted earlier, another critical element of our plan since September 11th has been the increased coordination with our law enforcement and intelligence partners. We understand that we cannot defeat terrorism alone, and we are working hard to enhance coordination and information sharing with all of our partners.

The last crucial element of our transformation has been to develop our strategic analytic capability, while at the same time integrating intelligence processes into all of our investigative operations. We needed to dramatically expand our ability to convert our investigative information into strategic intelligence that could guide our operations. And to build that capacity, we have been steadily increasing the size and the caliber of our analytical corps, and we established an intelligence program to manage the intelligence process throughout the Bureau.

And to oversee this effort, last May I appointed Maureen Baginski, who is with me today, a 25-year analyst and executive from the National Security Agency, to serve as the Bureau's first executive assistant director for Intelligence.

And thanks to the efforts of Maureen and her colleagues in the Office of Intelligence, over the last year we have developed and issued concepts of operations governing the new intelligence process, established the Bureau's first intelligence requirements process, established field intelligence groups in our field offices, and we are fundamentally revising our recruitment, training, career development and evaluations of special agents to develop expertise in intelligence work.

These are some of the highlights of our plan for organizational reform, and the pace of change has been steady, with the establishment of dozens of new counterterrorism components and capabilities since September 11th. It has also been productive, with measurable increases since September 11th in the number of personnel dedicated to counterterrorism and intelligence operations, the quality and the quantity of intelligence reports we are producing, and lastly, the use of intelligence search authorities and the cultivation of sources - two important measures of our enhanced focus on the development of intelligence.

The Bureau is moving steadily in the right direction, and we are making progress thanks to the hard work and dedication of the men and women of the FBI. They have embraced and implemented these counterterrorism and intelligence reforms while continuing to shoulder the responsibility to protect America. And they have carried out the pressing mandate to prevent further terrorism while continuing to work in strict fidelity to the Constitution and the rule of law.

And I want to take this opportunity to thank them and their families for their sacrifices and for their service to America.

Mr. Chairman, before I conclude, let me make one last point, if I might. I'm sure the question will be asked today as to my views on the need to establish a separate domestic intelligence agency, so let me address that now.

I do believe that creating a separate agency to collect intelligence in the United States would be a grave mistake. Splitting the law enforcement and the intelligence functions would leave both agencies fighting the war on terrorism with one hand tied behind their backs. The distinct advantage we gain by having intelligence and law enforcement together would be lost in more layers and greater stovepiping of information, not to mention the difficulty of transitioning safely to a new entity while terrorists seek to do us harm.

The FBI's strength has always been, is and will be in the collection of information. Our weakness has been in the integration, analysis and dissemination of that information. And we are addressing these weaknesses. Our country has a tremendous resource in the FBI. We want to make the FBI better, we want to improve it so that we can fulfill our mission to protect America. And we look forward to your suggestions on how we might improve it.

Thank you very much for the opportunity to give these remarks, Mr. Chairman.

MR. KEAN: Thank you very much.

The first questioner will be Commissioner Gorton.

MR. GORTON: Mr. Mueller, not only have you done a very aggressive and, I think, so far a very effective reorganization of the FBI, you've done an excellent job in preempting this commission and its recommendations by putting a system in place which might result in some difficulties in the unwinding. But I will ask you in connection with your last point to try to imagine that we really were starting all over again without existing institutions in this field as to whether or not, you know, your ideal in law enforcement and intelligence would be the two agencies that we have at the present time, one law enforcement and domestic intelligence, and one foreign intelligence; two, separate entities, one law enforcement and one all intelligence, both domestic and foreign; three, one for

each of these; or one in which your foreign and domestic intelligence were united together with law enforcement itself.

MR. MUELLER: Well, let me -- let me start from the premise that if you were working on a clean sheet of paper --

MR. GORTON: That's what I would like you to do in this case.

MR. MUELLER: -- and working on a clean sheet of paper, if we go back all of those years and put history behind us. I think there are benefits to a separate intelligence organization where you have recruiting for intelligence and you focus on intelligence. I think that's an argument that we have to give. But then you look at the other side. And in order to deter attacks in the future, it cannot be one agency, particularly when you're looking domestically in the United States, and it's not just the FBI. What we have to do is leverage ourselves with every police department, state and local law enforcement in order to gather the intelligence, the information in our communities, have it passed up so that we can be more predictive. And what the FBI brings to that intelligence gathering capacity is the 56 field offices we have around the country, more than 400 satellite offices in just about every one of our communities, who have intersected over the years with state and local law enforcement in a wide variety of undertakings, and develop the relationships that are so important to leveraging that throughout the United States. So that's number one.

The second point I would -- I think is very important is to reflect upon where we were before September 11th with the wall, where you had the divorcing of intelligence and criminal, which was often tremendously artificial. And it was -- there are a number of contributing factors to that, but that was a fact of life before. What we have done since September 11th is broken down those walls, broken down that artificial determination of whether something's intelligence versus criminal.

And what you have now is integrated in one agency within the United States the ability, looking at it with state and local law enforcement, to push the intelligence aspects of any set of facts, so long as you can gather more intelligence, identify more persons, identify more telephone numbers, identify more email address, identify the networks both here in the United States. But then, when you have to neutralize that individual, in the sense of taking action, we have the ability to take that action at the appropriate time, and the decision-maker has all

those fact in front of them. I think that is tremendously important to our effectiveness.

