

HEARING OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE
UNITED STATES

ROOM 216, HART SENATE OFFICE BUILDING, WASHINGTON, D.C.

THURSDAY, MAY 22, 2003, 9:12 A.M.

PANEL I: COMMISSION MANDATE AND OBJECTIVES

WITNESSES: REPRESENTATIVE NANCY PELOSI (D-CA); SENATOR
JOHN MCCAIN(R-AZ); SENATOR JOSEPH LIEBERMAN (D-CT);

PANEL II: INTELLIGENCE OVERSIGHT AND THE JOINT INQUIRY

WITNESSES: SENATOR BOB GRAHAM (D-FL); SENATOR RICHARD
SHELBY (R-AL); REPRESENTATIVE PORTER GOSS (R-FL);
REPRESENTATIVE JANE HARMAN (D-CA)

PANEL III: AFFECTED CONSTITUENCIES

WITNESSES: SENATOR CHARLES SCHUMER (D-NY); SENATOR
HILLARY RODHAM CLINTON (D-NY); SENATOR JON CORZINE (D-
NJ); SENATOR FRANK LAUTENBERG (D-NJ); REPRESENTATIVE
JERRY NADLER (D-NY); REPRESENTATIVE CHRISTOPHER SHAYS
(R-CT); AND REPRESENTATIVE CHRIS SMITH (R-NJ)

PANEL IV: STATE OF CIVIL AVIATION SECURITY ON SEPTEMBER 11TH

JANE GARVEY, FORMER ADMINISTRATOR, FEDERAL AVIATION
ADMINISTRATION; KENNETH MEAD, INSPECTOR, GENERAL,
DEPARTMENT OF TRANSPORTATION; JAMES MAY, PRESIDENT, AIR
TRANSPORT ASSOCIATION OF AMERICA; AND BODGAN DZAKOVIC,
CIVIL AVIATION SECURITY INSPECTION, TRANSPORTATION
SECURITY AGENCY LOCATION

CHAired BY: THOMAS H. KEAN

MR. KEAN: That's the gavel. Good morning. On behalf of
the National Commission on Terrorist Attacks on the United States,
I hereby call to order this second hearing and, of course, our
first hearing in Washington, D.C.

Let me begin by expressing our gratitude to members of
the public who are following our deliberations, whether they're
here in person or whether they're watching on television. Let
me say, too, that since we held our first public hearing in New
York on March 31st and April 1st, a number of individuals have
contacted our staff. Some expressed sympathy and support for the

families of those who died on September 11th. Others have offered us their help and have provided our investigators with some very useful information. So, I'd like to emphasize that if anyone here with us today or watching elsewhere has any information that they believe will be helpful to our investigation, please contact the Commission through its website: www.9-11commission.gov.

I also want to express my deep gratitude, and that of the entire Commission, to the families of those who died in the attacks on our country on September 11th, and to the many who survived them and their families. They have given unsparingly of themselves to see that we have the necessary resources to do our work, and they've also uncovered some very valuable information that they have passed onto us.

As we begin today, let me say that the Commission's central mission, as all of us see it, is threefold.

First, we are charged with giving the American public a full accounting of the events of September 11th. Ours is the only entity tasked by the United States government with presenting an authoritative account of those events.

Second, we will attempt to find out how and why the tragedy that took place on that day could have occurred. Clearly, something went wrong. We need to establish the fullest factual account possible so that these problems can be fixed.

The third part of our mission is perhaps the most important. We're going to make specific policy recommendations that might help prevent future terrorist attacks and make the people of our country safer.

And we're going to press for swift implementation of these recommendations after we make them.

Now let me say a brief word about what the Commission's been doing. We've opened offices in Washington, and within a month, we're going to have our opening for our office in New York. We have assembled a staff of some 55 people divided into nine research teams. Each of those teams is deeply immersed in the parts of the investigation they were specifically recruited to conduct. We're examining some very, very sensitive material. Much of it's classified, so it's not always possible to share everything we're doing with the public, but we'll try to share as much as possible and what we learn as our investigation proceeds.

Where possible, we will present our findings in public hearings such as this one.

We might question witnesses we will hear from today again -- perhaps, if it's sensitive matters, in closed session -- as we continue with our investigation, to get additional information. So to those who requested us to ask particular questions today, I'd say please be patient. Some of the items you brought to our attention are going to be asked today and will come up in our discussion. Others will come up in different forums.

We'll be exploring two topics at this hearing. The first will be the role of the Congress, oversight of the agencies responsible for intelligence gathering, national security and homeland security. The second is the state of aviation security -- before September 11th, on September 11th and after September 11th.

We're now going to hear from three panels of members of the United States Congress. Our first panel consists of members of Congress who sponsored the legislation that brought this Commission into existence. Members of the Commission have met with many members of Congress in the course of our work. Today, I believe, however, is the first time congressmen and senators who really supported the need for our Commission and a commission of this kind have the opportunity to share with us in public what they would most like the Commission to achieve.

Each of the three members of this first panel is well-known to us and probably well-known to most of the people in the country. They're Senators John McCain of Arizona and Joseph Lieberman of Connecticut, and the Democratic leader of the House of Representatives, Nancy Pelosi of California. And I believe we're going to begin with you, Senator McCain.

SEN. MCCAIN: I think Congresswoman Pelosi has a commitment --

MR. KEAN: Oh, Congresswoman Pelosi? Fine.

SEN. MCCAIN: -- and I'd be glad if she would proceed.

REP. PELOSI: Thank you very much, Chairman Kean, Vice Chairman Hamilton, very distinguished members of this Commission. I thank the gentleman from Arizona for yielding to me because of my responsibilities on the House side, and I'm very honored to be here today to testify before, as I said, this very distinguished

Commission, in the presence of two people, Senator Lieberman and Senator McCain, who were instrumental. Their leadership, in fact, made this Commission possible, along with that of my colleague from the House Congressman Tim Roemer, who serves on this Commission. I commend him also, for his great leadership.

Since the horrific attacks of September 11th, the United States has had two primary goals: first, we must identify the individuals and the groups responsible for this horrific act and bring them to justice. And next, what you put forth, Mr. Chairman: to provide a full account of why and how -- why the attacks were not prevented and how they can be prevented in the future.

With respect for the families so affected and responsibility to the American people, many of us thought that it was important to have an independent commission to review events leading up and post-9/11. From the outset, I believed that a review of the events leading up to the attacks, including the government's response and the larger issue of our nation's preparedness for terrorist attacks, needed to be comprehensive and conducted independently by individuals who could bring fresh thinking to the issues at hand. Congressional investigations, no matter how thorough, would likely be restricted primarily to the jurisdiction of the committee or committees involved. Because the government would conduct such investigations, they would be unlikely to achieve the same degree of public acceptance as an independent inquiry.

It is unfortunate that such an inquiry did not begin much sooner, right after 9/11. Within weeks of the attack, I offered legislation to establish such an independent commission, to be conducted by people who would challenge conventional wisdom and who had wide perspective and broad experience in dealing with complex problems. Unfortunately, agreement could not be reached on how much power to give the review, and the commission I proposed was defeated on the House floor.

I was pleased, however, that through the leadership and the persistence of a member of this commission, former congressman Tim Roemer, as I mentioned, and that of Senators McCain and Senator Lieberman, this body was established and has begun its critical work. Thank you, Tim Roemer. Thank you, Senators McCain and Lieberman. Our entire country is deeply in your debt.

Fortunately, the time between the idea for this commission and its creation was not completely lost. The inquiry undertaken by the House Intelligence Committee Subcommittee on Terrorism and

the nearly year-long joint investigation by the House and Senate Intelligence Committees both answered questions about the nation's state of preparedness and also identified areas in which further work is necessary.

I am aware that the committees are following up in those areas, even as they work toward the release of a declassified version of the report. I'm confident that the work of these inquiries has been and will continue to be of assistance to this commission. I hope that it is available to you.

