

# REPORT OF THE NATIONAL COMMISSION ON TERRORISM

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HEARING  
BEFORE THE  
SELECT COMMITTEE ON INTELLIGENCE  
UNITED STATES SENATE  
ONE HUNDRED SIXTH CONGRESS  
SECOND SESSION  
ON  
REPORT OF THE NATIONAL COMMISSION ON TERRORISM

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JUNE 8, 2000





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# THE REPORT OF THE NATIONAL COMMISSION ON TERRORISM

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THURSDAY, JUNE 8, 2000

U.S. SENATE,  
SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC.*

The committee met, pursuant to notice, at 3:05 p.m., in room SH-216, Hart Senate Office Building, the Honorable Richard C. Shelby, chairman of the committee, presiding.

Committee members present: Senators Shelby, Lugar, Kyl, Al-  
lard, Bryan, and Graham.

Chairman SHELBY. The Committee will come to order.

The Committee welcomes our witness today, Ambassador Bremer, Chairman of the National Commission on Terrorism. We are also pleased to have with us Commission Vice Chairman Maurice Sonnenberg, Commissioner James Woolsey—well known to all of us as a former Director of the Central Intelligence Agency, former Congresswoman Jane Harman, who was a former colleague of ours and served on the House Intelligence Committee, and Ms. Juliette Kayyem.

I would like to begin by commending all of you for your hard work and your diligence in grappling with some of the most challenging issues that we as a country face—issues that are diverse and complex and in most cases lend themselves to no simple solutions, issues that in many cases require a difficult balancing of our core values.

Our policies and activities to counter international terrorism involve many agencies of our national, state and local governments, and affect many areas of our intelligence, foreign, defense, and domestic policies. The Commission examined this entire spectrum.

Today I would like to comment briefly on certain key issues in the intelligence area.

First, the Committee is gratified that the Commission shares our assessment that the threat of international terrorism, while changing in many important aspects, has not diminished. In particular, you rightly focus on the issue of the threat of a catastrophic attack involving mass casualties.

In the report accompanying the Intelligence Authorization Act for Fiscal Year 2001, we stated: "The Committee continues to be extremely concerned by the threat posed by international terrorism to our nation's security, and to the lives of Americans here and around the world." We highlighted our concern that "in addition to traditional weapons such as hijacking and car bombs, terrorists' at-



tacks are ever more likely to include chemical, biological, radiological, and nuclear weapons.”

The Commission notes—and this Committee agrees—that while many of the changes in international terrorism have been for the better, such as a reduction in the number of incidents and the end of support to terrorists from the Soviet Bloc, other developments, such as the rise of groups less dependent on state sponsorship, the use of modern technology, and the search for more lethal means, have made the threat more deadly and difficult to counter. Most important, as we learned in the World Trade Center bombing and were reminded during the Millennium, the threat has come to the United States.

I must point out, however, that in the world of Internet communications and deadly biological agents, we still face the traditional threat of a gunman on a motorcycle. Sadly, we were reminded of this today by the cowardly assassination of a British defense attache in Athens. This attack appears to have been the work of the infamous November 17 terrorist group, based in Greece.

I have to diverge, at this point, to say that like many in Congress I have long been distressed by the failure of the Greek government to act against this group, which has killed four Americans, including a CIA station chief. I commend the Commission for its recommendation that the Administration review the performance of the Greek government in this regard, and consider putting Greece in the category of states that are “Not Cooperating Fully” with U.S. counter-terrorism policies. This recommendation is even more timely today.

Returning to the intelligence-related findings of the report, the Commission highlights the crucial role of intelligence, particularly human intelligence, in countering international terrorism. This Committee has long treated counter-terrorism as one of its highest priorities, and has often authorized funding in excess of Administration requests for terrorism-related programs, including for the DCI’s Counterterrorism Center. Therefore, we look forward to hearing more on why the Commission determined, as did this Committee, that the CTC requires additional resources.

There has also been considerable discussion of the Commission’s recommendation regarding the Agency’s guidance governing recruitment of terrorist sources by CIA case officers. This falls within an area of longstanding Committee concern—those legal and policy restrictions that have impeded collection by elements of the Intelligence Community legally authorized to undertake such collection.

I understand that the CIA disagrees with the Commission’s contention that certain guidelines have posed an impediment to recruitment of terrorist sources, and states that CIA headquarters has never turned down a request for a valuable terrorist recruitment.

A closer reading of the Commission’s findings suggests that the CIA response may not fully capture the essence of the problem, which may lie in the intangible effect of these regulations on initiative and risk-taking by case officers and their supervisors. We often hear case officers express their concern that the Agency is too risk averse. At the same time, we recognize that the risks are real ones.



I think we all agree, however, that a terrorist is by definition a criminal, and since only terrorists are likely to be in a position to report on and thwart plans for a terrorist attack, we must be sure that this process does not impede, and does not have the effect of impeding, the aggressive recruitment of terrorist sources. Thus we look forward to hearing more from the Commissioners on this subject, to the extent we can discuss it today in open session, and perhaps on another occasion in a closed session.

The Commission and this Committee also agree on the urgent need to rebuild the National Security Agency, or NSA. The Commission's Report states that: "The National Security Agency is America's most important asset for technical collection of terrorism information, yet it is losing its capability to target and exploit the modern communications systems used by terrorists, seriously weakening the NSA's ability to warn of possible attacks."

The Commission cites the report of this Committee's Technical Advisory Group, which identifies significant and expanding technology gaps affecting the NSA. As the Commissioners may know, rebuilding the NSA is this Committee's highest priority in the Intelligence Act for this year, and we welcome their support.

With respect to the FBI, the Committee shares the Commission's concerns that certain technical, linguistic, organizational, and legal restrictions impede the thorough analysis and prompt dissemination of terrorism-related and other information. The FBI is aware of these issues—in fact it has undertaken a reorganization designed to address some of the problems cited by the Commission—and we intend to help the FBI as it continues to work to resolve these and other impediments to its counterterrorism and counter-intelligence missions.

For example, the Commission reports that, during the recent Millennium period, OIPR appears to have been able to streamline the process and handle urgent FISA applications in a timely fashion without sacrificing Constitutional standards. I should note that this Committee conducted a thorough audit of the FISA process in 1998 and reached many of the same conclusions as did the Commission. As we all know, progress in this town is often slow and is a painful process.

Lastly, I would like to commend the Commission on one more finding. Your report states that "Leaks of intelligence and law enforcement information reduce its value, endanger sources, alienate friendly nations and inhibit their cooperation, and jeopardize the U.S. Government's ability to obtain further information."

This Committee has for some time been deeply concerned about the problem of leaks, a concern that is shared by the leadership of the Intelligence Community and by those men and women who do the hard work of recruiting sources and developing means of collecting intelligence. The Committee has included, as part of this year's bill, a provision designed to plug gaps in existing statutes to enable more aggressive prosecution of unauthorized disclosures of classified information. Given the Commission's vivid reminder that protecting sources and methods that defend Americans from terrorist attack can be a matter of life and death, I hope the Administration will support this provision when the Intelligence bill goes to the Senate floor and in conference with the House.



The Attorney General, Director of Central Intelligence and Director of the FBI will be appearing before the Committee in the very near future to discuss leaks and our legislation. Your findings will be very helpful as we prepare for that hearing.

In closing, I would like to emphasize that my comments and the comments of the Intelligence Committee here are offered in a spirit of constructive criticism. I think I can speak for my colleagues in acknowledging that our capabilities to combat terrorism have increased tremendously in recent years, thanks to long hours of dedicated and often dangerous efforts by the men and women of the CIA, FBI, NSA, Justice Department, Defense Department and other agencies. In particular, I commend them for their efforts over the Millennium, when serious threats were averted.

We must remember, however, that those threats have been deferred, not defeated. Therefore, we look forward to working with the Commission and with the Intelligence Community to further improve our ability to collect intelligence and save lives.

Senator Bryan.

Vice Chairman BRYAN. Thank you very much, Mr. Chairman, and I want to add my thanks to the Chairman and each of the members of this Commission who have worked hard over a short period of time to produce a report on a subject that's of great concern to the U.S. government as well as to the American people.

There are few national security matters that affect American citizens as directly as the terrorist threat. In the press we are bombarded daily with stories about terrorism throughout the world and we must live every day with the necessary inconveniences caused by increased security in airports and other public places. And, most difficult, we must deal with the losses suffered in attacks by international terrorists such as the World Trade Center bombing. An aggressive, effective and coordinated effort by the United States to counter and eliminate these threats to our security is something that I think most Americans understand is important for their government to pursue.

However, notwithstanding these threats—and they are real and they are frightening—I do not believe that Americans are so intimidated that they are willing to permit U.S. counterterrorism efforts to supercede our traditional values, the personal liberties that make America the unique country in the world that it is. So I look forward, when we have a chance to ask some questions, to explore with you, Ambassador Bremer, and other members of the Commission, the proposal to abolish human rights review by senior officials at CIA when it recruits sources to work on behalf of the United States against terrorists. These policies were put in place in response to serious problems and, insofar as I know, have worked well. I freely acknowledge that there are circumstances in which we must work with individuals who have a bad history of violence and human rights abuse, but I think that that should be very carefully crafted and should be done so only when the protection of our national security interest demands is, and should be subject to some kind of oversight at a higher level.

I also look forward to hearing from Ambassador Bremer on other parts of your report, including, in particular, the findings which our Chairman has mentioned with respect to counterterrorist co-



operation by Greece and Pakistan; your proposal for increased tracking of foreign students in U.S. universities; and your proposal concerning the Department of Defense having lead responsibility in the event of a large-scale terrorist incident in the United States.

Again, I want to thank each member of this Commission for extraordinary public service in the highest tradition of our citizenship. Thank you so much for joining us today.

Chairman SHELBY. Senator Allard.

Senator ALLARD. Mr. Chairman, I know you want to get on with the hearing, and I feel the same way. I'm going to keep my comments brief, just to reemphasize much of what you said—that this is an extremely important hearing on international terrorism. It affects a number of agencies—the FBI, National Security Agency, CIA, as well as the Department of Defense. And in your piece of legislation reporting on the views of the Intelligence Committee I think we've tried to address many of the international terrorism concerns. In the Department of Defense bill on the floor now we're trying to address many of those concerns.