If you look at the other scenario, that one of them that you postulate, and that is, well, should you have a combined domestic and foreign intelligence? And I go back to what George said this morning, and I think is on mark. One of the things that cannot be lost, I do not believe, when we address terrorism is the importance of on the one hand protecting our civil liberties. We don't want to look down or have historians in the future look back at us and say, "Okay, you won the war on terrorism, but you sacrificed your civil liberties." We operate within the rule of law. The FBI has always been trained of operating within the Constitution, understanding the importance within the United States of gathering information according to predication, according to the guidelines, whether it be the attorney general and the statutes and the like. And that is the way we operate in the United States, and that is the way we should operate in the United States, because we are called upon to gather information and intelligence on United States citizens. That is far different than what we're able to do overseas.

And we have grown up with two different entities: one for overseas collection of information, and one for domestic collection of information. And when it comes to collection -- collection of information, I think it is important that we have that separation.

That is not the separation that we need when we come to analyzing, integrating that information. And that is where we did not have the capacity before September 11th; that is where we put up the capacity in TTIC, and we have to improve that capacity.

MR. GORTON: Thank you. I gather I can summarize your answer: Even if we were starting all over again, you'd like the present division. But we're not starting all over again, and so the argument is overwhelming on one side.

But I want to follow up on one thing that you said about recruitment. Now, I'm a young man just having graduated from law school, maybe one or two years of experience. But all through my youth, you know, I've watched television, and what I really want to be is an intelligence agent. That's my real ambition. Why am I going to apply to the FBI, where I don't know what my career will be after three years, rather than the CIA, where I do?

MR. MUELLER: Well, as we build up our specialization -- your staff statement described the specialization that we anticipate putting into place later this year and beginning of next year -- you will come into the FBI if you want with a background or the desire to become an intelligence officer. And if you have the aptitude to do it, what we want you to do is understand the full scope of what the FBI can do, all of its capabilities, both on the criminal side and the intelligence side, so we put you through three years in a smaller office. Thereafter, you will specialize. You will specialize as an intelligence officer. You will have a designation as an intelligence officer. It will be the same type of designation that you have as an intelligence officer if it's the CIA, the DIA or the NSA. We hope to replicate that.

But let me just go one step further and say that there are some persons that would want to come into the FBI and not wear a badge and a gun, not be an agent, a sharp individual who comes out of a Middle East language studies and wants to direct collection, institute requirements. We are building up -- and what we hope to do and are doing now is building up our analytical capability so that a person can come in as an analyst and become an intelligence officer without ever having to wear a gun -- or wear a badge and carry a gun. We want those people, we want those people within the Bureau, and we want to give them the stature that has not always been there in the Bureau.

MR. GORTON: Now I'd like to move on not to these theories and recruitments, but to what you've actually done. Now, granted first that you have been a very effective director, and second, that you've had the huge inspiration that 9/11 provided for you, nevertheless, your predecessors over a period of years created first an Office of Intelligence, next a Counterterrorism Division and an Investigative Services Division, and next MAXCAP 05, all of which seemed to be, at least on the surface, simply different names for your Office of Intelligence. If those three experiments didn't work, why is yours going to work?

MR. MUELLER: I will tell you, after September 11th and the days and weeks and months afterwards, I was looking for a vision of how we build up our analytical capability, how we improve our analysts corps. I had a strong belief, in talking to analysts, in talking to George Tenet, in learning about the intelligence community, that for effective analysis, the strategic analysts need to be close to the information; that the quality of the analysis you get is greatly enhanced with the strategic analysts

being close to the information that they're called upon to analyze.

But I did not have the vision that I needed to say, "Okay, where's the Bureau going?" And when I brought Maureen Baginski on from the NSA, she came with a vision of where we needed to go over a five-year period, and it encompassed not just the analysts, but also the translators, the surveillance, the development of reports officers, the dissemination of information such as we had not had in the past. And what she brought, to my thinking, was an understanding and a vision of what we could be in the intelligence community.

The fact of the matter is, prior to September 11th, we did not have reports officers. We did not have the function of taking the information, stripping off the sources and methods, putting it in IIRs and distributing it to the intelligence community. Before she came on board, and since she's come on board, we have produced more than 2,000 IIRs, which is -- we started from scratch.

We have become, since September 11th, a member of the intelligence community in ways that we have not in the past.

The last point I would make is that we have -- you're absolutely right, and persons who talked about it up here before -- we have had the law enforcement view of factual patterns. I think since September 11th we all in the FBI understand that it is a different ball -- we are at war, and that the information that in the past we have looked at as the predicate for a case for a courtroom is much more than that; it is now information that has to be centralized, it has to be integrated, it has to be analyzed and it has to be disseminated. Part of that is building up the reports officers cadre.

But back to your point. What is different now is, one, the vision we have of where we're going, the CONOPS that we have provided to you, and the belief that we can and will put the structure in place that will last longer than I'll be there or Maureen will be there, but will be the intelligence function in the Bureau that was lacking prior to September 11th.

MR. GORTON: Thank you, Mr. Director. You've talked me out of any more questions. (Laughter.)

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: And your red light just happens to be on!
(Laughter.)

MR. GORTON: That's what I meant. (Laughs.)

MS. GORELICK: (Laughs.) I see.

Welcome. And thank you again for all the time that you have spent with us. It has been well worth it from both our point of view and, I suspect, yours, as well.

One of the observations one might make about the guiding principles for some of the changes you've made is to align responsibility and capabilities. My question for you -- my first question for you is this: You have done that within the FBI, but we had a panel just before you of numerous entities with a bewildering array of alphabet in front of them, and I asked each one of these entities -- from the FBI, the Department of Homeland Security, the CIA, the TTIC -- to tell me who is our quarterback, who is driving our strategy against al Qaeda, who is personally responsible for bringing all the information together and getting it from the constituent parts, et cetera. I won't go through the questions with you.