These congressional reviews were necessary, and they have produced important records that enhance our understanding of what happened on September 11th and why. At the same time, these reviews do not tell the full story. Both reviews were focused on the work of the intelligence community, rather than the performance of the federal government as a whole, both prior to and after the devastating attacks. Whatever failures occurred in the intelligence agencies may have been matched in seriousness by failures in other agencies.

This is not to excuse either the intelligence community specifically or the federal government generally. Rather it is to say that the greatest service this commission can perform is to provide a clear picture of how the federal government, as a whole, was or was not working against terrorism before September 11th, how the pieces fit or did not fit, and the consequences of the government's performance.

For example, and very important, the joint congressional inquiry on which I served, as a member of the Intelligence Committee, did not have access to records of the National Security Council. I believe that a review of those records are essential to a thorough understanding of decisions made by the administration on terrorism matters, and I hope that this Commission is successful in obtaining access to them.

Since the attacks, steps have been taken to realign federal agencies and change responsibilities, the creation of the Department of Homeland Security -- another brainchild of the senator from Connecticut, Senator Lieberman -- and the Terrorism Threat Integration Center being among the most notable.

These may turn out to be worthwhile actions; however, my concern has been that these entities were instinctive responses -- although Senator Lieberman had suggested his department long before September 11th -- to general perception that things were

not right, rather than a result of an exhaustive inquiry across the government with specific findings and specific recommendations for change. This is a critical role your commission can and must play.

One question that has arisen, and very much in the forefront of everyone's thinking, is the role of congressional oversight. The activities of the Congress before September 11th are appropriate area of inquiry, and to this point, have not been examined closely. There has been concern that prior to the attacks, responsibility for oversight of homeland security issues has been too diffused within Congress.

In the House, a subcommittee and a separate appropriations subcommittee have been created to address that concern. It is still too early for either of these entities to have produced a record on which to base judgments. Nevertheless, I expect that a separate appropriations subcommittee will ensure that the homeland security programs that are not funded through subcommittees such as Defense or Transportation, which is the case now, will receive the resources they need.

Adequate funding for homeland security presumes that it is accorded a high priority in budget submissions. But I'm sorry to say this has not been the case; for example, the Coast Guard maintains it needs \$6.6 billion over the next 10 years for port security and related activities. Yet, the Bush administration has requested only \$500 million thus far, despite the enactment of legislation that underscores the critical needs in this area. I bring this up because it points to the fact that resources that Congress devotes to any given agency or effort have been less reflective of the organization of congressional committees and more reflective of the importance they are given by the Bush administration.

Although it is too early to judge what impact the changes already made in the House will have on the oversight process, I do not believe that additional changes are necessary at this point. You may reach a different conclusion, and if you do, I, of course, will respect and be interested in your thinking. My belief, however, is that the mechanisms are in place to conduct effective oversight and that it's up to the congressional leaders to make sure that those mechanisms are employed vigorously. In closing, I want to reiterate the enormous significance I attach to your efforts and the high hopes I have for your success. The tragedy of September 11th is so immense that as we go forward to meet the challenges, we must always remember that we are walking on sacred

ground. Members of the families of those who were lost on September 11th have told me that just mere hearing a plane going overhead fills them with terror. We must remove that fear from those families and from the American people. Any review of this tragedy must, therefore, be conducted in a way that reflects the enormity of the losses the nation has suffered; the magnitude of the sacrifices endured by the families of the victims. Your work will be essential in providing answers about why government agencies collectively did not do better in advance of September 11th and how they can improve their performance in the future.

Along with the American people, especially the families and friends of those we have lost, I eagerly await the results of your deliberation and once again want to commend Senator McCain, Senator Lieberman and Congressman Roemer for their great leadership, and to you, Mr. Chairman, and your vice-chair and all the members of the Committee.

God bless you, and Godspeed in your very, very important work.

Thank you. (Applause.)

MR. KEAN: Thank you very much, Congresswoman.

Senator McCain?

SEN. MCCAIN: Thank you very much, Mr. Chairman, and thank all the members of the commission for your willingness to serve in this very difficult and daunting task.

The September 11th attacks represented a massive failure in the most fundamental duty of our government: the security of the American people from foreign attack. That developed over the course of successive administrations. When Joe Lieberman and I called for an independent commission, we stated clearly that it shouldn't be a witch hunt directed at one particular administration, one particular agency or particular individuals; that it should be an honest, probing and thorough review and critique of U.S. policies, programs and practices spanning almost two decades and four administrations prior to September 11th, 2001, with the goal of understanding what we did wrong, how we can learn from identified failures, weaknesses and vulnerabilities in order to make necessary systemic corrections. A full and frank accounting of such policies, programs and practices should be far ranging and candid in assessing the failures of vision, threat assessment and policy response that preceded the attacks.

The joint congressional investigation into the intelligence failures associated with September 11th did critical work in uncovering how elements of our government failed to share and use existing information to divine the terrorists' planning and intentions. This commission should expand on the joint congressional committee's investigation of the myriad failures that prevented significant information in our possession about the September 11th plot from being pursued by the relevant agencies. The commission should also recommend additional reforms above and beyond those implemented to date, to rationalize the way intelligence information is collected, analyzed, disseminated and acted upon to improve the effectiveness of our efforts to deter, preempt and counter extremist terrorism.

Mr. Chairman, I was disheartened that members of your commission were, until recently, denied access to the report of the joint congressional investigation into the September 11th terrorist attack. Using the congressional committee's report as the baseline for your work would theoretically have allowed the Commission to hit the ground running.

Instead you've been stuck in the quicksand of negotiating access to a document you should have been entitled to examine on a priority basis at the beginning of your tenure.

I find it particularly troubling that Commission member and former Congressman Tim Roemer, who helped write the congressional report as a member of the House Intelligence Committee, was, until this month, denied access to his committee's own product.

While I don't want to believe such a basic lack of cooperation was intentional, it nevertheless creates the appearance -- and I emphasize creates the appearance -- of bureaucratic stonewalling.

The long-running dispute between the joint congressional committee and the administration over the declassification and public release of the committee report sets a troubling precedent for administration cooperation with your commission. Excessive administration secrecy on issues related to the September 11th attacks feeds conspiracy theories and reduces the public's confidence in government.

I strongly believe the commission will need access to the National Security Council documents denied the congressional

committee. I hope the administration will not abuse the principle of executive privilege to deny the Commission the critical repository of day-to-day activity on issues related to the terrorist attacks.

Similarly, the Commission's ability to interview key administration officials is essential. Without full cooperation on access to documents and officials, the administration will raise more questions than the Commission will be able to answer.

The operations of the joint congressional investigations hold a valuable lesson for the commission on securing information from the executive branch. Leaders of the joint congressional committee, Republican and Democrat, have been highly critical of the administration's resistance to congressional committee requests for information related to the attacks.

The committee subpoena power was critical to the success it did not enjoy in ferreting out information related to the attacks. As with the congressional committee, it is my hope that your commission will agree to issue most subpoenas by consensus and that any votes on subpoenas will not split the Commission along partisan lines. I support the fullest possible public disclosure of all the commission's hearings and findings. I encourage you to hold public hearings like this one as frequently as possible and to publicly issue substantive interim reports on the Commission's progress. This is particularly important to the families of September 11th, will provide information the Congress and the administration can use to bolster our homeland defenses.

Let me say that Congress bears some responsibilities in this matter also. Too often its decisions are met with resistance due to the cost of the burden of the regulated industry. Many believe that aviation security should have been greatly improved after the bombing of Pan Am 103 in 1988. Congress enacted stricter security regulations for baggage screening as a result of that tragedy. However, funding issues and complaints from industry delayed many of those requirements.

In 1996, in response to the crash of TWA 800, Congress passed several security mandates on the Federal Aviation reauthorization bill. It took five years, five years, to implement some of these requirements. The General Accounting Office has pointed to industry resistance and a lack of adequate funding as two significant obstacles to improvements in aviation security.