I'm anxiously looking forward to the comments from the Commission and the discussion that these hearings are going to lead to as to the balance between what we need to collect, our laws, our regulations, policies, directives and general practices.

I thank the Chairman.

Chairman SHELBY. Senator Lugar.

Senator LUGAR. Mr. Chairman, I just join in thanking the Commission for distinguished service. I look forward to the testimony.

Chairman SHELBY. Senator Graham. Excuse me, Senator.

Senator GRAHAM. Mr. Chairman, thank you for convening this meeting. I particularly appreciate the Chair and the members of the Commission being able to join us on relatively short notice. The fact that this hearing is taking place so promptly after your report was issued is an indication of the high level of public and Congressional interest in this subject, and we look forward to exploring some of your specific recommendations in more detail.

Chairman SHELBY. Mr. Chairman, you proceed as you wish.

[The prepared statement of Ambassador Bremer follows:]



**Statement of L. Paul Bremer, III, *Chairman*  
National Commission on Terrorism**

*Senate Select Committee on Intelligence  
June 8, 2000*

Mr. Chairman, Members of the Committee, thank you for the opportunity to appear before the Committee this afternoon to review the conclusions and recommendations of the National Commission on Terrorism.

The threat of terrorism is changing dramatically. It is becoming more deadly and it is striking us here at home. Witness the 1993 bombing of the World Trade Center, the thwarted attacks on New York's tunnels, and the 1995 plot to blow up 11 American airliners. If any one of these had been fully successful, thousands would have died. Crowds gathered to celebrate the Millennium were almost certainly the target for the explosives found in the back of a car at the U.S. border in December 1999. Overseas, more than 6,000 casualties were caused by just three anti-US attacks, the bombings of a U.S. barracks in Saudi Arabia and of the U.S. embassies in Kenya and Tanzania.

If three attacks with conventional explosives injured or killed 6,000, imagine the consequences of an unconventional attack. What if a release of radioactive material made 10 miles of Chicago's waterfront uninhabitable for 50 years? What if a biological attack infected passengers at Dallas-Fort Worth Airport with a contagious disease?

It could happen. Five of the seven countries the U.S. Government considers terror-supporting states are working on such weapons and we know some terrorist groups are seeking so-called weapons of mass destruction.

Congress established the National Commission on Terrorism to assess US efforts to combat this threat and to make recommendations for changes. The Commission found that while many important efforts are underway, America must immediately take additional steps to protect itself.

First, we must do a better job of figuring out who the terrorists are and what they are planning. First-rate intelligence information about terrorists is literally a life and death matter. Intelligence work, including excellent cooperation with Jordan, thwarted large-scale terrorist attacks on Americans overseas at the end of last year. Such welcome successes should not blind us to the need to do more.

Efforts to gather information about terrorist plots and get into the hands of analysts and decisionmakers in the federal government are stymied by bureaucratic and cultural obstacles. For example, who better to tell you about the plans of a terrorist organization than a member of that organization? Yet, a CIA officer in the field hoping to recruit such a source faces a daunting series of reviews by committees back at headquarters operating under guidelines that start from the presumption that recruiting a terrorist is a bad thing.



This presumption can be overcome, but only after an extensive process designed to reduce the risk from such a recruitment to as near zero as possible.

Even if a young case officer makes it through this gauntlet, will the potential terrorist recruit still be around? Will the attack have already occurred? These guidelines were issued in response to allegations that the CIA had previously recruited individuals guilty of serious human rights abuses. The Commission found that however well intentioned, they constitute an impediment to effective intelligence collection and should not apply to counterterrorism sources. CIA field officers should be as free to use terrorist informants as prosecutors in America are to use criminal informants.

We also need more vigorous FBI intelligence collection against foreign terrorists in America and better dissemination of that information. FBI's role in collecting intelligence about terrorists is increasingly significant. Thus, it is essential that they employ the full scope of the authority the Congress has given them to collect that information. Yet, the Commission believes unclear guidelines for investigations and an overly cautious approach by the Department of Justice in reviewing applications for electronic surveillance against international terrorism targets are hampering the Bureau's intelligence collection efforts. We recommend improvements in both of these areas.

Once the information is collected by FBI, technology shortfalls and institutional practices limit efforts to exploit the information and get it into the hands of those who need it—such as intelligence analysts and policymakers. The Commission recommends increased resources to meet FBI's technology needs, particularly in the area of encryption. We also have a recommendation designed to improve the ability of agencies to quickly identify, locate, and use translators—a perennial problem that plagues not just intelligence agencies but is particularly critical for time sensitive needs such as preventing a terrorist attack.

This de-crypted and translated information is only valuable, however, if it gets to the people who need it. Dissemination of general intelligence information has not traditionally been an important part of FBI's mission. They do a good job of sharing specific threat information but, otherwise, sharing information is not given a high priority. In fact, if the information is not specific enough to issue a warning or is not relevant to an investigation or prosecution, it may not even be reviewed. Information collected in field offices often never even makes it to headquarters.

The CIA faces a similar problem with the information it collects overseas in trying to protect sources and methods while disseminating the information as quickly and as broadly as possible to those who need it. CIA addresses this with dedicated personnel, called reports officers, located overseas and at headquarters who are responsible for reviewing, prioritizing, and distilling collected information for timely distribution. The Commission recommends that the FBI establish its own cadre of reports officers.



Recent events have also demonstrated what terrorists could do if they decided to use their increasingly sophisticated computer skills to perpetrate a cyber attack. A vigorous plan for defending against such attacks must be a national priority. The Commission also strongly recommends measures to improve the lagging technological capabilities of the National Security Agency, the FBI and the CIA so that they don't completely lose their ability to collect intelligence against techno-savvy terrorists.

Signals intelligence also plays an increasingly vital role in U.S. counterterrorism efforts, yet the ability of the NSA to continue this essential mission is threatened by its failure to keep pace with changing technology. This conclusion is in accord with the findings reflected in the report accompanying your committee's Intelligence Authorization Act for Fiscal Year 2001 (S. 2507). The Commission heard testimony from NSA representatives and others about the difficulties presented by the explosion in modern communications technologies. It is clear that while increased use of these technologies by intelligence targets presents potential collection opportunities, the NSA will not be able to exploit these opportunities without improvements in its own technology. These improvements should include innovative technology applications, research and development of new technologies, and the use of commercial products. The Commission was fully briefed on the activities of the SSCI Technical Advisory Group (TAG) and endorses the modernization efforts begun as a result of the TAG review.

The Commission also supports extending the term of the Director of the NSA from three years to at least six years. A number of those serving on this Commission have held senior positions in government and fully understand how difficult it is to make significant changes in such a large, and entrenched, program. The NSA needs to dramatically alter the way it does business. This is unlikely to happen unless a Director is in place long enough to understand the challenges facing the agency, develop a plan to meet those challenges, build the necessary budget, and see to its implementation. Given federal programming and budget cycles, this cannot be done in three years. A six year tenure has the added advantage of ensuring that the Director will be in place long enough to transition from one presidential administration to another. In addition, the position should be a four star billet to attract the necessary caliber of officer for six years.

On the policy front, the United States needs to go after anyone supporting terrorists, from state sponsors, to nations that turn a blind eye to terrorist activity, to private individuals and organizations who provide material support to terrorist organizations.

Iran is still the most egregious state sponsor of terrorism, despite the election of a reformist president. Elements of the Iranian government use terrorism as a policy tool, assassinating Iranian dissidents at home and abroad and giving money, weapons and training to terrorists fighting against peace in the Middle East. There are indications that Iran was involved in the 1996 bombing attack in Saudi Arabia that killed 19 Americans. The Commission is concerned that recent American gestures towards Iran could be misinterpreted as a weakening of our resolve to counter Iranian terrorism. We



recommend that the U.S. make no further concessions to Iran until it ceases its support for terrorism.

The other countries U.S. identifies as state sponsors (Syria, Cuba, North Korea, Sudan, Iraq, and Libya) should be made to understand that we will continue sanctions until they take concrete steps to cease all support for terrorism. The Taliban regime in Afghanistan should be designated a state sponsor.

There are also states that, while they may not actively support terrorists, seem to turn a blind eye to them. Congress gave the President the power to sanction nations that are not fully cooperating against terrorism, but the power has not been effectively exercised. There are candidates. For example, Pakistan has been very helpful at times, yet openly supports a group that has murdered tourists in India and threatened to kill U.S. citizens. NATO ally Greece seems indifferent to the fight against terrorism. Since 1975 terrorists have attacked Americans or American interests in Greece 146 times. Greek officials have been unable to solve 145 of those cases. And just this morning, terrorists struck again with the cowardly assassination in Athens of the British Defense Attaché.

Terrorist groups also benefit from private funding and the Commission recommends that the U.S. government use the full range of legal and administrative powers at its disposal to disrupt these funding sources. Money laundering, tax, fraud and conspiracy statutes all lend themselves to aggressive use against terrorist organizations, their front groups and supporters.

It is difficult to predict whether terrorists will use chemical, biological, radiological or nuclear weapons. But the consequences of even a small-scale incident are so grave that certain weaknesses in the American approach should be addressed immediately. Three concrete steps could be taken right now to reduce the risk that terrorists will get their hands on a biological weapon: criminalize unauthorized possession of the most worrisome biological agents, strengthen safeguards against theft of these agents, and control the sale of specialized equipment necessary for weaponizing biological agents. Controls on biological agents should be as stringent as those applied to critical nuclear materials.

Let me also take this opportunity to clarify the record on a couple of our recommendations that have been incorrectly reported in the press. The first has to do with foreign students in the US. For decades, the INS has required colleges and universities to collect and maintain information on the foreign students enrolled in their institutions. This has included information on citizenship, status (e.g., full or part-time), the date the student commenced studies, their degree program and field of study, and the date the student terminated studies. The purpose was to ensure that foreigners who came to the United States as students did not break the law by staying after they had finished, or stopped, their studies. Until recently this data was managed manually and was thus not available to the government in a timely manner.



The bombing of the World Trade Center in 1993 showed the weakness of this long-standing process when it was discovered that one of the bombers had entered this country on a student visa, dropped out and remained here illegally. He was subsequently tried and convicted for his role in that terrorist attack, which took six American lives and injured over 1000 others. He is currently serving a 240-year prison term.