But I do have a question for you, which is, above your pay grade, is there someone who is our quarterback against an agile and entrepreneurial enemy, who brings together the strategy and the capabilities of our country to fight this enemy?

MR. MUELLER: Yes, I think there is. And I do believe it's the NSC and the Homeland Security Council and the staff, for the overarching strategy. In other words, the overarching strategy against al Qaeda, in my mind, is established at that coordinated level, and in much the same way our foreign policy is developed, where you have a number of different agencies that have a role, whether it be the State Department, the CIA, the Department of Defense. And I believe that the strategy is set there.

Where there -- as a -- is a particular raising of that threat, the integration of the information and the taskings is there, and that's where we are at this point in time.

Now, is there another model that might work better? I really don't know because I'm not all that familiar with all the aspects of the intelligence community. I will tell you that, in terms of developing intelligence and then pursuing the tasking, certainly domestically I believe that we along with Homeland

Security work closely together to do that, and internationally George Tenet has the responsibility and the capability of understanding/developing the intelligence and doing the taskings.

And where -- as I pointed out before, where the gaps existed before are on the issues where you have a transnational intelligence operation. And the importance for us after September 11th is to assure that we fill those gaps where there is intelligence overseas and intelligence domestically that intersects. And we have addressed that problem by establishing teams whenever we have that type of information and working it jointly, and it has been tremendously effective. Much of it I cannot talk about here today, but when we say that there -- substantial numbers of al Qaeda leadership have been detained overseas, it is because exactly of that integration, that teamwork that we have in those transnational intelligence operations.

And the last point I would make on that is I do not think you can underestimate the impact of having us together at Langley -- not in Langley -- out at Tysons Corner will have. Having us in the same building with separate collection responsibilities but then close to each other and close to TTIC is going to make a tremendous difference in terms of solidifying those relationships and easing that exchange of information between our two components.

MS. GORELICK: Do you -- are you a member of the National Security Council?

MR. MUELLER: I am a principal for many -- well, I'm generally a principal for anything having to do with terrorism and law enforcement. I certainly am not a member of the National Security Council for military actions, that kind of thing. So I --

MS. GORELICK: Are you a member of the Homeland Security Council?

MR. MUELLER: Yes.

MS. GORELICK: Do you need two councils?

MR. MUELLER: Yes.

MS. GORELICK: Because?

MR. MUELLER: Well, because I think when you look at homeland security you have something like an anthrax scare. It's very important that Governor Thompson be sitting at the table. If you're looking at transportation within the United States, it's very important that Secretary Mineta be sitting at the table. I don't think it's important for those individuals necessarily to be sitting at the table when the National Security Council is determining what we do vis-à-vis Indonesia or Saudi Arabia or Iraq or what have you. So I do believe that there's --

MS. GORELICK: You're not at the table -- I mean, you're not at the table when the National Security Council is looking at Indonesia or Saudi Arabia either. This is a question for me, I think -- and we will ask this of Secretary Ridge, but it -- we have heard from a number of, let's say, alums of the Homeland Security process that it functions as a third wheel.

But you think it actually adds value?

MR. MUELLER: Yes.

MS. GORELICK: As you know, we had --

MR. MUELLER: Can I just go back and add to that?

MS. GORELICK: Certainly.

MR. MUELLER: We have had, as everybody in the country knows, a number of threats in the last two-and-a-half years. The threat level has been raised. And the Homeland Security Council brings together those within the Administration that play some role in either gathering the intelligence, analyzing the intelligence, and then determining what steps need to be taken as a result of that intelligence. And the Homeland Security Council is the entity that brings us all together, enables us to make decisions, as are made, and make recommendations to the President, to the Vice President as to what steps should be taken. So I think it is effective and it is necessary and useful.

MS. GORELICK: As I described to the earlier panel, and in our staff statement you see that John Brennan, the director of TTIC, has said that he is seeing, quote-unquote, a "cacophony of activities in the intelligence community, but no strategy and planning."

Do you think there is a clarity of roles with regard to all of these different centers and coordination entities? Or have we created redundancy in the system, or too much redundancy -- there's always some -- too much redundancy in the system?

MR. MUELLER: I do believe there is some clarity, but I also believe there's redundancy. And I do not believe redundancy is bad.

MS. GORELICK: But you think there's not -- I know there always has to be some redundancy. Your view is we have just the right amount of redundancy?

MR. MUELLER: Oh, no. We are growing. TTIC is growing. The role of TTIC is growing. What is so important about TTIC is, as John Brennan testified before, is TTIC has access to all of our databases. As he has indicated, ideally what you would want is the ability to search across all those databases, and we are putting that into place. That will be instrumental in order to be able to quickly pull information out of each of those databases, with the same common search tools. So we are growing. And as we grow there will be tensions, there will be overlap, there will be some gray areas.

I'm not altogether -- I do not altogether believe that is bad. Because we can look at something one way, John Brennan's people can look at it another way, George's people can look at it another way. And I have always found, and perhaps it's the lawyer in me, that the debate and the dialogue is not altogether bad.

MS. GORELICK: That's a very helpful answer, and I guess for us, we just need to gauge whether the number of voices that we're gaining is over-ridden by confusion about who's doing what. And I think we will be about that, and we would like your thoughts on that for the record as we look at our policy recommendations.

Mo Baginski, may I ask you a question?

MS. BAGINSKI: Yes, ma'am.

MS. GORELICK: You are posited as the solution to many problems.

MS. BAGINSKI: (Laughs.)

MS. GORELICK: Many times we have asked the question, How is X going to get fixed? Who's going to do Y? And often, very often, maybe too often for your comfort level, "Mo Baginski" is the answer.