I don't necessarily believe that we could have prevented the events of September 11th had Congress acted differently, since the improvements were focused on detecting explosives in baggage. However, time after time, Congress moves in a certain direction only to have its goals obstructed by industry complaints, special interests or the earmarking of funds that divert precious resources to other non-essential programs. This problem is not industry-specific but covers all issues on which Congress acts.

Congress has a responsibility to do what it believes is right, even if industry or other interests are opposed. Once it makes a decision, it must exercise proper oversight and ensure that proper funding is available to carry out our mandate. On the issue of priorities for the Commission's investigations, I believe no area of inquiry should be off-limits if you would determine it relates to your mandate to pursue a comprehensive investigation into the September 11th attacks.

I believe there are four specific areas that deserve particular attention from the commission: The U.S. policy response to terrorism; the rise of al Qaeda; state support for terrorism; and the role of Saudi Arabia.

An evaluation of the effectiveness of the U.S. response to a series of terrorist attacks against Americans by Islamic extremists over the last two decades is critical if we are to prevail in the coming months and years. Osama bin Laden himself regularly cited American inaction after devastating attacks on our Marine barracks and on our embassy in Lebanon as inspiration for his cause. Subsequent kidnappings and assassinations, the destruction of Pan Am Flight 103, the '93 World Trade Center bombings, subsequent planning of massive trans-Pacific hijackings, the 1995 Riyadh and 1996 Khobar Towers bombings of U.S. targets in Saudi Arabia, the 1998 embassy bombings of Kenya and Tanzania, the planned attacks against American interests on the eve of the millennium and the 2000 bombing of the USS Cole all provided a troublingly clear picture, not only of terrorists' intentions but of their ability to significantly damage American interests.

The role of U.S. policy in responding to these attacks and the ways in which American leaders fail to adequately counter the threat posed by international terrorism should be central areas of inquiry for the commission. Illustrative questions should include:

- Did the tension between law enforcement and military responses to terrorism inhibit our response by focusing

on legal outcomes, indictments, prosecutions and convictions rather than focusing on the destruction and defeat of terrorist infrastructure that targeted Americans?

- Were more active responses to the threat proposed but not implemented because of legal, bureaucratic, diplomatic or other concerns? How well was the counterterrorist mission incorporated into the planning and operations of our armed forces, our diplomatic service, our intelligence and law enforcement agencies?
- How was it that a troubled youth from California was able to join the ranks of al Qaeda and meet Osama bin Laden while our intelligence assets could not?

It now seems clear that U.S. policy toward Afghanistan in the 1980s and our decision to abandon the region after 1989 played a significant role in the conditions that allowed al Qaeda to flourish. I believe the formative period of al Qaeda, not just its more recent operations, should be thoroughly examined by the Commission.

Key questions would include what we knew about bin Laden's efforts to build a terrorist training and operational network in the region, al Qaeda's role in Somalia in 1993, the partnership formed between Osama bin Laden and Mullah Omar, as well as al Qaeda's ideological development, recruitment practices, networks and eventual operations on at least five continents.

The question surrounding the nature and extent of foreign government sponsorship and support for al Qaeda and Islamic terrorists bear full examination. Afghanistan and Sudan, as former bases for Qaeda training and operations, are obvious candidates for inquiry. But so, too, are nations like Iraq under Saddam Hussein, Syria and Iran, whose sponsorship of terrorist organizations known to have collaborated with al Qaeda. And in Iran's case, its current support of known al Qaeda leaders merits investigating and publicizing. Finally, the role of Saudi Arabia in the rise of a global terrorist network deeply hostile to America must be a part of this commission's deliberations. The role of Saudi policy and Saudi money from both official and private sources, including members of the royal family, must be fully investigated and made public.

Until Saudi Arabia itself was attacked last week, the Saudi leadership and public had clearly failed to acknowledge and

learn from the Saudi role in the terrorist attacks of September 2001. The United States and Saudi Arabia cannot enjoy a normal relationship, much less the relationship of allies, as long as Saudi leaders continue to deny and deceive us about Saudi culpability and the rise of extremist terrorism. The U.S. government's reluctance to address this issue directly must not extend to your work.

In retrospect, it's simply remarkable that the United States stood by over two decades, preoccupied by other dangers, challenges and opportunities, as a grave threat to our security formed, grew in strength, expanded in reach and conducted operations against American targets around the world and ultimately attacked our homeland.

The challenge and the privilege of this Commission is to explain to the American people how and why these developments occurred and what our government can do to provide the greatest degree of security to our people in the face of these threats, consistent with the rights and laws of a free people.

We will win the war al Qaeda and those whose support it started. The Commission's investigations and findings will help form our response and will contribute to our ultimate victory. I'm grateful for your service and look forward to your response to a historic mandate that I hope all elements of our government will actively support.

I thank you.

MR. KEAN: Thank you, Senator McCain. Senator Lieberman.

SEN. LIEBERMAN: Thank you, Mr. Chairman, Mr. Vice Chairman, members of the commission. I give a special greeting to my former colleagues, Senator Cleland, Senator Gorton and Congressman Roemer.

It's an honor to be before you along with Congresswoman Pelosi and my dear friend and still straight-talking colleague, the senator from Arizona, here today.

It was in December of 2001 that John McCain and I first proposed legislation creating this commission. Our purpose was clear, and we believed non-controversial. The American people were entitled to a full and unflinching account of how September

11th happened so we could determine what went wrong and prevent it from ever happening again.

The American people deserve to know the full and objective truth as best it can be determined. They and we still have not received that, unfortunately. And until we get it, all the attempts to make America safer in this age of terrorism are bound to be incomplete.

Today, May 22nd, 2003, the mission of this Commission is clearly more vital than ever. Within recent days, 75 people have been killed and hundreds more wounded in two terrorist attacks in Saudi Arabia and Morocco that appear to have been executed by al Qaeda. The remaining members of a 19-man al Qaeda cell based in Saudi Arabia, we are told, have fanned out to commit more atrocities.

And this morning we are greeted by the deadly taped voice of another al Qaeda leader, a voice that perversely invokes the name of God for the purpose of killing God's creations, innocent civilians. As Tom Friedman wrote a while ago in the New York Times, these terrorists hate us more than they love life.

The Department of Homeland Security has, in response, imposed a heightened Code Orange alert amid rumors of possible attacks on major American cities. And once again, surface-to-air missiles have been deployed in and around our nation's capital. The war on terrorism continues.

Our military victories in Afghanistan and Iraq have struck blows against global terrorism. I consider these to be victories in battles in the war, but the war clearly goes on. Neither Osama bin Laden nor Saddam Hussein have been brought to justice. Al Qaeda is still killing innocent civilians and still seeking weapons of mass destruction.

That is why our military action abroad must be complemented by an unrelenting and unprecedented commitment to strengthen our defenses here at home. And I say again that that begins with the search for truth that you are conducting as members of this commission.

The successful completion of your critical mission cannot occur without the full cooperation of the executive branch of our government. As Senator McCain has indicated, and I agree, in its initial unwillingness to provide funds that you needed to do your job, and in its failure to facilitate the release of the joint

intelligence inquiry report to the public, the administration has not acted constructively.

The essential mission of this commission deserves and demands more than begrudging cooperation. You don't have much time. If you are constantly forced to fight for information, you'll never get to the heart of the problems that plagued and in many cases still plague our government's fight against terrorism.

I urge you to use every power you have been given by Congress to obtain the information you need to fulfill the mission the law gives you and to call on members of Congress and members of the public to assist you in that quest.

That's about the search for truth. Let me talk about the second part of the mission, Mr. Chairman, that you correctly identified, which is to help us by making recommendations about how we can make certain that nothing like September 11th ever happens again in the United States. And I regret to say that there is still an enormous amount to be done in that regard. I was pleased to play an active role in the creation of the Department of Homeland Security. I am confident that if properly led and supported it will help us protect the American people here at home.