Concerned by the obvious inadequacy of the long-standing program to collect information about foreign students, in 1996 Congress directed the Attorney General to modernize that system. In response, the INS established a pilot program using an Internet-based system to report electronically the information colleges and universities had already been collecting for over three decades.

The pilot program, called CIPRIS, covers approximately 10,000 foreign students from all countries who are enrolled in 20 colleges, universities, and training programs in the southern U.S. The purpose is to bring the visa-monitoring system into the 21st century. After several years experience, the INS has concluded that CIPRIS is effective and has proposed to apply it nationwide.

The Commission reviewed CIPRIS and the criticisms of the program, the primary one being the INS proposal to have the universities collect the fees needed to support the program. It is important to note that, while the universities opposed the idea of having to collect the fee, they did not oppose the main objective of the program to require reporting of information on foreign students.

The Commission concluded that monitoring the immigration status of foreign students is important for a variety of reasons, including counterterrorism. The Commission did not believe, however, that it was in a position to recommend specifically that the CIPRIS program be implemented.

The Commission is not recommending any new requirements on foreign students in the United States. The Commission's position is consistent with regulations that have been in place for many years, and with the view of Congress which mandated the creation of a program to more efficiently keep track of the immigration status of foreign students.

There have also been some reports claiming that the Commission recommends putting the Department of Defense in charge of responding to terrorist attacks in the US. This is not true. What we said, and I am now quoting from the report, is that "in extraordinary circumstances, when a catastrophe is beyond the capabilities of local, state, and other federal agencies, or is directly related to an armed conflict overseas, the President may want to designate DoD as a lead federal agency." (*Emphasis added.*)

The Commission did not recommend or even suggest an automatic leading role for the Defense Department in all cases. But if we undertake contingency planning for a catastrophic terrorist attack in the US, we must consider all plausible contingencies, including the possibility of a federalized National Guard force operating under the direction of the Secretary of Defense. Not to do so would be irresponsible. The best way



to minimize any threat to civil liberties in such an extraordinary scenario is through careful planning, including a thorough analysis of the relevant laws, the development of appropriate guidelines, and realistic training. We don't want another overreaction due to lack of planning like we saw in the wake of Pearl Harbor. Thus, the Commission recommended that the National Security Advisor, the Secretary of Defense, and the Attorney General develop detailed plans for this contingency.

As the danger that terrorists will launch mass casualty attacks grows, so do the policy stakes. To protect her citizens, America needs a sustained national strategy in which leaders use first-rate intelligence to direct the full range of measures – diplomatic, economic, and commercial pressures, covert action and military force – against terrorists and their state sponsors.

Mr. Chairman, at this point I would like to introduce my fellow Commissioners who are here today: the Commission's Vice Chairman, Mr. Maurice Sonnenberg, Mr. James Woolsey, Ms. Jane Harman and Ms. Juliette Kayyem. In addition to those here today, the Commission included Dr. Richard Betts, Gen. Wayne Downing, Dr. Fred Ikle, Mr. John Lewis, and Mr. Gardner Peckham. It was a privilege to work with this group of dedicated individuals.



**STATEMENT OF THE HONORABLE L. PAUL BREMER, III,  
CHAIRMAN, NATIONAL COMMISSION ON TERRORISM AC-  
COMPANIED BY: MAURICE SONNENBERG, VICE CHAIRMAN;  
R. JAMES WOOLSEY, COMMISSIONER; JANE HARMAN, COM-  
MISSIONER; AND JULIETTE N. KAYYEM, COMMISSIONER**

Ambassador BREMER. Thank you, Mr. Chairman, thank you, members of the Committee, for giving us an opportunity, myself and my colleagues, to be here.

Mr. Chairman, I have a full statement which I would offer to make part of the record.

Chairman SHELBY. It will be made part of the record in its entirety.

Ambassador BREMER. Thank you.

I would like to briefly summarize our findings. One of them you have referred to, which is the fact that the threat from terrorism has increased, and we see it increasing, with the possibility of terrorists escalating up to biological/chemical attacks and the possibility of them doing these things in the United States. This is a consensus of people we spoke to in government and out of government. This is a threat that needs to be taken seriously.

Before I summarize our recommendations as a result of that, I want to set the record straight on a couple of issues that have been widely misreported since our Commission came out, both of which have been touched on, particularly by the Vice Chairman.

First of all, I want to talk about our recommendations relating to foreign students in the United States. For decades the Immigration Service has required colleges and universities in the United States to collect and maintain information on all foreign students—foreign students from all countries—enrolled in their institutions. This has included information on: the citizenship of the students, the students' status—are they active or inactive; the date the student commenced studies; the degree program and major that they're in; and so forth. The main purpose was, of course, to assure that people who came here on student visas remained eligible for the visa that they arrived on—that they were still legitimate students.

Until recently, this data was managed manually and was thus not available in a usable form to the immigration authorities. After the World Trade Center bombing in 1993, in which it transpired that one of the bombers was a student here illegally in the United States—and incidently, Mr. Chairman, he was convicted and found guilty and is serving a 240-year prison term for his role in that bombing, which took six American lives and caused over 1,000 casualties—after that happened, Congress in 1996 thought it was time to bring the INS into the 20th century, before the 21st century arrived, and to make the system which had been in place since the 1960s a computer-based program.

So in 1997 the INS began a pilot project in a number of southern universities to collect exactly the same data that was collected before. In effect, it was a proposal to replace shoeboxes with computers, collecting the same information that had been collected before.

After several years' experience, we understand that the immigration authorities believe this pilot program has been successful, and



they propose to roll it out nationwide. Our Commission did not make a judgment about that particular program, but did say that we think it is useful to have a nationwide program to continue to monitor students, as we have monitored them for the last three decades. That is our proposal. There's nothing new in it.

The second issue that has been somewhat misreported and which several members of the Committee have referred to has to do with our recommendation about the Department of Defense. We believe that it is possible to imagine a catastrophic event or series of events in this country in which there would be not hundreds but perhaps thousands or tens of thousands of casualties. And let me quote from our report to be precise about what we said.

We said: "In extraordinary circumstances, when a catastrophe is beyond the capabilities of local, state, and other Federal agencies, or is directly related to an armed conflict overseas, the President may—the President may—"want to designate DOD as a lead Federal agency." We do not recommend that it happen, but we think that it is only prudent to make contingency plans for such an event, and the only way to make the contingency plans is to think about it ahead of time and to exercise it.

And we believe very strongly, all of the Commissioners here, that in such a circumstance one of the primary goals should be the protection of American lives and the protection of American civil liberties. We believe that if you prepare ahead of time, if you think about this kind of consequence ahead of time and exercise it, the chances are much better that civil liberties that we are all used to will be protected.

We remember that it was in the aftermath of Pearl Harbor, in the chaos and confusion of a catastrophic attack against America in December 1941 that civil liberties of some people in this country were abridged. We believe the way best to avoid that kind of reaction is to think about it ahead of time. That is the heart of our recommendation on the Defense Department.

Now let me briefly summarize—and I will try to be very brief because the Chairman has done an excellent job of summarizing our report already—our other conclusions.

First of all, the centrality of intelligence. We completely agree. We believe that if you're going to stop terrorists from attacking and killing Americans you've got to know about their plans. In order to know about their plans, you're going to have to be willing to take some risks in engaging informants here and overseas who might be unsavory. And, as you have noted, Mr. Chairman, that involves us in making a recommendation on changing the guidelines which have been in effect at CIA for the last five years.

We do not propose that there be no procedure but that the procedure that was in place before be reinstituted, which does involve a balancing of the question of the access an agent has, his reliability, and the value of the information he may bring to us.

We also reviewed the guidelines which the FBI operates under. Although we think they are adequate, they are very unclear. They run to some 41 pages, and we have all read them and we find them confusing, as field agents of the FBI told us they did. We recommend they be clarified.



Finally, in the area of intelligence, we believe that it's important, as you have suggested, Mr. Chairman, for there to be more resources dedicated to intelligence, in particular to CIA, to FBI, and, most prominently, to NSA. As you noted, we have studied this Committee's Technical Advisory Group study. We were fully briefed on their findings. And we completely concur in those.

I must say, Mr. Chairman, on a personal basis, that one of the surprises to me, coming back to the counterterrorism fight after being away for eleven years, was how much more important a role NSA can play in this fight than was the case when I left government in 1989. So I just want to underscore my own personal belief that this is very important.

We have sent to you some suggestions separate from the report, Mr. Chairman, about the term of the Director of NSA. We think it is worth considering, given the importance of management stability at NSA, a six-year term for the Director of NSA, and we think he should probably have a fourth star so that he feels comfortable staying that long.

On the policy front, we think it's very important to continue pressure on states which support terrorism—we have in mind in particular Iran—but also to look at the funding of groups. As terrorists have become less dependent on states for their support, they have tended to be more dependent on getting funding themselves. And I think the government could do a better job taking a strategic and broad approach going after funding, rather than a more narrow approach. And I must say here I think we welcome the President's proposal at the Coast Guard Academy on May 17 to establish a task force to do just that. We think that's exactly the right direction to go.

Finally, Mr. Chairman, on catastrophic terrorism, we think it's important to take certain measures which are outlined in the report to make it difficult to acquire biological agents and to transport them in this country. The basic principle should be that biological agents should be just as tightly controlled as nuclear materials have been for decades here.

And we think Congress could play a useful role by outlawing the sale or controlling the sale of specialized equipment which is necessary to turn biological agents into effective weapons. We have made some suggestions along that line as well.

Mr. Chairman, the fight against terrorism is important, difficult, and dangerous. You have before you representatives of a bipartisan group of ten Americans who worked hard on this question and produced what I think is a balanced report, with prudent recommendations, recommendations which the facts drove us to. We did not start with any preconceptions. We let the facts draw us to our conclusions.

We believe that if Congress and the Executive Branch follow our suggestions Americans will be safer from terrorism, without any loss of civil liberties and Constitutional rights.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you.

Do any of your members have any statement to give, Mr. Chairman?

Mr. SONNENBERG. I have one comment.



Chairman SHELBY. Okay, Mr. Sonnenberg.

Mr. SONNENBERG. It should be understood, as the Chairman mentioned, that this is a bipartisan group. This is a group from very divergent backgrounds. Had they written the report on their own, individually, it would probably be quite different than it is now. Having said that, the many hours and the work that this commission put in, we basically said the strategies and the policies are on the right track these days, which means that in reading this report one should not look upon it as a criticism but as a method of improving what already exists.