Now, we have had a number of people appear before us in the course of our hearings to say if only they had had enough in the way of resources they would have been able to do their job, but did we realize how poorly their assets stacked up against the mission. And I was going to say, not meaning to put you on the spot in front of your boss, but that would be disingenuous --

MS. BAGINSKI: (Laughs.)

MR. MUELLER: (Laughs.)

MS. GORELICK: -- meaning to put you on the spot in front of your boss, do you currently have the assets you need, and if not, what are you doing about it?

MS. BAGINSKI: Currently no, but let me describe what we are doing about it, because in answer to the question that, Congressman Gorton, you asked the director, what's different this time? The answer that I would give from my experience is that instead of intelligence being about a separate organization fully staffed, intelligence is actually the job of the entire FBI. And so, what I can draw on and what I've been very careful to do, Commissioner Gorelick, is not to build a large organization that pulls the intelligence capacity out of the operational organization. This has all been aimed at integrating it, leaving it integrated, and unleashing the capacity that is there through policy direction and independent requirements.

Where I am right now, these are the statistics. I have been funded for 155 persons. Sixty-five of those people are in the TTIC. So you need to understand that from my office we will also be managing our contribution to the TTIC. We made an agreement, correct agreement that the FBI would be responsible for tasking -- for actually giving the TTIC 20 percent of its government work force. So that comes out to 65 people, and thanks to the Congress, we got that fully funded. Now, that leaves me -- you know, those of you seem to do advanced math, and I'm not going to do it, so that's about -- (laughs) -- so we're about at the 90 level. And where I am is staffed right now at 51 with permanent personnel. I have seven TDYers. I have been very, very fortunate to get the personal support of George Tenet, Charlie Allen and Don Kerr in getting the two senior CIA executives that

are helping me manage. I have also been very fortunate in having my boss' support to get funding to bring a group from Mitre and a group from Rand in that has brought me the kind of intelligence community experience in years, right, that would be very difficult for me to replicate in the form of FBI personnel. And where we are right now is we have 39 positions remaining to be filled -- I know that's right -- 26 of them are in the staffing process already. So frankly, I've only got -- I'm approaching single-digit fix, and that is largely because the whole FBI has supported me in this.

It is not easy to start an organization from scratch anywhere, and we've done well.

MS. GORELICK: If you get --

MR. KEAN: Last question.

MS. GORELICK: Yes. If you get what you need, if you get what is planned, will you have enough?

MS. BAGINSKI: I will have enough because intelligence is actually going to be done in a distributed way. So as you turn the intelligence functions in the field and in the investigative divisions against the processes that we've established, we'll be okay, Jamie. Yeah.

MS. GORELICK: Thank you.

MR. KEAN: Director, I have a couple of questions. I came to this job with less knowledge of the intelligence community than anybody else at this table. What I've learned has not reassured me. It's frightened me a bit, frankly.

But the reassuring figure in it all is you, because everybody I talk to in this town, a town which seems to have a sport in basically not liking each other very much -- everybody likes you, everybody respects you, everybody has great hopes that you're actually going to fix this problem.

And I guess the decision which I got to make as a commissioner here is, can you fix it? Because the FBI is absolutely essential to this whole wall we're talking about, and if you can't fix it, then we've got to make some recommendations and structural changes that may be able to fix it.

And I'll tell you what still worries me. It's things that are in our staff report. For instance: "According to a recent report by the Department of Justice inspector general, the FBI shortages of linguists have resulted in thousands of hours of audiotapes and pages of written material not being reviewed or translated into a timely manner."

Another place:

"At every office we visited, we heard there were not enough surveillance personnel to cover the request to conduct live physical surveillance of identified terrorist suspects."

Again, "we heard from many analysts who complained they're able to do little actual analysis, because they continue to be assigned menial tasks, including covering the phones at reception desks and emptying the office trash bins."

Again, "agent after agent told us that the primary way information gets shared is through personal relationships. There does not appear to be any recognition that the system fails in the absence of good personal relationships."

And I guess just one more:

"We found there is no national strategy for sharing information to counter terrorism."

Now that's from our report that was read just prior to your appearance, and I guess my question is still: Can you fix it?

MR. MUELLER: Well, I -- in response to the question, I think we can and are fixing what has been wrong with the FBI. And I could speak only for the FBI. I don't want to speak any broader than that, because I -- we've got to put our house in order, and I think we are putting our house in order.

I will tell you that I think the staff did a very good job in their report, but indeed it was a snapshot in time. And it was a snapshot in time in six field offices some time ago.

And I'll tell you that change cannot be done overnight. Transitions take time. If you look at those who have transformed organizations, governors who have, when they come in, things they wish to change, understand you hope to have a vision; you put in place the mechanism of executing that vision, but you cannot do it overnight. If you look at the IBMs or the GE, the

Gerstner or the Welches, they will tell you there are a number of components to transforming an organization. If you look at those who study this, they will tell you that it takes time to transform an organization. There will be 30 percent that will be with you from the outset; there will be 30 percent that are there to be persuaded; and there'll be 30 percent that really resist the change for a variety of reasons.

I think we're on the right path. In those particulars that you mentioned, for instance the linguists, the staff statement is accurate in part, but I will tell you, when it comes to counterterrorism, counterterrorism interceptions, we prioritize that to assure that if there is any counterterrorism interception that needs linguist help, it is reviewed within a 24-hour period. And so yes, we have across the board, hours of interceptions that have not been translated. But the fact of the matter is, when it comes to a terrorist organization, except in those instances where we have a very difficult time with particular dialects, it's reviewed within 24 hours. Certainly if we've got an investigation that's ongoing that relates to the possibility of a threat.