But the resources necessary have not been given to this department yet. The potential for change and improvement is still there. Let me cite as examples the fire fighters, police officers and medical emergency professionals in communities across America who are the first to respond to a disaster, and the last to leave, and who can become also the first preventers, because they are out there in enormous numbers everywhere in America, still desperately need proper training, proper communications to allow them to talk to one another in a crisis so they can protect us, and they need personal reinforcements. Instead, many first responders -- more than half of the communities in America, from one statistic I have seen have been laying off first responders today, because the cities and towns are so fiscally strapped. That makes about as much sense as reducing America's troop strength in the middle of a conventional war. Yet, I regret to say that the administration and the majority here in Congress have not adequately funded first responders or the Department of Homeland Security. There is much more to be done.

We have made some strides in securing our air travel, that is true. But other forms of transportation remain inadequately protected, and require your consideration.

Our nation's seaports, I fear, remain an Achilles' heel in our domestic defenses. Too little cargo is being inspected, and too few containers are being tracked from their port of origin to their final destination. At the current rate of funding, it will take the Coast Guard 20 years to build the modern fleet it needs to fight terrorism now. And here again the president's budget under-supports basic physical security at ports for items like perimeter fencing, guards and monitors.

Our borders remain painfully porous and cry out for the Border Patrol to be beefed up. But I do want to say that to me perhaps the most significant gap remaining is the one that people can't see, and that is the gap in our intelligence community. There has been too much reluctance to challenge the status quo in the intelligence community. The best way to stop terrorism, all the experts agree, is to interrupt the plot before it's executed. And that can only come from great intelligence. Today, unfortunately, when it comes to understanding the scope and depth of the intelligence failures that led to September 11th, we simply don't have enough information.

Too many of the failures that we have already identified remain unchanged today, a full 20 months after the attacks. And I want to say bluntly it starts at the top. And today at the top of our intelligence and law enforcement communities there remains too much division, too many of the same bureaucratic barriers that I think contributed to the disaster of September 11th. And all of the federal agencies continue to keep state and local first responders and first preventers, as I call them, at arm's length, when it really is these front-line forces who have the vital knowledge to share, and most desperately need useful federal intelligence shared with them.

Mr. Chairman, the bill creating a new Department of Homeland Security established an all-source intelligence center, where all the dots of counterterrorism information were supposed to be for the first time connected. In the center was, according to the statute, to be placed within the new Department of Homeland Security, reporting directly to the new secretary, and therefore outside the counterproductive and destructive bureaucratic barriers and rivalries that unfortunately have characterized the intelligence and law enforcement communities.

But I regret to say that the administration has applied an interpretation to what I believe is the clear mandate of the law that produced a different result. It has created a weak

intelligence analysis unit within the department, and a brand-new threat integration center under the command of the director of central intelligence. That may make the guardians of the status quo happy. But I fear it will not do what is necessary to prevent further terrorism from occurring.

Let me give you one final example of what remains to be done. A terrorism watch list is one of the most basic tools for keeping terrorists out of the United States in the first place, and for finding them once they are inside our borders. We know today of course that two of the hijackers should have been placed on the watch list as long as 20 months before September 11th. And the CIA has acknowledged a systemic failure and breakdown in this. Yet this glaring problem as far as I -- but not just I, the General Accounting Office has concluded, has not been fixed yet. CIA Director Tenet testified to Congress twice in June and October of last year that a national watch list center was being created that would correct the failures and lapses of the past. As we speak this morning, as best as I can determine, that has not been done yet, and that is unacceptable. And of course these watch lists, which should be made into a single unified watch list, cannot be hoarded by federal officials if they are going to be valuable, as valuable as they must be. Today state and local officials remain largely in the dark and out of the loop when it comes to these watch lists. So I plead with you and I encourage you and, Mr. Chairman, what you have stated as a goal of this Commission in its report, not only to tell us the truth about what happened on September 11th, but to help all of us to take actions that will prevent it from ever happening again.

These are difficult times for our great country. I personally find more insecurity among the American people about more things than I have found ever in my adult lifetime. These times demand that we look honestly at our failures, and correct those failures without hesitation. They demand that officials and employees of our government, who have been charged with critical national security responsibilities, be held personally accountable if they have failed or faltered in their duties. All that has become now the historic mission of the members of this commission. It is through the work of this commission that America can best provide our people with the security that is their basic right and our government's most basic responsibility.

And I would say finally, having seen some of the survivors and family members of those who were lost on September 11th, who I know you have been good and wise enough to talk to and work with -- so many words of condolence and sympathy have been

expressed to them, which they deserve. Memorials will be built to their loved ones who were lost on September 11th. But I can't state strongly enough that I believe that the best memorial to those we lost on September 11th can and must come from the work that you do in searching for the truth and helping us make sure that those dead in fact did not die in vain.

I thank you for your service, and I pray that God will strengthen and guide you in the work that you do. As usual, Scripture provides the best counsel, which is that the truth once again will make us free -- in this case free from fear. Thank you very much.

MR. KEAN: Senator Lieberman, thank you very, very much. Do any members of the panels have -- Tim?

MR. ROEMER: Mr. Chairman, I just want to thank my colleagues, my former colleagues, Representative Pelosi, Senator McCain, Senator Lieberman, for their hard work in creating, along with the families, this commission, to do the hard work of trying to make sure we get the truth and the answers to try to prevent or mitigate the next attack. And we know al Qaeda is coming. I know the next panel, with former colleagues -- I see a couple of them here -- Senator Shelby and Jane Harman and others -- did the hard work of the Joint Inquiry to try to give us recommendations and put them hopefully into law that will help protect the country as well. And I would just say, Mr. Chairman, in thanking our colleagues, that 12 months from now, when we make recommendations -- whether they are comprehensive to intelligence or FAA, or Border Patrol, or foreign policy -- we very much look forward to working with you to hopefully implement successfully those recommendations, and we look forward to working with you very much. Thank you again for our very helpful testimony this morning.

MR. KEAN: Senator Cleland.

MR. CLELAND: Yes, sir. Thank you very much. It's great to see my two former colleagues with whom I was pleased to co-sponsor the legislation to create this commission to take a powerful, incisive look at what happened and why so we don't have to repeat these mistakes again. My father served at Pearl Harbor after the attack, so an attack on this nation has had a powerful impact upon my own family. It is now an opportunity for me to be of further service.

I will say that as recently as this morning's articles in the New York Times, my sense of security continues to be lessened. We are under an orange threat nationwide. We have pursued wars in Afghanistan and Iraq. But the real war continues. Senator McCain, one of the chilling thoughts that I came across when we were together in Vietnam was in terms of fighting guerrillas and suicide bombers and the like. Walter Lippmann said the battles we fight we win, but the battles we fight can't win the war. We have won some wars, in Afghanistan and Iraq. But those are battles, as Senator Lieberman says.

But it seems the real war is against a global network of terrorists, primarily led by al Qaeda in the Middle East. And what bothers me is that we still are grappling with the same problems we grappled with September 11th. For instance, the New York Times now reports today pre-war views of Iraq threat are under review by the CIA, raising the question as to whether or not we had, duh, adequate intelligence to go to war. We went to war. Now, did we have the adequate intelligence? Were we right? Where are the weapons of mass destruction?

Secondly, al Qaeda, duh, continues its own -- at its own pace: "New Tape Linked to Bin Laden Aide Urges More Attacks." This is today. This is 20 months after September the 11th. It does seem to me, and I'd like for both of you to comment, that this Commission better get on with its business that you articulated so forcefully in your legislation, and that the sooner the better we come to terms with connecting the dots, improving the intelligence capability of this country, so that when we go to war somewhere, we don't have to look back and say, "did we have the right intelligence? Did we not connect the dots? Where's the Pentagon? Where's the NSA? Where's the FBI? Where's the CIA?"

It always bothered when I was spending six years with both of you on the Senate Armed Services Committee that the intelligence community was referred to as the intelligence community. I never really understood who was in charge. Apparently now no one is in charge. It's a horse built by a committee winds up being a camel. We still have the camel out there and the various humps trying to talk to one another, trying to figure out who's right, who's wrong, were we right, were we wrong in going to war.