And therefore I want to thank the committee, the Chairman and your members, for being so kind as to compliment us on the work we have done. But, more important, I'd like to compliment my fellow Commissioners, because a lot of effort went into it and without their work you would not have the product you have before you.

Chairman SHELBY. Any other comments at this point before questions?

[No response.]

Chairman SHELBY. Okay. Did the Commission find much disagreement among terrorism experts that you interviewed, Mr. Chairman, on the nature of or trends in the terrorist threat?

Ambassador BREMER. No, we did not, Mr. Chairman. As I said, I think one of the reasons our threat section is rather short is because we found we weren't saying anything particularly new. We were really reflecting a very broad consensus among experts in government and out of government, and I might add also experts overseas with whom we had conversations.

Chairman SHELBY. Did you find that the assessment has changed any since the millennium events?

Ambassador BREMER. I think the events surrounding the millennium showed that a lot of the concerns which we discovered among our intelligence agencies were well justified. It turned out that there really were plans for some major attacks during the millennium, and thanks to some excellent liaison work with some countries and excellent detective work in this country we were able to avoid that.

Chairman SHELBY. I'll ask all of you this, if you want to comment. If Usama bin Ladin were captured today or tomorrow, what effect do you think this would have on the overall terrorist threat? What would be the effect on his organization and so forth? Jim?

Mr. WOOLSEY. I think, Mr. Chairman, the short-term effect would be relatively modest, because much of the work of his organization, which is often called in the Mideast maktab al-kateb (phonetic), or the support organization, which is the organization that he headed for the Afghan Mujahedeen, is heavily run by his lieutenants, and he has several, unfortunately, rather able ones, and I think its efforts would continue.

He is an important source of funding, and he is an important figurehead, and he does have some important role. So I think the long-term effect would be positive, from our point of view, negative from the point of view of the terrorists.

I think one thing I would add is that Mr. Bin Ladin has a fortune numbered in the hundreds of millions of dollars, and so when he is present in a very poor country such as Sudan, where he was



for years, or Afghanistan, we don't really have the phenomenon so much of state-sponsored terrorism as we do of a terrorist-sponsored state. He, as an individual, because of his great wealth, can have a substantial effect on the policies and conduct of things that go on in a poor country of that sort, and it, I believe, would probably be the case in time that some of that financial wherewithal would dry up with his being captured, and that would be all to the good.

Chairman SHELBY. The Committee has stated basically that it's aware of the assessment that despite the fact that a number of terrorist plots to kill Americans were thwarted, which we were grateful for, during the millennium period that this threat was deferred and not defeated. Do you concur in that, Mr. Chairman?

Ambassador BREMER. Yes, I do. I think that is our assessment too, but that's always the way it is with terrorism. There is never an end to the war against terrorism. Each battle is fought and hopefully won, and then you move on to the next battle.

Chairman SHELBY. This is a continuing fight, a long time.

Ambassador BREMER. A long-term fight, and one of the points I think, Mr. Chairman, that we would like to stress, which you referred to, is the importance of a sustained program of appropriations for the intelligence communities that are dealing with it. The problem that we found at the CIA was that the appropriations have tended to fluctuate rather dramatically, which makes it hard for program managers to plan ahead.

So it's important for everybody on both sides of the aisle, both ends of Pennsylvania Avenue, to have a sustained approach to this. This is a long-term battle. There are no silver bullets. There are very few home runs. It's mostly bunts.

Chairman SHELBY. It's a totally different kind of war, isn't it?

Ambassador BREMER. Indeed.

Chairman SHELBY. This Committee, the Intelligence Committee, in its May 4 authorization report highlighted our concern. "In addition to traditional weapons, such as hijacking and car bombs, terrorist attacks are ever more likely to include chemical, biological, radiological and nuclear weapons." The Commission, as I said earlier, appears to concur with this Committee's assessment. Is this correct, Mr. Chairman?

Ambassador BREMER. That's correct.

I think Congresswoman—

Chairman SHELBY. Jane. Excuse me.

Ambassador BREMER. Commissioner Harman.

Ms. HARMAN. I want to say first it's a pleasure to appear before one of my favorite committees. Having served in the other body on this committee—

Chairman SHELBY. Well, we served on some conferences together.

Ms. HARMAN. Yes, we did. Yes, we did.

Well, the Intelligence Committees are known for their bipartisanship, and that's a rare event in Congress these days. And this Commission operated absolutely on a bipartisan basis and, as our Chairman said, its recommendations, even for some reorganization of Congress, are based on the notion that a bipartisan review of the entire intelligence and counterterrorism budget would be very helpful.



But what I wanted to say about the terrorist threat is that, as our Chairman pointed out the other day, it is asymmetrical. So it is much less expensive for a terrorist to plan an attack in one spot than it is for the United States to protect our citizens abroad and domestically against any possible spot that that terrorist could pick.

Even though we believe that terrorist attacks in the near future are likely to be conventional attacks, we still have to plan for any kind of attack. And we do recommend a list of steps on a bipartisan basis so that we are prepared.

Chairman SHELBY. Do you agree that there's just no substitute, one, for diligence in seeking out these people who commit the terrorist acts, wherever they are, whoever they are?

Ambassador BREMER. Yes. You have to have a program which is not too risk-adverse, which tries, first of all, of course, to prevent the attacks, which largely depends on good intelligence.

Chairman SHELBY. That's number one, isn't it?

Ambassador BREMER. Human intelligence. It's number one, number two. It's about number one through nine.

And then, if you have an attack, you try to go after them and find them and bring them to justice.

Chairman SHELBY. Otherwise, we would be living in bunkers, would we not, in this country—something none of us want.

Ambassador BREMER. I don't think any of us and nobody on this Commission wants to see the liberties that we're used to—the personal liberties as well as the civil liberties—unduly abridged.

Chairman SHELBY. Senator Bryan.

Vice Chairman BRYAN. Well, thank you very much.

Let me just say once again this is a very thoughtful, thoughtful document, and we appreciate your efforts.

Let me try to understand, if I might, in a little bit more detail, the specific comments, Mr. Ambassador, that you made with respect to the students. We use the word "monitoring," and I think that has a connotation that has some ambiguity in it. One can attach a negative inference to that, and I did not derive that at all from your comment.

Can you explore with us just a little bit more what kind of activity you contemplate? You mentioned that we should update the technology and have this information out of the shoebox and into computers. I think few people could quarrel with that. We are in the 21st century, and we do need to have this information.

But what kind of information, in your judgment, should be collected?

Ambassador BREMER. Well, let me read to you from the regulations of 1965 on which exactly is collected, and we're only recommending the same things be collected.

Vice Chairman BRYAN. So you're not expanding upon the existing law?

Ambassador BREMER. No, sir.

Vice Chairman BRYAN. Okay.

Ambassador BREMER. We're not expanding on a law or a regulation. We're simply saying it's time to do it in a modern way with computers instead of shoeboxes. And we believe it should be done nationwide. And it covers the kind of things I referred to—the date



and place of birth of the student, the country of citizenship, the address, status—full-time or part-time student—date of commencement of studies, degree program or field of studies, whether the student has been certified for practical training, termination of studies, et cetera. This is 1965.

The program which Congress encouraged the Attorney General to put into effect in 1996 essentially collects the same information. We're not suggesting any additional information.

Vice Chairman BRYAN. And all you want to do is to update the technology in terms of collating that information so that it might be more easily accessed in terms of it not just being a vast amount of information out there that nobody really can use.

Ambassador BREMER. That's right. And I want to stress that the primary purpose—and then Commissioner Kayyem wants to say something—the primary purpose in 1965 and today is to assure that students, foreigners who come here on student visas, F-1 visas, are legitimately still students, because if you're no longer a student, you are supposed to leave the country. That's the law. Now you can change the law, but that happens to be the law.

That's the primary purpose. This information would be collected on students from all countries, without regard to what nation they are from. It's not a discriminatory program. It is not intended to be discriminatory, nor do we intend it to be.

Vice Chairman BRYAN. But the key point that you made, before getting to Commissioner Kayyem, is that you're not talking about expanding the data base.

Ambassador BREMER. No. No, excuse me. Let me be precise. We are suggesting that it is time for a nationwide program. The program that's been in effect since 1997 is a pilot program, which is restricted at the moment to 21 universities in the south of the United States. INS has recommended that be made nationwide, and we are saying we think there should be a nationwide program.

Vice Chairman BRYAN. But the information that would be collected is no more expansive or intrusive than the 1965—

Ambassador BREMER. What they're already collecting.

Vice Chairman BRYAN. Thank you.

Ms. KAYYEM. I think some of the concerns that we have heard over the weekend and the week when the report was released have less to do with the law, which has been in place for decades, but the implementation of the law and the potential for abuse. And that's why we want to be clear this Commission did not endorse any specific procedure in this regard. We think the issue of our borders is big. It's very big. And students are just one part of it, as we know.

We also don't want to in any way denigrate the contribution that foreign students bring to us and our universities and colleges. And that's why we discussed having a notice of comment hearing, to hear from universities and students, and in no way would we condone if this process or any process nationwide were implemented in a discriminatory fashion. I know we've heard from a number of Arab and Muslim groups concerned about would they be targeted specifically.

Presently the law does not narrow it down to any one country, and that's essential to remember. It is anyone studying here basi-



cally are they valid under their student visa. So it's important to remember that, if implemented poorly, incorrectly, or in a discriminatory fashion, no one on this Commission would endorse it.

Vice Chairman BRYAN. I thank you. That's helpful.

The other area, and you pointed out there's been some comment on that, and that is the measure of supervision, the guidelines with respect to using people who have unsavory backgrounds. Now, having served, as we have, as members of this Committee, you know, you don't go out with a group of choir boys to do the kind of work that we need to do to protect our national security interest. So I don't have any hesitation at all about using people who have an unsavory background.

My concern is to make sure that there is some level of review at a senior level before that decision is made, to prevent rogue operations from occurring. Let me give you, Mr. Ambassador, or any member of the Committee who cares to respond, how you're going to change that from the present guidelines.

Ambassador BREMER. I'm going to let my fellow commissioners answer, but I want to go back before they answer to pick up something that the Chairman said, which is I'm aware of the statements that the CIA has made in response to this, and the Chairman is exactly right. Their response does not really meet our concern.