Surveillance. We are stretched on our surveillance capabilities. We have made requests to Congress, and we are getting in '04 substantial additional support to do surveillance.

Analysts. We have to do two things. One, we have had to build up our analytical capability, but we also have had to professionalize the analytical staff and train it. In the days shortly after September 11th, we put together and set up a college of analytical studies. That has to be improved. We are not where we need to be, but we have that in place.

Information sharing. There are two aspects of that that are important. One is the understanding of the necessity to disseminate that which we have. I've listened to some of the testimony earlier today about when -- I think it was Commissioner Lehman, with regard to an investigation, a criminal investigation that turns up intelligence information that would be useful to the intelligence community. In the past, that would not have been disseminated because of the grand jury rules that have been set aside by the PATRIOT Act. Today, it would be disseminated in an IIR to the intelligence community. That does not preclude it for being used in a prosecution, but does give that information -- or does disseminate that information to the intelligence community.

And so in terms of information sharing, it is the desire to share and the capability of sharing. We are still working on the information technology in our communications, but we're on the road to solving those.

And I see the red light's on for me as well.

MR. KEAN: The red light is -- if my colleagues will permit, I've got one question from the families, which I would ask, with your permission.

MR. : Certainly.

MS. GORELICK: That's okay.

MR. KEAN: Director Mueller, could you please give a brief description of the specific threat assessment that led to -- Attorney General Ashcroft to lease a private plane?

MR. MUELLER: I am -- that occurred before I began my tenure. What I know about it is after the fact. I do believe that there was a security assessment that was done; it may well not have been a specific threat, but a security assessment that led to the recommendation that for official travel he utilize a Bureau plane.

MR. KEAN: Yeah. I'd like -- I think from the families' point of view, we'd like to follow that up.

MR. MUELLER: I'd be happy to.

MR. KEAN: Thank you very much.

Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman.

Welcome, Director. Again, nice to see you. And thank you for sharing your thoughts with us today.

I have two very quick questions, which hopefully will elicit quick answers, and then a larger one that you can do whatever you want with. The quicker questions. I asked Dick Clarke when he was up before us some questions about a flight that left the country with the Bin Ladin family on it shortly after 9/11. Our staff has learned that at least six chartered flights of

primarily Saudi citizens departed the United States in the week after 9/11.

My first question is, did the FBI have a process in place to screen passengers on these departing flights?

MR. MUELLER: I believe I have seen one of the staff statements that addresses this particular issue and discusses the process we went through in order to screen the flights in terms of reviewing the names and then interviewing at least a number of the passengers. And I believe in my review of that staff statement, it was accurate.

MR. ROEMER: And do you recall, then, if they were run through a TIPOFF program?

MR. MUELLER: I believe that they were -- not only were they done at the time in terms of -- again, I'd have to look at the staff statement. But I believe that yes, the indices were checked, and a subsequent check has been made through the Terrorist Screening Center, that is the combination of data of terrorist watchlists, and none of the names came up.

MR. ROEMER: If you could double-check that and see if it was TIPOFF of --

MR. MUELLER: Happy to do that, yes.

MR. ROEMER: -- or see if it was an FBI program that you ran those through.

The second question, then, with regard to these flights is on the specific Bin Ladin flight that left September 20th, 2001, a counterterrorism FBI official told us that he received permission from somebody at the FBI's SIOC headquarters to approve that flight. Do you know who that is?

MR. MUELLER: I do not. We'd have to -- I'd have to get back to you on that.

MR. ROEMER: Can you check that and get that back to me?

MR. MUELLER: Yes, we'll check that.

MR. ROEMER: Final question, Mr. Director. I lived through 13 months of the Joint Inquiry, saw many of the systemic and structural mistakes, errors that the FBI had made, and came into

this particular 9/11 Commission very anxious and very, very tenacious about seeing a component taken away from the FBI on this domestic security threat. I no longer feel that way. I'm not sure what the answer is quite yet.

I have a great deal of confidence in you personally. You will leave that job, so the structural and institutional changes you make to the FBI will be key to how I decide whether this will be something in the FBI or DOJ or a separate entity or an MI5. My question to you is the following, and give it your tour de force and your passion and convince me and, you know, other people in America. With so little confidence right now in the FBI and the stakes being so large for the security of the country, why should we give the FBI another chance?

MR. MUELLER: Well, let me just start at the outset and say I don't agree with your assumption that the confidence in the FBI is so low. If you go around this country, if you go overseas, if you go into your communities, if you talk to people, they have a tremendous respect and a belief in the capability of the FBI. We have changed to meet threats in the past; we will change to meet this threat. But I do not believe -- I do not believe -- that the American public has lost confidence in the men and women of the FBI; to the contrary. I think perhaps if you get outside of Washington you will find and in your communities, in your cities, in your towns that the FBI has a tremendous amount of respect from the community, but also from state and local law enforcement. If you go overseas -- and this is a critical component of the success -- our success in the future -- you will find that our counterparts in whichever country you go to has a tremendous respect and affection for the FBI.

And those relationships will be instrumental in the future for protecting the United States from transnational threats.

I think it would be a tremendous mistake to give short shrift to the -- what has been accumulated by the FBI over the years -- the expertise, the professionalism, that which is articulated in the staff statement in terms of our capabilities post-event -- and forget what we have done as we go through this process. When I think -- and I think what the American people want and I think are entitled to is to -- for a look back at the mistakes we made, those things we did not do right, which I would freely admit. There were things that should have been done better; we did not do them better. And I, even though it was on -- you know, I started September 4th, feel a tremendous burden, a guilt, for not having done a better job. I think all of us feel

that. But I believe that every one of us, men and women of the FBI, and I don't care whether they are agents or analysts or support, they have a dedication and a duty to protect the United States, and we have spent 12 hours a day since September 11th in the execution of that duty. And I think it would be a mistake to not give that due consideration as you make your decision.