So this troubles me tremendously, and I would like for both of you to comment on the urgency of this panel to get on with this business and carry the American public along, so that we don't live constantly in fear. Senator McCain?

SEN. MCCAIN: It's hard for me to elaborate on what you just said. It's very articulate, and as you say, evidence grows daily that the threat is substantial, real and we still have not sufficient information, I think, to make the national security decisions -- and frankly the financial decisions. I don't mean to digress, but when we are looking at a 300 to 400 billion dollar deficit just this year, there will be enormous efforts at some point for fiscal restraint. And then it would be even more difficult to set priorities. And that's why I think we have to look to this Commission to give us those priorities. We are not going to have the money to address every single security threat to the United States of America. It is just not possible. And certainly even if it was possible we couldn't do it all at once. And that's why I emphasize that the importance of this committee, in not only giving us the information, but also helping us establish priorities that would guide the administration and Congress in our future actions to counter what I think we all agree is a long-term struggle. I thank you, Senator Cleland.

SEN. LIEBERMAN: Mr. Chairman, very briefly, I thank Senator Cleland. I agree with everything that Senator McCain has said in response. I mean, you're in a very difficult and demanding position, because unlike most commissions of this kind which examine events that are in the past, you are examining an event that is in the past, but your work relates directly to our ability to successfully wage and win an ongoing war against terrorism, and to secure our people in the midst of that war. So you have a very difficult but critically important mission.

I said during my remarks -- I'll just say it again -- I do think that the intelligence committee, some of whose leaders you are going to hear soon, have done some very important work. I do think it's critically important that you continue that and be persistent, and just go where the search for truth takes you. Because everybody will tell you of course that in this, to use a homely phrase, in the war against terrorism the best defense is an offense, that we ought not to accept the inevitability of another September 11th. And by that I mean something as large, well planned that touched public and private entities so much before it was actually carried out. And the best way to do that, the offense I'm talking about, of course, is an intelligence network working on our behalf that is so aggressive and pervasive that to the extent humanly possible it sees the threats and stops them before they are executed.

MR. KEAN: Congressman Hamilton.

MR. HAMILTON: Mr. Chairman, I know you want to move on, and I know the two senators have much on their plate. I want to say three things. First of all, a word of very deep gratitude to the two of you and to Congresswoman Pelosi. We would not have this commission without you. Number two, we would not have the funding that we have without your support. And, number three, we would not have the access we have so far obtained to documents and people without your strong words of support and encouragement. We are going to need that as we proceed.

The second thing I want to say is that the Joint Inquiry did some very good work, and I think the members of the Senate and the House can be very proud of that work. We want to build on the work that they did. I notice two of their members are here now, maybe more, and we will be hearing from them very shortly. But I am very grateful for the work of the Joint Inquiry, and it will be extremely important to the work of this commission. And, finally, one of the tasks you gave us is to make recommendations with regard to congressional oversight of the intelligence community. I've worked on that for about 30 years without much success, and we are going to need some guidance here as to what we can do that will be constructive and helpful to improve the quality of this oversight.

But we will be coming back to you again and again in the weeks ahead, and we are most grateful to you.

MR. KEAN: Thank you very much, Senator McCain and Senator Lieberman.

PANEL 2:

MR. KEAN: Okay, if we could -- our second panel is here, and we're focusing now on congressional oversight of the intelligence community and congressional joint inquiries investigation into the intelligence community's performance prior to September 11th. The joint inquiry was obviously a logical place for us to start. The legislation under which the Commission operates specifically charges it with reviewing the process by which Congress oversees its intelligence agencies and allocates its resources. And actually from the founding days, I guess, of our republic, congressional oversight has been central to the effective functioning of our government. The subject has never been more important than it is in the aftermath of September 11th.

No less authority on government than professor and future president Woodrow Wilson wrote toward the end of the 19th century that Congress's vigilant oversight of administration was more important than any of its other roles, including the passing of legislation. And actually, our esteemed vice chairman, Lee Hamilton, said recently that Congress must do more than write the laws. We must make sure the administration is carrying out those laws the way Congress intended.

The Joint Inquiry spent considerable time and effort reviewing the intelligence community's performance concerning the September 11th attacks. We intend to build on that work, using its documented findings. We will also look at the Congress in the coming months, and we'll be exploring such issues as the overall effectiveness of congressional oversight, of intelligence, how effective is it, how might it be improved, and how can the Congress avoid micromanaging the intelligence agencies.

The current structure of intelligence oversight by two select committees with rotating membership -- and if we were starting again, would we really design it that way? Given that our nation's form of government is best served by congressional activity that takes place in public, how can Congress oversee the intelligence agencies while guarding our country's secrets? Finally, did Congress allocate sufficient funds for the intelligence community to really conduct a fight on terrorism? Our second panel will help guide us through all these things. It consists of current and former leaders of the Senate Select Committee on Intelligence and the House Permanent Select Commission on Intelligence.

With us today are Senators Richard Shelby of Alabama, Senator Bob Graham of Florida, Representative Porter Goss, also of Florida, and Representative Jane Harman of California. And we're going to begin with Senator Shelby.

SEN. RICHARD SHELBY (R-AL): Thank you, Governor Kean.

Governor Kean, Representative Hamilton, and distinguished commissioners, it's a pleasure to come before you this morning to discuss what our nation did to prepare itself prior to the September the 11th terrorist attacks, and how our nation can be better prepared for such threats in the future. I thank you for giving me the opportunity to say a few words specifically about the role of Congress prior to September the 11th. With your permission, I will give an abbreviated version of my statement,

and ask that my full statement be made part of the record, Governor.

MR. KEAN: Granted. Thank you.

SEN. SHELBY: During our joint inquiry last year, defenders of the intelligence community's performance during the Clinton administration and prior to September the 11th, insinuated that it was really the fault of Congress that the intelligence community failed to detect and deter the attacks on the World Trade Center and the Pentagon. One senior FBI agent, for instance, publicly complained about how little money his counterterrorism division had been given by Congress -- amounts far less than those that they had requested and felt was necessary.

Unfortunately, a surprising number of my colleagues in Congress seemed to give credence to the suggestion that September the 11th was in some way our fault. I have at times been a harsh and I believe a constructive critic of the intelligence community. I have never asserted, however, that the attacks of September the 11th were anyone's fault other than the murderous group of thugs that hijacked and crashed those planes into the symbols of American military and economic power. We should all keep that in mind as we search for the truth here.

The truth is that the same FBI agent that I alluded to admitted to us privately later the same day, after the cameras had been turned off, that for several years Congress had met or exceeded administration budget requests for counterterrorism. The FBI agent who said in public that we had deprived him of special agents to fight terrorism, conceded in private that Congress had actually helped his division tremendously. In fact, we had added -- yes, added -- counterterrorism agents beyond the administration's request in the years 1996, '97, '98, '99, 2001, and 2002. Similarly, though CIA counterterrorism officials publicly complained about tight budgets in our public hearings, their agency's own figures showed that Congress had met or exceeded budget requests for the Counter-Terrorism Center, or CTC, in '94, '95, '96, '97, '98, '99, 2000, 2001, and 2002. In fact, in 2001, the CIA, prior to September the 11th, was reporting that it would not spend all of its counterterrorism funds. Although Congress fully funded the administration's request for the CTC that year, the CIA was not going to spend tens of millions of dollars in Director Tenet's declared war on al Qaeda. The picture changed dramatically after September the 11th.

I don't mean to say here today that this nation's counterterrorism efforts and the U.S. intelligence community as a whole necessarily got all the money they needed before September the 11th, 2001. In many areas, they did not. There are, however, many bureaucratic steps between the development of a counterterrorism budget within the FBI, or a CTC budget within the CIA, and a final administration budget request from the Office of Management and Budget. What goes in does not often look like anything that comes out. I suspect that the intelligence agencies probably did request far more funding than they ended up getting - agencies always do. My point is that it is not accurate to lay the community's budget problems at the feet of Congress, particularly because we have emphasized counterterrorism and counter-intelligence as fundamental policy priorities for years.