Our concern is not how many of these potential agents are turned down at headquarters. Our concern is with the prophylactic effect that these guidelines have on case officers in the field—a form of self-censorship that goes on in the field about which we heard testimony from serving agents both in the field and here in Washington. That's our concern.

Our concern is that there's a risk-adverse attitude in the field, whatever they think at headquarters. Again, I said the facts drove our conclusions here, and this was a unanimous recommendation by everybody on the Commission. I'll let these two commissioners expand.

Mr. WOOLSEY. Senator Bryan, let me put this in context a little bit, if I can.

There are a lot of good people trapped inside bad governments, and some of them volunteer to help the United States as spies. I was recently at a conference with Oleg Kalugin, former head of counterintelligence for the KGB, who, wonder of wonders, now ops out of the Washington area out of an office as a security consultant. The end of the cold war is a wonderful thing.

And I asked him how did the CIA and KGB do against one another during the cold war in terms of recruiting human agents. And he said CIA bested the KGB about five-to-one. I think that's about right, and I think that is more or less confirmed by the Matrokin archives book, *The Sword and the Shield*, about the KGB. And the reason is because most of the KGB recruits that were famous—Hiss—well, he was GRU—agents back in the thirties and so forth, in Britain as well as the United States, were ideological agents. They really believed in communism.

And as the Stalin show trials and the beginning of the cold war and how awful the Stalinist regime became clear, and particularly after Khrushchev and the famous speech to the 22nd Party Congress, we began to do a lot better with ideological agents. Indeed,



probably seven or eight of the ten to twelve men that Ames got killed were patriotic Russians who were democrats. That's one of the great tragedies of the Ames affair. They were working for the United States because they believed in democracy and hated communism.

Well, in bad governments we do quite well by recruiting good people and having good people volunteer. That is not the case in terrorist organizations and criminal organizations. If you are in Hizbollah, it's because you want to be a terrorist. If you are in the mafia, it's because you want to be in the mafia, by and large. So just as the FBI and the Justice Department have to give incentives to people who have exhibited criminal behavior in order to get witnesses against kingpins in the mafia, just as, for example, they gave Sammy "the Bull" Gravano, who admitted to killing 19 men, his freedom as part of the witness protection program, and then he went and violated it again, but nonetheless he got his freedom for testifying against John Gotti, I don't think too many people quarreled with that. You had to give Sammy "the Bull" Gravano his freedom in order to prosecute successfully John Gotti.

By the same token, if a CIA case officer in the Mideast is going to have any chance of getting a successful recruitment inside a terrorist organization, he is going to have to recruit people who have done bad, sometimes terrible, things. Now, as the Chairman said, we had case officers and station chiefs, both here and overseas, both active and retired, tell us that the 1995 guidelines on this issue created a very severe morale program.

And, as the Chairman said, the issue is not what the CIA has addressed. The issue is not how many recommendations up the line get accepted or not. They may well have accepted all the recommendations that come up. The question is what gets recommended. The question is, is there a deterrent effect on the young case officer in the field if he has to in a sense stand behind, at least in part, the terrible reputation for violence or whatever of the individual he is trying to recruit in order to have that balanced against, and minimized to be balanced against the value of the recruit as an intelligence asset.

CIA for many years has had a process of vetting agents. Sometimes they are even polygraphed. But in many cases, in all cases, they are studied carefully to try to strike a balance between the access that the agent provides, the knowledge that they have, their veracity, and the risk that one runs in one way or another in recruiting them. That balancing is as old as the balancing that occurred when Joshua's case officers in Jericho recruited Rayab the Harlot. That's been going on for a long time.

What we find, though, in these guidelines is a different kind of balancing. It's balancing the nature of the bad deed that the individual may have done in the past—not his veracity but, let's say, the nature of the violence that he committed—vis-a-vis the value of the intelligence. And for purposes of terrorist organizations—and I would add international criminal organizations—I don't believe that's the right signal to send to young case officers.

This Commission would probably, if you polled us, have some disagreement within it about whether these types of guidelines should be applied to recruiting spies inside governments or not. Some of



us might say yes, some of us might say no. But our writ did not run to that issue, and it didn't really come up for us.

But as far as terrorist organizations are concerned, the Commission I think believes that the traditional CIA method of vetting agents and balancing veracity and value and access the way they always have done is the right incentive and the right thing to put into the mind essentially for assessment by the young case officer in the field, and that we really just need to accept the fact that if one is going to have spies inside terrorist organizations, virtually all of them are going to be people who have committed violent acts in the past and may likely commit violent acts in the future. It is just simply the nature of spying on terrorist organizations.

Vice Chairman BRYAN. Mr. Chairman, there are many of our colleagues who are waiting. I will pursue this line of questioning. Thank you very much, Mr. Woolsey.

Ms. HARMAN. Senator, I just wanted to add to what Commissioner Woolsey said that of all the subjects that we dealt with in the Commission this one took the most time. And there was a difference of opinion in the Commission about exactly how to address this. Some people thought that we should rescind the 1995 guidelines. We did not do that.

One person—I was that one, at least one—thought we should clarify the guidelines and not take the recruitment of terrorist assets outside of those guidelines. But, nonetheless, what we came up with is carefully explained in our report on page eight, and we do continue a balancing test. We think it is critically important that the reliability, access, and value of the asset be assessed at CIA headquarters, not in the field, before that asset is retained.

Chairman SHELBY. Senator Allard.

Senator ALLARD. Thank you, Mr. Chairman.

Ambassador, in your report—and maybe other members would like to answer this question—you pointed out the Foreign Intelligence Surveillance Act had a standard of probable cause and that when we took it to the Justice Department Office of Intelligence and Policy Review that they had elevated that standard to a specific knowledge or evidence of wrongdoing. I wondered in what ways you could share with this Committee that the Department of Justice Office of Intelligence and Policy Review applied the FISA statute in a cumbersome and overly cautious manner.

Ambassador BREMER. Well, Senator, we address it on page eleven of our report. The problem we found, and we heard testimony on this, was that while the FISA statute establishes hurdles that have to be overcome in order for a court to issue a FISA wiretap, in the process of reviewing FBI requests for such wiretaps, which go through the Office of Intelligence and Policy Review, OIPR was setting up still higher barriers. In effect, they were interposing themselves not to help the FBI, although it may well have been their belief that they were helping the FBI. They were actually adding additional conditions.

And it's interesting to me, Senator, that when the Justice Department conducted its internal investigation into the Wen Ho Lee case, one of the findings of the Justice Department was precisely the same as ours. It didn't relate to this particular case, but it related to the role that the OIPR had abrogated for itself there in



criminal cases, where, in the words of the Justice Department, OIPR was setting itself up as the referee and judge, and was performing a screening shortstop role—I'm using shorthand terms.

And we were concerned with that, because we think that no wiretap should be put on without a Federal court order. But that's what the courts are there for. And that's what the process is supposed to set up. It's the courts that should make the decision, and if the court decides that the probable cause standard hasn't been met, well, they can send it back.

Ms. KAYYEM. Senator, if I can answer that, I did not concur in that recommendation, and I'd like to state my reasons why.

The number of secret wiretaps presently being utilized has never been higher. The argument that the FBI is somehow handcuffed is belied by the numbers, and there was no specific showing before the Commission of a need to expand its capacities. I think there are close to 14,000 requests since FISA was passed, and only one has been denied by the FISA court.

And for those of you who embrace FISA, we should consider this testimony that the Commission heard. A criminal indictment based on FISA surveillance has yet to be thrown out in a Federal criminal court because of Department of Justice had not satisfied probable cause. If we start to play tricky with probable cause, then I think the intelligence we gather will fail.

I agree with the report that there should be effective cooperation. That was what was stated in the Wen Ho Lee report, although we heard no specific evidence of it. And if this is a matter of resources for OIPR, I wouldn't disagree with it. But it's for precisely that reason that I think it would be a really terrible mistake to permit the FBI to wiretap any American who was at one time, no matter how long ago, a member of an organization that we now have deemed as terrorist, as the report apparently recommends. Membership and nothing more does not satisfy the Constitutional standards.

As regards the Commission's report, the Commission believes that the court should play that role and not OIPR, but I wanted to raise there were discussions about what happened at the millennium. I think keeping the millennium standard is exactly what we don't want to do when terrorism is involved. If that becomes our standard and the next terrorist event happens, it only increases after that. I think what happened in the millennium, although I don't know specifics about it, about specific cases, meant that everyone could come together and get the surveillance through. But that's not the standard we want to stay at at all times.

Senator ALLARD. I'd just comment further that on the Wen Ho Lee case, in reviewing the goals and objectives of Los Alamos Laboratories, security was at the bottom of the list. And because of that I think our nation's secrets were put unnecessarily at risk. I have been critical personally of the FBI and the way they handled that, and part of it was because of not eliminating the suspect immediately and then worrying about building a case, because our first priority should be protecting our nation's secrets.

Are there other examples where you may see a problem in the ways that OIPR applied the FISA statute? That's a pretty good example. Are there any others?



Ambassador BREMER. No, Senator. I wouldn't go any further into examples, but I want to correct one impression that might have been left by something Ms. Kayyem said. This Commission did not in any way and does not propose any change in the statutory requirement for probable cause standard. That is not our proposal. I just want to be absolutely clear so everybody understands that.

What we are saying is that's a judgment for the FISA courts to make, not for the people in OIPR.

Senator ALLARD. Mr. Chairman, I see my time has expired.

Chairman SHELBY. Okay. Senator Graham is gone. Senator Lugar.

Senator LUGAR. Thank you, Mr. Chairman.

There are some points I just wanted to make comments on quickly. First of all, we've had a number of people in town testifying in other fora who are instrumental in the information age situation. My understanding is there's a considerable concern in our government about at least software fixes or other fixes that might be made to better ensure the integrity of our Department of Defense or the FBI or Congress or what have you. Given the plethora of viruses, which seem to spring out almost every day, we're defenseless against a lot more than we should be defending against.

So I think one point you've made in terms of our own defense is absolutely valid, as well as anybody involved in the intelligence process. But likewise the intelligence information age is much more intrusive. You talk about upgrading the gaps. Of course we should do that. But I'm not certain how many people in this government know what they are. In other words, it seems to me the need for coordination with Intel or Oracle or Cisco Systems or the other people who have been in here on other purposes is really of the essence—and quickly, because these folks are attempting to protect intellectual property, they are suggesting fixes that may be helpful in that respect. But likewise they know a lot about how to find out a lot.