If I may -- if I may make one other point, and that is, I also went through those 13 months with the Joint Intelligence Committee. And there were a series of recommendations that were laid out from that committee. I -- it may have been 12. I'm not certain of the number. But I think if you go through --

MR. ROEMER: Nineteen.

MR. MUELLER: Nineteen. If you go through every one of those 19, you will see that we have made substantial progress on those recommendations. It's listed in the report that I have appended to my statement. I think if you go down and review each one of those 19 recommendations, we have come a long way since those recommendations were put out.

MR. ROEMER: I thank you for the answer. And again, I want to underscore that they are needed structural changes. I can't tell you how much confidence I personally have in the people and the staff and the great personnel at the FBI. You have tremendous people working for you. It's the structure and the system and making those very tough, difficult changes in this new environment. And I think you gave a very strong answer. I thank you.

MR. MUELLER: Thank you.

MR. KEAN: Commissioner Ben-Veniste.

MR. BEN-VENISTE: Good afternoon, Director Mueller, and Ms. Baginski. Let me first echo the comments of my colleagues on this commission, say how much we appreciate not only the time that you've given us, but the interactive nature of our relationship with you. You have been responsive to our questions, you've come back, sometimes you've come back and showed up when you weren't invited. (Laughter.) But we appreciate that.

MR. MUELLER: I -- I don't recall that occurrence. (Laughter.)

MR. BEN-VENISTE: Well, that was -- it is a hallmark of, I think, the willingness from the top of your agency to be responsive to our concerns.

There's one area I want to put off to the side, and that's the area of FBI translators. I understand there are active investigations with respect to some of the allegations that have been made. I don't want to get into those facts now. I don't think it's appropriate. But we do want to follow up with you, because it's an important area for us.

MR. MUELLER: Absolutely.

MR. BEN-VENISTE: Let me make an observation first. Having worked with the FBI long ago as a federal prosecutor and having observed the agency over the years, it is my view that the FBI is the finest law enforcement agency in the world, bar none. You have in the past been able to operate effectively, once you've been focused, on trans-national crime in the area of narcotics and narcoterrorism; in the area of Sicilian mafia, Russian mafia operating in the United States and operating in other countries and interacting from our country and other countries. So I don't have a doubt that you can do this.

With terrorism, it's a different story. Intelligence is far, far more important with respect to terrorism, because the end result is not dollars, but death. And so intelligence is critical. And in this regard, we get into the question that had been raised, for example, by my friend and colleague, Senator Gorton, where you posit an individual who is graduating from college, and you know, this guy may be a brilliant linguist; he may be a philosophy student; he may be a chess champion; he may look like Niles Crane on Frazier, not like Ephraim Zimbalist Jr., okay. He may not want to break down doors. He may be a very mild person. The people that we have met at MI-5 who perform analytical function don't look like cops. They don't look like state troopers. They don't look like your typical FBI agent. But they have the brain power. That's not to say the FBI doesn't have the brain power in their traditional agents, but these people are thinkers, first and foremost. They're analysts. They think outside the box. They anticipate. They are entrepreneurial. They are of a different caste than the typical law enforcement officer. You'll give me that, I take it.

MR. MUELLER: Yes.

MR. BEN-VENISTE: That's the best and shortest answer I've gotten in weeks. (Laughter.)

MR. ROEMER (?): Shortest question. (Laughter.)

MR. BEN-VENISTE: Now, here's the question --

MR. : Yeah, shortest question.

MR. BEN-VENISTE: And the shortest questioner. (Laughter.)
Okay.

My question is based on the fact that no one questions your integrity, your purpose, but we know that the FBI is sort of a creature which has existed which has perhaps been the most bureaucratic agency in all of Washington. It's existed with its own culture, protecting itself for a long time against change imposed from outside. In the world of post-Bob Mueller, how do we know that it's not going to revert back, as it has from time-to-time when other directors have tried to institute change?

And my question is, under these circumstances, if this commission decides that its recommendation will be to allow or to recommend that the FBI continue to have its responsibility for domestic intelligence, should we not make sure that the institutional changes that are made, suggested and are modified -- and we may have some modifications, suggestions for you to consider -- are not enacted somehow legislatively so that they will be protected against the inclination to morph back into an old regime?

MR. MUELLER: Well, let me go back to the point you were making that wasn't a question, and that is about the person who wishes to come and does not want to wear a badge and carry a gun. We want them. We want those analysts. I will tell you, the first couple of days after September 11th, I was briefed by, and continuously briefed and brought up to date by two of the finest analysts I have seen. Every day I am briefed by an analytical cadre that is the match of any analysts that you will have at any of the other agencies, and I know that because Maureen Baginski tells me that.

And so we want those people, we want those persons who don't want to break down doors but want to be the same as what you would have in MI5, a targeting officer for instance; a person that comes in, brings the intelligence together, and sets the

requirements to be filled by the collectors in the field. So we want that person.

As to the question, the last part in terms of how do we assure that the changes take hold. We are developing and putting into place a different structure for the FBI that reflects this particular threat today. My own belief is that as we look to 2010, we look further in the future, you ask what kind of FBI do you want, increasingly the FBI's mission will be to address transnational threats because that's where we are the intersection between the threat overseas and state and local law enforcement.