During my tenure as chairman of the Senate Select Intelligence Committee on Intelligence, I explicitly made counterterrorism and counter-intelligence two of the five highest priorities of the intelligence committee. I and my colleagues worked long and hard to ensure that these programs got ever-expanding levels of support during the late '90s, support which was critical in order to help pull the community out of its post-Cold War funding slump.

While I was a member of the Senate Intelligence Committee, we took aggressive steps to address what were becoming very clear indications of fundamental weaknesses in our ability to attack the terrorist target. Many of the conclusions that were reached by the joint inquiry were conclusions that had already been reached by the intelligence oversight committees prior to September the 11th. I encourage you, this commission, to examine closely the unclassified and classified authorization bills of both the House and Senate committees in the years leading up to September the 11th that I've enumerated.

For example, terrorism and our ability to combat it was listed as one of the Senate Intelligence Committee's highest priorities in every one of our bills, at least since 1996. In 1998, the committee revealed that the FBI was failing to address significant technological challenges that were degrading its ability to track the terrorist target. We highlighted serious FBI-wide deficiencies in information technology, modernization, and the absence of a plan even to address it. We provided significant additional funding to augment the Bureau's ability to analyze terrorism intelligence and train its agents. We warned of a critical shortage of language skills, including Arabic and Farsi, and directed the FBI to review its language recruiting

efforts in the bill. The committee also worked consistently to remove restrictions that unnecessarily hindered our ability to collect terrorism information. Often, these efforts were met with resistance from the Director of Central Intelligence himself.

Prior to September the 11th, we amended the Foreign Intelligence Surveillance Act on three separate occasions to grant new authorities to the attorney general and the FBI to collect terrorism-related intelligence. Working with our colleagues on the Judiciary Committee, we detailed serious problems in information sharing between intelligence agencies and law enforcement organizations, including our inability to track foreign students after they entered the United States. In 1997, the committee registered its concern that no comprehensive intelligence community estimate existed on present and emerging terrorist threats, or other non-traditional attacks on the United States, using weapons of mass destruction. That was the year 1997. We directed the Director of Central Intelligence to produce such an estimate.

Finally, the committee has worked since 1990 to effect structural and organizational changes within the community. For example, the final report of the Joint Inquiry recommends the creation of a single authority that would be accountable for the success or failure of the intelligence community, and that would have the statutory and budgetary authority to lead the community. In 1996, the Senate Intelligence Committee voted out the Intelligence Activities Renewal and Reform Act of '96, which gave the DCI these important statutory and budgetary authorities. Unfortunately, it became a bridge too far and was never passed into law.

In that same year, we created three Senate-confirmable positions within the community -- management staff to address community-wide problems with coordination on collection, analysis and production issues. The intent was to give the DCI additional high-visibility managers to help him manage the intelligence community. After the community's failure to predict the Indian nuclear tests, the need for these positions and the coordination they would foster was apparent. To this day, the Director of Central Intelligence refuses to comply with the law and submit names for consideration by the United States Senate.

These are just a few examples of congressional actions, and I encourage the Commission to review the entire record, classified and unclassified. I believe you will find it to be quite extensive.

I've mentioned our efforts to increase funding for counterterrorism. As I said, this was a consistent theme, at least while I was chairman, and it continued under Chairman Graham. I wish to emphasize, however, that the performance of the intelligence community is only partly a story of resources. Money helps purchase technical systems and recruit large numbers of case officers, but you can't buy energy, enthusiasm, pride, professionalism, and aggressiveness. You can't purchase a commitment to share information with other agencies and pull together as a team in order to protect Americans from threats to their lives and well-being. You can't authorize and appropriate proper priorities, sensible management, and a vision of how to adapt complicated organizations to rapidly changing threats. You can't simply fund an appreciation of the information technology and the absolute necessity to integrate it into what is essentially an information enterprise.

All these things have to be grown and nourished over time by wise and steady leadership. Congress can encourage these things, and they should. And we have certainly tried, but the legislature merely conducts oversight. We do not and should not, I believe, direct the operational activities of our intelligence agencies. We do not decide why someone gets promoted or punished. We can legislate, but there is little we can do to compel compliance.

As you examine the record, you will discover numerous examples of complete disregard for congressional direction, not to mention the law. While we do have the power of the purse, it often presents a Hobbsian choice. Does one cut funds to compel compliance, when the cut will probably degrade the very capability one is seeking to foster, to bring about? More often than not, the answer is no. Each branch of government serves a very distinct, necessary function. While Congress oversees the intelligence activities of the U.S., ultimately, the intelligence community is led and run by the Director of Central Intelligence, who deserves most of the credit or blame for the decisions he makes and the results that he produces.

The National Commission on Terrorist Attacks is a great responsibility and a daunting job to do. It is your responsibility to survey the whole range of government activity relevant to how well-prepared our nation was or was not for the modern terrorist threat.

I have spoken today principally about intelligence matters, for they have been an abiding interest and a great concern of mine since I first became chairman of the Senate Select Committee on Intelligence in '97. The U.S. government's management of homeland security, however, implicates a broad array of federal activity.

Consequently, you may need to come to grips with bigger issues of congressional organization and committee jurisdiction. The House and the Senate have adopted very different organizational approaches to the challenges of homeland security. My successor as the top Republican on the Senate Intelligence Committee, Chairman Pat Roberts, has spoken repeatedly about the management and policy coordination problems we face in the Senate because of our many overlapping committee jurisdictions related to homeland security issues.

These are matters which the Commission may end up having to speak on as well. In the months ahead I hope you will be able to build constructively on what we accomplished last year during our Joint Inquiry. Some of us have already issued detailed public analyses of the intelligence failures prior to September the 11th, and I imagine you probably now also have access to the classified final report of our two committees and to the substantial investigative record that we compiled.

I believe our work can provide you with important insights into the problems that we identified and into ways to ensure that Americans are better protected in the future.

I thank you for inviting me here today. I wish you all the success in your inquiry. Thank you.

MR. KEAN: Thank you, Senator Shelby. Senator Graham.

SEN. GRAHAM: Thank you very much, Mr. Chairman. I, too, would like to submit a full statement for the record and try to summarize it this morning. And I appreciate the opportunity that you have afforded us to come before this very important commission.

I want to begin by commending each of you for having accepted this responsibility. I know something of the commitment that this is going to require in order to achieve the result of giving to the American people a full accounting of what happened prior to September 11th, your recommendations of what should

happen now in order to reduce the possibility of a repetition of September 11th.

With other members of this panel, I supported the creation of this commission because I thought the American people deserved answers to those two questions. I also recognize that our congressional joint inquiry focused on those matters that were within the jurisdiction of the Intelligence Committee. I recognize that there are much broader arrays of federal agencies which could have played a role in this issue, everything from aviation security to the issuance of visas at overseas U.S. State Department embassies or consulates.

But I do believe the Joint Inquiry's final report gives you a solid foundation upon which to begin your investigation. I'm extremely proud of the hard work that was done by 37 members of the House and Senate Intelligence Committees. They served on the joint inquiry with great distinction, including your member, former Congressman Tim Roemer.

I'm also proud of the dedication and skill of the special team of investigators hired to conduct the joint inquiry, led by the very capable Ms. Eleanor Hill, who is with us today. The staff reviewed nearly half a million pages of documents and interviewed 300 people. The committees held 22 hearings, nine open to the public, 13 closed. Our final report is more than 800 pages.

The report was adopted by each committee on December 10th of 2002 and filed with the House and Senate on December 20th. I'm sad to report that the final report, 153 days after it was filed, remains classified. All of us are extremely frustrated that the declassification process is taking so long.

We are hopeful that we'll be able to soon provide the American people with all of the report but those portions that are determined to address genuine national security concerns. In the meantime, we have released summary findings and recommendations, a number of which this panel will speak to.