Now you can't really cover all of this in your report, but I'm hopeful as you amplify this that you may offer some checkoff list or guidelines on who somebody in government ought to see and what they ought to do.

Ms. HARMAN. Senator Lugar, I just wanted to agree with you. I hail from California, as you know, the home of most of those folks, who have technology way ahead of what is in our intelligence agencies at the moment.

I just wanted to applaud NSA for something it did this week after this report came out, which is to announce that it would outsource a lot of its non-foreign intelligence functions. I think that's a good start. I think that kind of partnership is certainly good for the industrial base of all of our states, but it's also excellent for the capability of our intelligence agencies.

Senator LUGAR. I just wanted to make this comment now about the sanctions business. You know, I appreciate the impatience we had with Iran, Syria, what have you. It seems to me, having debated this issue a long time, our effectiveness with regard to these sanctions is certainly suspect. By that I mean there is some hurt caused but in terms of national policy changing, not a whole lot of evidence.



Now this doesn't mean that we could not sharpen up the sanctions. For example, as opposed to broad-cast economic disruption or so forth, targeting the leadership or targeting specific centers of their infrastructure, in other words as opposed to simply broadcasting we don't cooperate or we sort of tell them what we think, it seems to me the Commission might perform a service, or at least your successors, in going to school on what elements of any sanctions make any difference whatsoever.

Otherwise, this is a feel-good situation. In a way, we feel we're showing them where to go, but it's not really helpful in terms of the development of our own diplomacy. You suggest it does encourage democrats within Iran if we're tough with the other people. Maybe. We really don't know enough about exactly what's going to be helpful there. You know, I don't really ask for a full discussion of this, but I would like, as you have thought about it, to think through more of how we're going to influence any of the rogue states or the non-cooperators.

Mr. WOOLSEY. Senator, I think that many times unilateral sanctions levied by the United States are relatively ineffective, and they draw the understandable ire of American business, about not being able to sell where other people can sell and the like. Multilateral sanctions may be a quite a different thing, and even where they are only applied to a specific undertaking—the aviation business in Libya and so forth—I think they can be effective.

There may be one exception to the unilateral sanctions issue, and that is in the capital market. We may find, because of the dominance of the American capital market around the world, that if we have sectors of, say, a Chinese economy that is engaged in proliferation, or sectors of a Russian economy that's engaged, and over time they can be denied access to the American capital markets, they may find that their other access is considerably more limited.

But with that one exception, because of the dominance of the American capital market, I think unilateral sanctions quite frequently are more, as you said, a more feel-good undertaking.

Senator LUGAR. Let me just rush in because my time is going to be expired. The Department of Defense surely ought to be involved. I think that's a no-brainer. In the event we have one of these attacks—and you have identified it—the shock to the American people, the disruption of civil liberties instantly is likely to be severe. I think many of you have been through that traces before. So I think Ambassador Bremer is absolutely right. Long before we come to that point we ought to know who comes to the rescue.

Now in the so-called Nunn-Lugar-Domenici thing that puts 120 cities into some training, you have suggested an annual exercise, which is a good idea, so that the first providers, the police, the sheriff, understand what anthrax would look like, or the people, what they would look like if it hit, this is just very important.

But the idea always, if it hits Indianapolis, Indiana, is that somebody from the Department of Defense is going to come over the hill and save us. You have a certain period of time in which the local providers hang onto it. And I think there's ample testimony from a lot of people on this.

One final thought, and that if for a long time many of us have tried to get the President to designate either NSA or somebody to



be in charge of all of this. Now you've got arrows coming in from every direction into a task force, and you're trying that on for size. The Administration has resisted this. Now finally they do have one gentleman down there who in fairness is doing a lot better job in the last two years than has been done.

But the jurisdictional problems here are profound, and everybody wants to do their own thing, and it won't work if you have a terrorist attack that's for real. At that point everybody in the country will be on our necks asking why didn't you get it fixed before a disintegration occurred. So this is a good time once again to say to this President or the next one, get it done. It really has to happen, because it hasn't happened and once again you've got a good chart illustrating the problem.

Ambassador BREMER. Thank you, Senator, particularly for those comments about the military. You, I hope, will have more success explaining it to the American people than I have in the last three days.

Chairman SHELBY. Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.

I would like to pick up on some comments that Mr. Woolsey just made relative to unilateral versus multilateral sanctions. We currently have a procedure by which the United States designates countries as being sponsors of terrorism. This is not dissimilar from another process we have to designate countries as those that are not fully cooperating in the war on drugs. And there have been suggestions that that war on drugs designation should be multinational rather than just unilateral in order to achieve its intended goals.

Could you comment as to whether you think we should try to internationalize the designation of sponsors of terrorism states and, if so, how we would go about doing it?

Mr. WOOLSEY. It's a difficult matter because some of our friends and allies, let's say, with countries such as Iran and Iraq have in mind oil concessions and sales, and they're not willing to be as firm and forceful with them as we. But every bit helps, and I think any effort that goes into the multilateralization of sanctions against terrorist states or, for that matter, in other areas—states that proliferate—is effort to the good by the Federal government, because I think it's only when you can begin to broaden many of these economic sanctions into a multilateral framework that you are really likely to begin to have real effect.

Now there is some value in the United States simply taking a stand on a matter and verbally being absolutely straight about what a country is doing, and perhaps for some symbolic reasons doing some things unilaterally, but it often comes back to create problems for the Congress and the Executive branch with various parts of the American economy and public if we try to impose unilateral sanctions and they are not effective and the resentment builds up over time that it's really not something that the government is succeeding at.

I think any multilateral effort that we can possibly make is effort to the good.

Senator GRAHAM. Just to push that a little further, and then Ms. Harman wanted to comment, would you suggest starting at an ex-



isting agency, such as the United Nations, or would you suggest a separate conglomerate of nations that would constitute the multinational force to designate nations which harbor terrorists?

Mr. WOOLSEY. I would probably try to start with some more limited organization—the OECD or something like that—because, as difficult as it's going to be in a forum like that to get people to agree on sanctions against an individual country, the United Nations would be even harder. So I think if one could get even a handful of prosperous western democracies essentially to agree on economic sanctions in some individual cases, I think it would be most desirable.

Ms. HARMAN. Senator, I just wanted to add that multilateral sanctions are always preferable, but it's a hard go. We did travel to England, France, Poland, Jordan, and Israel as part of our preparation of this report, and we raised issues like sanctions against Iran every place we went, and we didn't hear back views that resembled ours and we put our recommendations in anyway.

Senator Kyl certainly will remember some time that we spent together in past Congresses trying to impose sanctions on Russian firms that export technology to Iran to help its missile industry, and I think that sometimes you have to do that. You have to act unilaterally.

I did want to make a different comment, though. Senator Shelby in his opening remarks talked about our reference to Greece, and he mentioned that the 17 November group has just assassinated another person, in this case a member of the British Defense Ministry. I wanted to applaud one thing that happened today, which is that both the Greek government and the World Council of Hellenes Abroad has blasted that act as barbaric and has pledged full support to round up those who perpetrated it. I hope that this will be an opportunity for the Greek government to crack down on that particular group.

I personally would not have highlighted any particular government as we addressed that subject, but I certainly think that at least this recent statement today is encouraging that I would hope that our NATO ally, Greece, will not be one that we will single out in the future.

Senator GRAHAM. Let me ask—my time is almost up—you did indicate two nations as suggested additions to the list. Did you find any of the nations which are currently on the list as being candidates for removal?

Ambassador BREMER. We looked at the record of the seven countries that are on there, and there are obviously some which are worse than others. We highlighted Iran and Syria. There are some which are in the process of reducing or have reduced their support, overt support, for terrorism in the last decade, Cuba in particular, although Cuba still gives refuge to a number of terrorists and has important ties to the FARC in Colombia, which is one of the most violent anti-American terrorist groups in Latin America.

So we did not make any particular recommendations. The important thing I think here, Senator, is that the Congress decided in 1996 that the previous system, which was essentially binary—you were either a state supporter or you were not a state supporter—needed to be loosened up. There needed to be a third category—this



category of not fully cooperating—to the Executive branch more flexibility, so they didn't have to deal with a binary system.

Our report says that the Executive branch has not made good use of that flexibility. That's why we suggested looking at, among others, Greece and Pakistan.

Chairman SHELBY. Senator Kyl.

Senator KYL. Thank you, Mr. Chairman.

Let me first of all compliment the Commission, all of you. Those of you that I know, I've always had great respect for you, and I think the Commission distinguished itself in the report, and I also happened to watch a good deal of the news conference the other day, and I thought all of you did a fine job in responding to at least the questions that I heard and the presentation by the Chairman.

I chair a Subcommittee of the Judiciary Committee on Terrorism, Technology and Government Information, and we are in the process of scheduling hearings—some of you may have been contacted. I would invite all of you who can to participate in that hearing, if you would, because I'd like to try to fill in some of the things which the Intelligence Committee here can't deal with.

There are specific things that really relate to the jurisdiction of the Judiciary Committee—and I'm not going to get into that here because I'm going to save it—but, Ms. Kayyem, one of the issues deals with this interagency partnership regulating international students and all of the difficulties involved in that. And I'd really like to be able to get into that, because we've had discussions on that at the Judiciary Committee. It's hard, and on our Immigration Subcommittee, of which I am a member, we've struggled with this kind of thing. I'll save that for then, if I might, because I've got a lot to cover, if you don't mind.

Let me say that with respect to the intelligence aspect here I think that former Director Woolsey and the others of you on the Commission made an extremely important point with respect to this recruitment of assets, and I hope that we don't let that go here as a Committee.

Third, with respect to something that is within the jurisdiction of the Judiciary Committee, in part, I would ask all of you who can help us with this to think about discussing in more detail the recommendation with respect to cyber security. I suspect—and please correct me if I'm wrong—that you saw others dealing with that in a more robust way and therefore you tended to focus on some other things you felt were not as much being dealt with by others, but I would still like to get into some of the recommendations, especially the coordination with other countries in dealing with the cyber threat.