We will be doing less state and local law enforcement in our cities and more of the transnational -- addressing the transnational threats. That means that we need a different type of agent population with different skills, and we are building to that. We are putting into place the plans not just for where we're going to be in 2005, but where we hope to be in 2010.

Now, if you're looking upon that and you're saying, okay, well, how do we know that which you wish to put into place is going to stay when you leave, the fact of the matter is we are not lacking of oversight. Congress. I am up every other -- I don't want to say every other week, but often in front of Congress in terms of oversight, in terms of appropriations. It is not that we are not subject to scrutiny in terms of what we have done and where we are going. And that which is the concern of this committee I believe will also and has been the concern of Congress. So I believe that there is continuous oversight to assure that what we are putting into place is maintained, is funded, and will be the FBI of the future.

MR. HAMILTON: Mr. Lehman.

MR. LEHMAN: Thank you.

Director, I'd like to echo the encomiums of my colleagues about how good the process has been working with you from the first time you got together with us a year-and-a-quarter ago. It's been a very -- very much of a two-way dialogue. You've clearly listen to us, and you've taught us a good deal. I think that, in the spirit of that Socratic process that you've set in motion, I'd like to pursue one issue that really does trouble me.

I came into this commission -- riding in, as they say, on a pumpkin cart from the country -- believing it was a no-brainer that we should go to an MI5. And you have given us all a lot to think about in that regard, but there's one issue that -- I'm particularly sensitive, having wrestled with the culture of the admirals for six years, I know the strength, both good and bad, of a great tradition and a deeply embedded culture, and the FBI has that kind of elite culture, and it's a law enforcement culture.

And time and again we've had witnesses from FBI come before us privately and publicly, and they recite the mantra which they believe at a certain level, that you have laid out as your priority. But you then scratch them and out comes statements from more than just a few, like a recent FBI witness who said, and I quote, "When we do our intelligence in the FBI, it should be forensic intelligence. It should be based on evidence. It must be based on fact that will bear the scrutiny of law, that can be looked at by a jury and a judge."

And it's not just one person. We had three witnesses over the last two days who in effect echoed the same thing.

Many of us on the Commission have been hung up on the *Cole* case because it's a very interesting case study of how the process works, and not unique, because I lived through exactly the same thing in 1983 on the Beirut issue. There's an attack. Everybody knows who done it. The day it happens, everybody knows. When we ask why, then, weren't -- wasn't the President, President Clinton, told who done it; why, then, four months later, wasn't President Bush told; and the answer we got back from three authoritative witnesses was, we had to wait until we created the evidence or gathered the evidence that could get an indictment.

Now many of us were incredulous to hear that from three very senior officials, but that's what I mean by culture.

It turns out, as the attorney general testified, there wasn't a finding as -- and our own staff had found that out a long time ago -- till August after the October attack. In the meantime, opportunities were lost.

And I worry that if there isn't some corrective, that the culture will time and again suppress the kind of rapid advising of decision-makers that is essential in an agile -- against an agile opponent.

So I guess my question is if there is some halfway position here. If we don't go -- and I'm not sure we might not still recommend something like MI5 -- but if we were to go to a strengthened DCI or a DNI, a national intelligence coordinator, would you think it would be acceptable or wise to adopt the practice, for instance, that Mo Baginski's former agency has? It's a part of the Defense Department, reports to the secretary of Defense, but the DCI has an equal say in hiring the head of the intelligence unit and has a say in the firing of the head of the intelligence unit.

So could it be acceptable for that new DCI, empowered DCI, to share the role with you of naming the head, firing the head, and allocating budget priorities, and agreeing on things like IT programs and paradigms?

So that's my question.

MR. MUELLER: Okay. Let me, if I could, address a few aspects of -- that you talked to.

With regard to the *Cole* and a distinction between evidence and intelligence, prior to September 11th I believe that much of the government was in a law enforcement mindset. We addressed terrorism as a law enforcement issue, and consequently, the information that we developed would be developed in cases so we can indict somebody and bring them back.

Since September 11th, that has changed dramatically. We all, myself included -- I mean, I was a prosecutor before. My natural inclination prior to September 11th is look in the courtroom. Today I understand the importance of getting information to the policymaker so that decisions can be made far outside the ambit of a courtroom in order to respond to attacks.

I would not dismiss, though, the ability and the rigor that FBI agents bring to looking at a set of facts. If there's one concern I have about intelligence, it is that often there are statements made about an uncorroborated source with indirect access and then there is a stating of a particular fact. Well, to know whether that is well-founded or not, you have to know what the motivation of that source is. Were they paid? Do they have a grudge? Do they have -- and what we bring to the process is an important focus on facts that I do not think should necessarily be dismissed.

I know we've talked about the Cole. I do believe it's important for us that whenever there is an incident, any intelligence that we get, any information on that incident automatically ought to go to the CIA, ought to go to the President, so they can make decisions as to what to do. An example would be the intelligence that had come in on La Belle disco bombing back in the 1980s, I think, which gave President Reagan sufficient information to undertake an immediate attack. We all want to respond quickly.

And I'll give you one experience that I had when I was working on Pan Am 103 and working with the families of Pan Am 103. There was an intelligence briefing that I received early on as to who was responsible for Pan Am 103, and that briefing indicated it was a country other than Libya. Now, if the President had moved on that briefing, against that country, when we come to find out as we scrutinized facts that it was not that country but was Libya, we would have done substantial harm not only to that country but to our credibility around the world.

And so I think there has to be a balance between the information we get and the foundation of that information.