Several of the recommendations focused on activities within the intelligence community that were ongoing at the time we completed our report. One of the tasks of your commission is keeping track of those recommendations so that the American people are assured that our government is following through on necessary reforms. Let me mention three of the recommendations which I would particularly call your attention to for purposes of ongoing oversight. First is recommendation number six, and I quote in

part. Quote: "Given the FBI's record of repeated shortcomings within its current responsibility for domestic intelligence in the face of grave and immediate threats to our homeland, the FBI should strengthen and improve its domestic capability as fully and expeditiously as possible."

We then offered 10 specific steps, including, "clearly designating national counterterrorism priorities and enforcing field office adherence to those priorities."

Mr. Chairman, I wish that I could tell you that the FBI has adopted our recommendations and moving towards their implementation. Congressman Goss and I wrote to Director Robert Mueller on January the 29th, 2003, and again on April 2nd, 2003, and asked him to tell us what steps the Bureau has taken and whether legislation is required to fully implement our recommendations. We are still waiting for a response.

The second recommendation is number 15. Again, I quote in part: "The President should review and consider amendments to executive orders, policies and procedures that govern the national security classification of intelligence information in order to expand access to relevant information for federal agencies outside the intelligence community for state and local authorities which are critical to the fight against terrorism and for the American people. Congress should also review the statutes, policies and procedures that govern the national security classification of intelligence information and its protection from unauthorized disclosure."

The report from the director of national intelligence should include proposals to protect against the use of the classification process as a shield to protect agency self-interest.

The third recommendation which I would call to your attention is number 19, which offers fertile ground for additional investigation. It reads as follows: "The intelligence community, and particularly the FBI and the CIA, should aggressively address the possibility that foreign governments are providing support to or are involved in terrorist activities targeting the United States and United States interests. State-sponsored terrorism substantially increases the likelihood of successful and more lethal attacks within the United States. This issue must be addressed from a national standpoint and should not be limited in focus to the geographical and factual boundaries of the individual case."

Continuing the quotation: "The FBI and CIA should aggressively and thoroughly pursue related matters developed through this joint inquiry that have been referred to them for further investigation by these committees." Mr. Chairman, because of classification, I cannot discuss in this public forum the specifics of the Joint Inquiry's findings in this area, even to identify any individual foreign governments. However, there have been several developments since September the 11th and even since the completion of the Joint Inquiry's report on December 10th, 2002, which have been publicly reported and which cause me grave concern.

Clearly al Qaeda is reconstituting itself, as we have seen by the bombings in places like Yemen, Indonesia, and most recently Saudi Arabia and possibly also Chechnya and Morocco. At the same time, it is disturbingly apparent that some foreign governments are supporting or at the very least providing sanctuary for terrorist networks.

Within the last 30 days, Secretary Powell and Secretary Rumsfeld have met with the highest officials of Syria. They have brought, in the firmest manner, to the attention of the Syrians our knowledge, among others, to the sanctuary that has been provided for Hezbollah by that country. And we have called upon Syria to accept the responsibility for retreating from this position of sanctuary.

As another example, I would like to submit for the record three recent news articles that raise questions about the government of Saudi Arabia and its apparent tolerance of individuals and groups with terrorist ties. First is a report from the Washington Post of May 19th that munitions from the Saudi National Guard may have been used by suspected al Qaeda operatives in last week's bombings that killed nearly three dozen innocent people in Riyadh, including nine Americans.

Second is a May 10th story from the *Los Angeles Times* that reports a Saudi consular official was denied re-entry into the United States because of his suspected links to terrorists. It's important to note that this same individual had been employed at the Saudi consulate in California from 1996 until early in the year 2003.

The third is an article from the May 5th issue of *Newsweek* which says that a top-ranking Saudi diplomat in Berlin is suspected of providing embassy funds to followers of Osama bin

Laden. I want to emphasize again that these articles deal with events subsequent to the filing of the Joint Inquiry's final report, but they raise issues that are especially appropriate for this commission's review.

This commission, in my judgment, should vigorously pursue the links between foreign governments and the September the 11th hijackers. I am troubled by the lack of attention that to date has been given to this critical aspect of the 9/11 investigation.

Ignoring facts simply because they make some people uncomfortable or because they might stand in the way of short-term policy goals will prevent Americans from learning the full truth about 9/11 and thereby mitigating the possibility that future terrorist attacks can be avoided. Only a full and honest accounting will help us provide a safer and more secure world for our children and grandchildren. Mr. Chairman, you asked us also to comment on recommendations for improving congressional oversight of the intelligence committee. I would make five recommendations.

One, membership on the House and Senate Intelligence Committees should be made permanent. There is, of course, an argument that members of the Oversight Committee could become captives of the Intelligence Committee. It was on this rationale that the term limits were imposed on members of the Intelligence Committee.

But the counterargument, which I find persuasive, is that it takes so much time to understand the complexities of today's sophisticated programs and the increasing number of countries and organizations to which we are directing our intelligence capability that members need the expertise of time, of service, in order to thoroughly monitor our intelligence agencies' performance.

Two, create within the congressional appropriations process a separate subcommittee for intelligence, much as has been done for the new Department of Homeland Security. If that means declassifying the top line of the intelligence budget, so be it. Director George Tenet has told me that he would support this approach.

Three, establish a closer linkage between the financial reporting of the intelligence agencies and the Oversight Committee. During my tenure on the committee, I found it very frustrating to be repeatedly told that the agencies were virtually

non-auditable because of the state of their basic accounting systems.

Four, adopt what has come to be known as the Eleanor Hill approach to oversight, which means that staff should be given more authority to conduct detailed reviews under the direction of the chairman and vice chairman of the committee. Then, at the start of a hearing, the staff would present its findings to help frame the issues and outline the points of contention. Witnesses would then speak to those findings. I found this to be a highly efficient, productive use of the committee's time.

Five, and finally, make it a practice to seek testimony from witnesses outside the administration, experts from the academic community, think tanks and other sources whose views can provide an alternative to the official administration perspective.

Mr. Chairman, let me conclude again by thanking you and each member of this commission for your service and your dedication. It is fair to say that each of you has enlisted as a soldier in the war against terrorism. I will be ready to answer any questions that you might have today and assist you in any way that might be helpful in the weeks and months to come. Thank you.

MR. KEAN: Thank you, Congressman. Congressman Goss.

REP. GOSS: Thank you very much, Mr. Chairman, Vice Chairman, distinguished members of the commission. We are advised that we are going to have House votes at approximately 11:00 to 11:30, so if we get interrupted, I hope we have your understanding.

Much of my prepared statement echoes and underscores remarks that have been made by our distinguished leaders on the Senate side in our joint investigation, Senator Graham and Senator Shelby. Consequently, I would ask that you accept my prepared remarks, hopefully review them. We spent some time on them. And I would like to try and offer instead some helpful observations and views and talk a little bit more about the recommendations that Senator Graham has just discussed.

First of all, I do feel that the national security requirement that we have requires that much of intelligence work that is done by the Intelligence Committees, which we represent, has to be done behind closed doors. As a result, our mission is probably not very well understood by many Americans, and while we have tried to explain it, it is not an easy sell.

While we serve as the principal advocates for strengthening the nation's intelligence capabilities -- this is where you get your authorization and which leads to your money for intelligence -- we must also provide meaningful oversight of the intelligence community. Obviously they have to play by the rules and stay in bounds. That appears to be a tension. Actually, it's a healthy competition, I think. There are some 15 agencies, as you know, actually in the intelligence community. That means we are dealing with some half dozen Cabinet-level secretaries and very high-level directors of individual agencies. It is a very big chore, and we are instructed to look over, without overlooking, all the activities of those people and their departments as they apply to intelligence. We in fact have taken on the position of the 1-800 number that you call for those who are seeking additional intelligence resources, and also for those who want to report alleged abuses within the intelligence community system. I am happy to report we get more 1-800 calls asking for money than we do reporting abuses.

The second thing I'd like to say is that we have tried to be as public as possible in going about our oversight work. It's hard, and we certainly tried to be as public as possible in our joint inquiry. As has been said, stated, I think nine of our 22 meetings were open meetings, and we tried to include the public in a meaningful way and get public input.