And that brings me to kind of my final point. I suggested to Senator Lugar a moment ago, who as you know is a distinguished member of the Foreign Relations Committee, that perhaps it's time to look at this international convention for suppressing the financing of terrorism. But I do that with some trepidation because it seems to me that we're a country that stands at fault in figuring out a way to deal with this question. And I'd like to pose this question to any of you who would like to answer, because this too has been troubling to us on the Judiciary Committee.



How do you stop the funding of activities in this great, wide open, pluralistic society of ours that has an organization for everything, including an organization of organizations, many of which raise funds for worthy causes. And there are lots of worthy causes in foreign lands to house and clothe and feed the children of you name the country. And it's very difficult to follow those funds as they wend their way back into the pockets of some terrorist.

The difficulty of following students on campus, of checking these organizations, we get into certain ethnic issues, and I recall, Ms. Kayyem, your response to in the press conference the other day. All these are very difficult.

So the question is, can this be an effective way of stopping the funding of terrorists, A, given the fact that many of them are funded through separate sources like Usama bin Ladin's group, his own family, secondly the state-sponsored or quasi-state sponsors. Is this really that big of an issue. And, if it is, doesn't it start right here at our own doorstep, where we know we're doing it but we can't quite figure out a way to stop it. And if we can't, then who can?

Ambassador BREMER. Senator, you're quite right this a hard problem. Basically what we're concerned with is the following. If you look in the 1990s, what's happened is that terrorist groups have become less dependent on direct state support, including funding. That means they have to self-finance in effect. And since that means that their private sources of funding are relatively more important to them than they were before, it provides a target of opportunity. It's a difficult target, there's no question.

What we have said in our report is we think that the Executive branch to date has been a bit too narrowly focused on a single aspect of it, the Act of 1996 which established the list of foreign terrorist organizations, the FTO list, where it is difficult to make cases and where only a few cases have been made. We argue that it is better to take a broader, more strategic approach, looking throughout the U.S. government as to where information might reside—in Customs, in Immigration, Treasury, in the IRS, wherever information might reside—that could be useful in making cases under statutes like money laundering, embezzlement, fraud and so forth, against people or groups which are terrorists.

You are quite right. There is no easy answer here. The Convention itself doesn't provide an easy answer, but it does provide, I think, for useful cooperation among friendly countries, and that's always helpful. And the same is true, Senator Lugar, in the area of cyber terrorism. We have suggested looking for an international convention on cyber. There is such a convention sitting before the Council of Europe, which we looked at but didn't study. But there are problems here too about sharing proprietary information. There are a lot of issues.

We didn't have time in the six months we had to go into these very deeply other than to identify them as a problem and on funding to make a specific recommendation, Senator, that there should be a task force across the interagency boundaries which, as I said in my opening remarks, I think the President effectively proposed in his Coast Guard speech on May 17.

Senator KYL. Well, thank you. Thank you, Mr. Chairman. I think you do raise one interesting question with regard to your rec-



ommendation on cyber security. It is a double-edged sword. The extradition issues and that sort of thing clearly we need to address, but we have to be very careful about some of the suggestions that have been made to the United States. I applaud the Clinton Administration for backing away from some of those, because they could very significantly compromise our own efforts. Thank you.

Chairman SHELBY. I'd like to go back, if I could, to FISA briefly. The Committee conducted a hearing to review the role and the viability of the FISA in today's collection environment. One view holds that the Foreign Intelligence Surveillance Act that we call FISA presently provides the flexibility to permit collection against emerging technologies. Based on your work, Mr. Chairman and other members, would you agree with the intelligence community officials that the Foreign Intelligence Surveillance Act of 1978 presently provides the flexibility to permit collection against emerging technologies and where can improvements be made if we need them?

Mr. WOOLSEY. Against emerging technologies in the sense of, for example, Internet communications and the like?

Chairman SHELBY. Sure.

Mr. WOOLSEY. Senator Shelby, that's a terribly important question, and it's one that I—

Chairman SHELBY. Very technical too.

Mr. WOOLSEY. Yes, it is. It's one that personally I would want to do a bit more reading on and probably, if the Committee were interested, talk about in a closed session.

Chairman SHELBY. We would do that.

Ambassador BREMER. I think, Mr. Chairman, that's a subject we did hear some testimony on, but I don't think this is the appropriate forum.

Chairman SHELBY. Would you like to go into a closed session with us and talk about this at a later date?

Ambassador BREMER. Yes.

Mr. WOOLSEY. Could I say one thing on cyber security, Senator Shelby, because you and Senator Lugar and Senator Kyl have all mentioned it in one way or another. I completely agree with Senator Kyl's statement that it was wise for the Clinton Administration to back off of the notion they had, which would have initially, as reported in the press, which may or may not have been accurate, that suggested the potential for invasion of people's privacy.

There are basically five problems, as I see it. There's hackers entering into government and other networks from outside through cyberspace. There's denial of service attacks—flooding, which has been compared to piling up a bunch of garbage cans on your doorstep so you can't use your house. There are instructive viruses, viruses that may be inserted if you log onto a site and open an e-mail, let's say, and instruct your computer or your network to communicate something, often secretly, to another computer outside, and then to destroy itself. So for espionage or for industrial espionage, those are wonderful tools.

There are destructive viruses. You open an e-mail and something comes on Woolsey's computer that he doesn't know about it, and it says destroy all of Woolsey's files on April 1 and then flash Happy



April Fool's on the screen. And it doesn't communicate with any other computer; it just destroys what's in mine.

And then finally there's insider hacking—hacking and betrayal of trust by employees or members of a government agency, sometimes who have only a very junior level of access to a network but are able, through finding passwords or even guessing passwords or whatever, to get into other computers on the network and do great damage.

All five of these are serious problems, I think, from the point of view of pranksters, from the point of view of criminals, from the point of view of terrorists, and from the point of view potentially of information warfare against the United States. And it is worth, I think, a great deal of government effort and attention to try to find systems and programs which can deal with all of these.

Much of what is done now to protect computers is in the form of firewalls, and I consider those, almost all of them, next to worthless, and a handful to be a tiny bit of value. They are just too easy for experienced hackers to get through too quickly. They may protect a computer or a network for a short period of time if applied correctly, but not much more.

So I think this is a hugely important issue for the country's security, including in the terrorist regime, and I would really urge this Committee and the other committees such as Judiciary that are interested in the subject to give it as much attention as you can.

Chairman SHELBY. Do you believe, Mr. Chairman and others of the Committee, that our policy currently toward Iran strikes the right balance between seeking to end the Iranian support for terrorism, resolving terrorist issues, and at the same time seeking to encourage a political reform in that country?

Ambassador BREMER. We are a bit concerned that we may have gone a bit too far in making conciliatory gestures towards the government of Iran. Our recommendation is there should be no further conciliatory gestures until Iran stops support for terrorism, not that it talks about stopping or promises to stop, but stops.

Chairman SHELBY. So it's a mixed message sometimes?

Ambassador BREMER. A bit of a mixed message. And I think, Mr. Chairman, it goes to the point Senator Lugar made. It's mixed not just in Iran. It's mixed in Europe, because we're at the same time trying to tell the Europeans to join us in various kinds of sanctions against Iran whilst we're making these conciliatory gestures. And it's also potentially misunderstood in other terrorist-supporting states.

Chairman SHELBY. Mixed messages could be misleading for them and disastrous for us, couldn't they?

Ambassador BREMER. Well, the Iranians are still supporting terrorism.

Chairman SHELBY. Sure. The Commission identifies leaks of intelligence and law enforcement information as a concern, which the Committee has been involved in too. We share that concern strongly. Did the Commission consider any solutions or make any recommendations to the leaks problem?

Ambassador BREMER. Well, since Congress in its wisdom only gave us six months to write our report, Mr. Chairman, we thought



that was probably a little bit too big to bite off and chew. It is a serious problem.

Chairman SHELBY. Do you concur it's that important?

Ambassador BREMER. Absolutely. We wouldn't have put it in the front of the report if we didn't think it was very important.

Chairman SHELBY. Mr. Woolsey, would you comment on that, on leaks, as the former Director of the CIA, and how important it is to curtail them?

Mr. WOOLSEY. A constant headache for those of us in the national security business, Mr. Chairman. I would say two things. First of all, occasionally the problem in an area like intelligence or defense or foreign policy is on Capitol Hill, but only very occasionally. Most leaks come from the Executive branch, in my experience. Most of them come from people who are trying to make themselves look important with the press or fight subtly a policy battle, and often they come from relatively high levels in organizations like State, Defense, or sometimes even the intelligence community, although very rarely, I think.

Chairman SHELBY. Selective leaks too?

Mr. WOOLSEY. Selective leaks for purposes of fighting policy battles, for purposes of making oneself look important. This just happens far more often than any of us who have been involved in the government on these issues would ever like to see. It's a serious and ongoing problem.

Chairman SHELBY. Would you, assuming we get you into a closed session, talk about some other issues? Would you like to discuss that in closed session too?

Ambassador BREMER. Well, we'd be happy to, Senator. I don't know that any of us have a solution. I think we all share your concerns. It's a tough problem.

Chairman SHELBY. It's community wide.

Ms. HARMAN. I just wanted to add, Senator, that when we met with people abroad they complained about leaks in the U.S. It hampers our cooperation with our allies, and that cooperation is absolutely central to our ferreting out prospective terrorist acts around the world.

Chairman SHELBY. If people give you information once, or share it, and if it's shared everywhere they are little reluctant.

Mr. WOOLSEY. Mr. Chairman, may I add I don't blame the press for this. Generally the press reports what they're given. But I have had experience as DCI going to a major news organization and explaining the seriousness of a potential leak, a leak that had partially occurred and if more occurred could have been very serious, and having the executives in charge of that news institution be very helpful and say we understand someone's life could be at risk; okay, we won't carry it.

I don't blame the press for carrying what they're given. I blame the largely Executive branch officials who want to make themselves look important and fight their policy battles with leaks.

Chairman SHELBY. Senator Bryan.

Vice Chairman BRYAN. Let me just say on the subject of leaks it drives us crazy too. We get these briefings that are very sensitive, please, and don't even think about them outside of the closed hearing, and then the next morning you read the entire thing in



the newspaper, and you say what is this all about. So I think we're probably on the same wavelength on the leak thing.