The last point on an individual who would be a czar, I would say, an intelligence czar, and would have the ability to say yea or nay on a person that I wish to bring in to head up intelligence. I think one of the strengths of the FBI is its independence. Always has been, always will be. The focus on facts and taking those facts wherever they lead you, even if it's into the White House. I would have some concern about that independence being undercut by having an intelligence czar having a say over who would fill a particular position in the FBI.

It may well be that the person who fills that intelligence position is bringing news to the president, to the White House that they do not like to hear. But that is our job. It doesn't make any difference whether it's the criminal arena or in the intelligence arena. Our job is to give an independent, objective assessment of facts, whether it's an intelligence arena or the criminal arena.

MR. LEHMAN: And how about the budgetary? The --

MR. HAMILTON: I believe that when it comes to -- I would have to think about the budget and what impact that might have on our

independence. I would have to spend some time thinking about that.

MR. LEHMAN: Thank you very much.

MR. HAMILTON: Mr. Fielding.

MR. FIELDING: Thank you, Mr. Vice Chairman.

Director Mueller and Ms. Baginski, thank you very much. And I'll join the accolades heaped upon you by my co-commissioners and sincerely mean it.

Yesterday was not a great day for the FBI in the public's mind. And regardless of the outcome of our ultimate decisions, and that sort of thing, I think that today is a good day to start restoring the public's confidence in what has always been a wonderful organization. So I thank you for that.

Director Mueller, I -- gosh, I would never -- I'm not saying you're pollyannish -- (laughs) -- and I certainly wouldn't say that -- but I'm concerned. And I'd like your thoughts on this whole concept of the centralization of your counterterrorism efforts. And the only reason that I'm saying that -- obviously yesterday we heard that maybe it isn't anything different, but I believe it is. And I think it's a whole different approach and it's an approach that makes sense. But I assume that other case work is still "office of origin" and that sort of thing for your normal prosecutions.

So given that, there's always a resistance in any bureaucracy. We see them come, we them go; this director wants to do this, that director wants to come to that, but I'm here. And you've got -- your senior people are your field office people. You've got them all around the country. And because they've been there, they've grown up in that system, they're the senior guys. They're the guys that the young guys look up to, young women look up to. I mean, because they're the guys. They're used to office of origin on everything. And from everything we've picked up, headquarters isn't exactly the place that a field guy would want to ever even be seen. I mean, this is -- they're too -- it's a cultural thing, as John Lehman just said; at least that's what it appears to be. So it's generational and cultural. And any change is going to take time. But I want to know how you're going to accomplish this. I mean, we have to gauge, is this really doable and how are you going to accomplish it?

MR. MUELLER: I think you're thoughts about that are largely accurate, but I'm not certain totally accurate in this day and age.

MR. FIELDING: Maybe it's a generational thing with me, too.

MR. MUELLER: It may be. (Laughter.) No, I don't mean that.

I think the Bureau is changing. I'll tell you, the New York office did a tremendous job in the 1990s, developed a tremendous expertise in addressing al Qaeda. Tremendous agents, some of the best agents in the country operated there. One of the things I recognized in the wake of September 11th, that I needed that expertise down at headquarters; that you have to have and build in headquarters a cadre of individuals that are respected in the field, or you cannot get the work done. And I have sought to bring in and develop in headquarters a cadre of individuals that are respected in the field because they've been in the field, and respected because, if they had not know al Qaeda before and the players, are learning the players.

What is so important for us in the future is to have the cadre of individuals a headquarters who understand all of the elements of the war against al Qaeda. That means what the CIA is doing; what the DIA is doing; what NSA is doing; what we're doing internationally with our LEGATs. And what we hope to develop over a period of time is that level of expertise in headquarters that knows all the players, knows what they've been doing; picks up on things, so that it is a central repository of information on this particular threat, and a central repository on Hezbollah, on Hamas, on the other threats that we may have. It will take time.

But I believe that since September 11th, there has been far better interaction between headquarters and the field in understanding that there has to be a coordination such as we have not seen before, a dissemination of information not only through headquarters but throughout the intelligence community, and that we have to build up that cadre of individuals.

It is somewhat generational. I believe, for instance, that when we have an important case, we ought to get the best person in the FBI on that case, regardless of where they are within the organization. To the extent that we need to address a particular issue, regardless of where the person may be, in what office, we ought to bring that person and put them on the issue.

We are one institution. We have tremendous capabilities. Too often, we have had those capabilities located in a particular place, and not brought them to bear on the threat. By doing more in the way of coordination and management of headquarters, we, I believe, leveraging the whole FBI as well as our intersection with state and local law enforcement to this particular threat in ways we have not before.

MR. FIELDING: Thank you, sir. Thank you both.

MR. HAMILTON: Well, the vice chair finds himself in an extraordinary situation here. We have run out the number of commissioners signaling that they want to ask questions. I'll take just a moment to see if there are any further questions. The chairman's returning. He may have a question or two. Mr. Chairman, I was about ready to adjourn this place. (Laughter.) We've run our --

MR. KEAN: (Laughs.) If I'd known that, I would have stayed in the back. (Laughter.)

MR. HAMILTON: (Laughs.) We have exhausted the list, and I'll turn it back to you.

MR. KEAN: Okay. Thank you very much, and all I can say is, thank you so much. Thank you for all your cooperation. Thank you for all your help. Thank you for your informative session today, for both of you. And you know us, we'll be back to you. (Laughter.)

MR. MUELLER: Thank you, Mr. Chairman.

MR. KEAN: Thank you very, very much. We're now adjourned until -- (gavel) -- the next public hearing, which will be, when? May?

MR. : Sometime soon.

MR. KEAN: See you all May 18th in New York.

END.