Can I return to the subject to the recruitment of the unsavory? I hate to press this point, but I'm really not clear. You were kind enough to invite my attention to page eight, and the first recommendation I couldn't agree more with: The Director of the CIA should make it clear to the Central Intelligence Agency that the aggressive recruitment of human intelligence resources on terrorism is one of the intelligence community's highest priorities. Agree in the entirety.

The second recommendation indicates that the 1995 guidelines should no longer apply to the recruitment of terrorist informants and that the preexisting guidelines should follow. Could you help me understand how do the 1995 guidelines differ from the preexisting guidelines?

Ambassador BREMER. I'm going to let the former DCI explain that.

Vice Chairman BRYAN. You bet.

Ambassador BREMER. I think, as he will no doubt say, there's only a certain amount we can say in this forum, but we can describe it in general terms.

Mr. WOOLSEY. I can deal with it qualitatively, Senator Bryan.

Prior to 1995, the CIA and, as far as I know, any decent intelligence organization anywhere in the world had a system whereby agents were vetted and, as recruitments were in process—frequently a recruitment won't occur all at one time; there will be an initial evaluation, there will be various meetings before anything is finalized—and as the process got going it was the business of the case officer and the station chief. On important matters they would communicate back with Washington, with, say, the division chief or the Directorate of Operations, and there would be an assessment of the likelihood that the agent was going to be able to provide reliable information—and that depended on his position, his access, his probable veracity, his incentives for being an agent. It was a more or less systematic look. I wouldn't call it guidelines. I'd call it a process. It was more or less a systematic process for evaluating whether an agent would be reliable, whether he was a double agent being run against you, whether the access he provided was worth the risk and the cost of recruiting him and running him.

Sometimes that succeeded; sometimes it failed. Sometimes we missed getting agents we needed. Sometimes we got double agents. That's the nature of the intelligence business.

Vice Chairman BRYAN. Was that done at the station level? Is that what you are suggesting, Mr. Woolsey, essentially?

Mr. WOOLSEY. It was often done at the station level, but on very important matters, and particularly potentially important agents, it would routinely be communicated back to headquarters. Probably during the old days that was relatively limited, but in times of modern secure communications, with secure telephones even and the like, it was a reasonably constant dialogue between division chiefs and offices in the DO and stations abroad.

And there was a process for making these kinds of balancing assessments, and we think that should continue, and it's certainly a reasonable thing to do.



What is new in the '95 guidelines are two things. First of all, the level of review is quite high and it is quite formalized back in headquarters. And, secondly, the balancing that occurs is not a balancing just of the value and the access and the risk of running the agent, but rather whether something that the potential agent may have done in the past that was bad—let's say committed a robbery or beat someone up or, even worse, killed someone—whether the thing that the person did in the past that might not have anything to do with their access or the accuracy of their reporting was bad enough that it should overbalance their value as an asset, as an informant.

And it was that balancing that was required by the new guidelines in '95 that seemed to be, from what we heard from, as the Chairman said, from existing and former case officers, from case officers abroad and here at home, that had a substantial deterrent effect on their making even recommendations up the line that someone should be considered as an asset, because they became concerned that if they had done something bad in the past someone was going to criticize them.

So it's that balancing that's new to the '95 guidelines.

Vice Chairman BRYAN. So are you saying, Mr. Woolsey, that it's the balancing—and you've been very clear on this—more than the formalized review that seemed to be, as you found it, the inhibiting factor?

Mr. WOOLSEY. It's two things. It's the formal nature of the review and the very senior level of the review, and it's what is balanced.

Vice Chairman BRYAN. And I understand that. It strikes me that there are two issues here. One could very easily say, look, the balance is out of kilter, but that the review should continue. Now, are you saying as your recommendation both of these in your judgment ought to be in effect superseded?

Mr. WOOLSEY. As I read and understand the Commission's recommendation, it would be that the '95 guidelines not be applied to terrorist recruits, and the former process would apply. And what that would mean would be that the balancing would still occur, but not necessarily balancing of an individual's, say, past violent act. It would be balancing of all the things that would go into his giving valuable reports and accurate reports, and furthermore that although it would be a routine and expected matter that important recruitments would be reviewed in some way back at headquarters, that that process would not be dictated to occur at specific levels depending upon specific past events, which is the way the '95 guidelines read.

Vice Chairman BRYAN. So is it fair to conclude that you all reached the conclusion that this is a systemic problem as opposed to a communication to the agents in the field as to what really is intended by the '95 guidelines?

Mr. WOOLSEY. That's very much my understanding.

Ambassador BREMER. I think in a way it's both, if you define communications. There's no question that our first recommendation is almost superfluous. There's no question that the DCI and the other people we spoke to have already said to the field recruiting terrorists is important. The problem is, that's, to use the Chair-



man's term, a mixed message, because the guidelines send a different message to the young case officer. The guidelines say to him or her this is really going to be hard, and I may have to take a year and a half of my three-year tour trying to recruit this particular asset and find, at the end of having spent a year and a half at it, I send the proposal back to this what I call "jungle gym" of approvals in Washington, only to have somebody in Washington second-guess me and say sorry, you can't engage him. I've wasted half of my tour. This is not exactly career-enhancing.

So what happens, as I said before, is there is a form of self-censorship in the field. I do not dispute what the agency has said, that they haven't turned any of these down at headquarters. That's not the Commission's concern. The concern is what's happening out on point in the field.

Ms. HARMAN. Senator Bryan, I just wanted to add to that. I mentioned before that this was the most contentious issue we dealt with, and it was a very hard issue to come to agreement on. We did come to agreement on it, but there are just a couple of other things to mention. First of all, in 1995, when the new guidelines were issued, the then-DCI, John Deutch, testified in public session on the House side that his new guidelines were not intended to prevent the recruitment of terrorist assets. I'm sure it was his intent not to impair the recruitment.

However, when we got out in the field and we talked to a lot of people, many people feel that these guidelines, however well intended, have impaired the recruitment. That's what led me to the conclusion that we ought to clarify them. Our recommendation goes beyond that, but it only goes beyond that because, at least speaking for me, I was satisfied by other information we got—and these '95 guidelines are classified, so we can't discuss them here—

Vice Chairman BRYAN. Ms. Harman, could I just ask you as a follow-up—and I certainly respect your conclusion. You are a former member of the House committee and you've been out in the field. It's been my experience over the years that sometimes there is resentment not just in the context that we're discussing now, but we've got to get this cleared. Some years ago I was in South America, and the station chief told me that in order to get a vehicle to be used by a recruited asset that he needed to get approval from someone in Washington.

Now if that's true, that's utterly absurd. I think we would all agree with that. So I'm asking you in the broad sense. You're satisfied. You know, this is an impressive panel before us. You're all very distinguished members and I appreciate the bipartisan nature. What you're saying is, based upon the evidence that you received, that this isn't just someone saying or the people saying, look, I don't like the new system, I liked the old way. Most of us are comfortable in doing the old things and change is something that we tend to inherently resist. But you're saying this is more fundamental. You don't think this is just look, I resent the fact that I've got to communicate with those folks at Langley.

This is something that you're convinced really does have a deterrent effect in terms of recruiting these assets, which we all acknowledge we need to recruit. No disagreement on that?



Ms. HARMAN. I'm sure everyone else has opinions too, but two comments on that. That is what we heard. And now that we have made a statement and perhaps that statement will generate some action, then we will see if the situation changes. If preventing terrorism is our number one priority—and we think that it is—then we need to make sure that those who want to do this have all the tools at their disposal. This eliminates an excuse. That's one point.

The other point is, for the new agent out in the field who maybe is baffled by the '95 guidelines or whatever else, this provides some protection for that person because there's not the excuse or there may not be, if they are still in effect, that gee, these things are too burdensome so I won't even try to find someone who can give us intelligence. That excuse isn't there. But there still is a process where that asset, especially if it's a controversial asset, will be reviewed at headquarters.

That was very important to me. I didn't want to let the new agent in the field have sole responsibility for the decision, both because he might make the wrong decision or because, even if he made the right decision, he would then become a political target later if for some reason it didn't turn out well.

So I think after a lot of personal struggle that we've gone in a pretty good direction here, and certainly if our goal is to prevent terrorist acts against Americans at home and abroad we've tried to add a tool that would be useful.

Vice Chairman BRYAN. Thank you. That's very helpful.

Ambassador BREMER. May I just close off on this by saying that I don't think any of us are under the illusion that this is a silver bullet, that this is going to solve all our problems, Mr. Chairman. I think we think this is an important obstacle. We think if it's removed in the way we suggest it can encourage the recruitment of important information about terrorist plans so that we can take steps to prevent terrorists killing Americans.

It's not a silver bullet. It isn't going to be the end if this goes through. This isn't going to stop the battle. The battle goes on, as we said earlier.

Vice Chairman BRYAN. I just want to say as a concluding comment none of my questions are designed to impugn in any way the judgment or the decision that you've made. I agree that terrorism is a major problem that we must do everything that we can. I also agree that you need some of the bad guys to help us. I just want to be sure that we're not responding to folks out in the field.

Ambassador BREMER. That's a fair question.

Vice Chairman BRYAN. I have a law enforcement background. I know when the decisions of the sixties came down on search and seizure and all of that sort of thing, you know, Western civilization as we knew it would come crumbling down. That has not occurred, whatever you might think of those rules.

But you're saying you think the problem is much more substantive than that, and I appreciate that, and that weighs heavily with me.

Mr. Chairman, an excellent hearing. We thank the members of the Commission.

Chairman SHELBY. Thank you. And I want to take a moment and thank you, Mr. Chairman, and the others. This is a good document.



Ambassador BREMER. Well, we were greatly assisted, Mr. Chairman, by a superb staff, many of whom are sitting right here behind us.

Chairman SHELBY. We understand that too. Well, we know some of the staff very well.

Ambassador BREMER. I know you do, and we were delighted to be able to rope them into this big endeavor.

Chairman SHELBY. We are in your debt, and we'll continue to do this, but, as Senator Bryan alluded to, we shouldn't cripple our intelligence gatherers in any measure. Otherwise, we're wasting our time and probably putting a lot of people at risk, aren't we?

Ambassador BREMER. Right. The question here is how do you save American lives. That's the bottom line.

Chairman SHELBY. Absolutely. Thank you.

The Committee is adjourned.

[Whereupon, at 4:41 p.m., the Committee adjourned.]