We have problems, of course. We are charged with the responsibility of not revealing sources and methods, and we need them more intensely now than we perhaps at any time in recent past in terms of our national security needs. We have a requirement not to contaminate any ongoing investigations or prosecutions by law enforcement people, whether state, federal or local. But we have to handle information very closely on that. We have arrangements with other foreign governments on sensitive matters - - exchange of information that we have to be careful that something that may not seem quite so sensitive to us is in fact very delicate in their country. All of those kinds of considerations create a legitimacy to actually having some classified information. But, equally, there cannot be abuse of classification because there is some legitimacy for classification. And I think that is an area that has recently come into some focus.

I would like to take a brief snapshot of what the House oversight committee has focused on in the past few months, and tell you the classification process has become such a chore, and

appears to me to be so dysfunctional that we are taking that on as a main piece of business for our oversight committee to deal with. Senator Moynihan led the way with some changes in the declassification program. I was pleased to be associated with him with that. That was one of his last pieces of legislation. But it didn't go anywhere far enough, and it pointed out a problem that we have -- not only not enough capability to declassify when we should; we overclassify very badly. There's a lot of gratuitous classification going on, and there are a variety of reasons for them. They are not all sinister by any means.

We have discovered in trying to deal with getting our report out, which we are all anxious to do, because we are all very proud of our report, what the process is. And basically you have to understand that the first question you ask is, is this material classified? And then you get to the second question -- is, Should this material be classified? And then the third question is, How can we change it if we think it should be out there? And the processes of changing it are very difficult, and it depends on who agrees whether it should be declassified or not.

While this is easy to say in a few sentences, it is very hard to explain when you get into the details. It is a sufficient problem that we will be taking it up.

The second area I wanted to bring up was the type of thing that we are doing which I hope will be instructive and helpful for you happens to be, serendipitously I presume, reported by James Risen in the New York Times. It's amazing how often that happens that something we are talking about in committee serendipitously shows up on the front page of the New York Times. This is not a classified matter, however. We believe that good decisions were made on the best possible information coming from the intelligence community about value-added analysis on weapons of mass destruction in Iraq, a very important point obviously. I think the time has come to find out whether or not, as we discover more and more about what actually happened in Iraq, as the doors are opening and we are finding documents to exploit and people to talk to, how good were those judgments, how good was the value added, how well does our analytical community perform, and what problems are there?

So I would say that we are proceeding in our committees to do the work that the American people are asking us to do on timely matters. But it is a whole lot more complicated in trying to do our job than, "Where is UBL, why haven't we caught him? Where is Saddam? Why haven't we caught him? Where are these

weapons of mass destruction?" And the way I characterize it is the fog of war is very hard to comprehend, even with CNN there. The fog of peace is much harder to comprehend, because there is so much going on everywhere, and we are not sure which may be the most important thing to focus on.

I want to emphasize that there is a problem, and I hope you will address it. The program we oversee is called the national foreign intelligence program. Let me say that again: It is the national foreign intelligence program. The reason I say that, back in 1947, when we decided to have oversight, and formalize this arrangement a little bit, have the National Security Act, the leaders in the wise salons of that day did in fact contemplate the question of domestic intelligence, and they specifically rejected it. It is the foreign intelligence program. Spying is not permitted by Americans on America in the United States of America, or on Americans overseas by American organizations. That's how it is. There have been problems over the years. Our society has evolved. We've had events take place. Matters have come to the attention of Congress. We had the Church Commission, the Pike Commission, and then we've had other actions as well many of you are familiar with.

The long and the short of it is being reinforced time and time again that Americans do not spy on Americans. This leaves us in today's world without much of a domestic intelligence agency. Now, that is a very good thing from the perspective of our civil liberties. Whether it is a very good thing from the perspective of our national security is a question that I hope you are seriously going to address.

The next thing I wanted to point out, as we went through our joint inquiry I find that this was a much more labor-intensive task than I could ever have imagined. And to have the services of Eleanor Hill and Rick Siccagranna (ph) and the others, and Brett Schneider, who started off assembling the staff. These are people who did brilliant work for us. They had a couple of dozen people who labored very, very long hours with difficult matters -- traveled all kinds of places. And even so we only touched a small bit. A half a million pages of documents is not a small bit, but in the sum of the things in the world, it actually is. And talking to five or six hundred people is helpful, but it's not all the people you need to talk to.

I would suggest that you are going to need to understand how labor intensive this is in your work, and I offer that as a constructive suggestion.

With regard to protection of liberties, something has happened recently I hope you will also opine on, and that is we have created the TTIC, Terrorist Threat Integration Center of information. Now this is a wonderful thing. I think I understand how it's supposed to work, and we are dealing with terrorists on a priority basis. But understand here by putting TTIC under the CIA we are talking about the integration and analysis of value-added, hopefully, intelligence on combining foreign and domestic information under an agency that is chartered to work in a national foreign intelligence program. It's an interesting conundrum for us. Does it really matter? No. What matters is that we protect ourselves. But we are slipping over that line here in some people's eyes. The TTIC really shouldn't be in CIA. It really ought to be in the FBI or a separate agency or have different accountability. Those are the kinds of management questions we are now dealing with as we deal with the capabilities to deal with the threats as they exist today, matched against the vulnerabilities which the Department of Homeland Security is very wisely pointing out to us are the highest vulnerabilities that we must protect against.

In the areas of what might be considered recommendations, first of all I hope you will take a look at our work. I know that access is difficult. We have made the access available. I apologize for the inconvenience of having to come to the Ford Annex. I have spent far too many hours in the Ford Annex of an otherwise useful life. It's really somewhat unpleasant there. Think of the poor staff who have labored there. We only ask you there to come for a short time to read the report, and soon you will have your own copy. I hope that will be within the next month.

Secondly, with regard to areas to go, I very much endorse Senator Graham's views that congressional oversight is an area that screams for your attention. Obviously we could not do all we should have done on congressional oversight. I think there's great questions. I think changes in the length of time and how we deal with this in the House are very important matters for you to take up, and I think you are perfectly positioned to do that, and I would be very happy to assist in any way I could on that.

The other area that I think is very important is to understand that our report really stopped doing active investigation at the end of last year. Time has passed, many

things have happened, and we don't pretend to be able to connect those things in a coherent way. That really is for you.

And the third area that I would hope is that you would look is following up what I will call gaps. It's not just the update of what we didn't get. It's the things that weren't in our portfolio of intelligence, because there's a whole bunch of regulatory agencies there, a whole bunch of people charged with responsibility to deal with quality of life and safety matters for the American public on the homeland that we didn't touch, and that do need to be touched. And so I certainly hope that you would go there.

I think that completes the main points I wanted to say. I very much look forward to the work of the commission. I want to be as helpful as I can, and our committee is going to continue to be functional and operational, and I suspect we will be talking to each other regularly, and I hope that indeed is the case. I thank you.

MR. KEAN: Thank you, Congressman Goss. Congresswoman Harman?

REP. HARMAN: Thank you, Mr. Chairman. We have votes shortly, and I am determined to stop speaking before the green light changes to yellow, so I will be brief. But I do want to confess great admiration and affection for my former colleagues on your panel, Lee Hamilton and Tim Roemer. In fact, I believe I played somewhat of a godmother role in the formation of this commission. I remember a one a.m. conversation with Tim on the House floor about whether to support it in its revised form in the House. I am glad we did, and I am glad he's there. I also have many other good friends on your panel.

The witnesses who have testified before you, as you well know, are enormously qualified to be here, and they are all good colleagues. And on a bipartisan basis, all of us are very interested in helping you succeed.

And, finally, I just want to say something about the families in the audience. I've seen their faces many times when I sat where you sat as part of the public part of the joint inquiry. They are here again -- incredible courage, incredible determination. I think if those faces had not been there, I am not sure we would have had the commission. So I want to add to what others have said, my enormous admiration for them.

And, last, Eleanor Hill -- they don't make them like that very often, and we were blessed in the Joint Inquiry to have here, and she's actually still there.

Three points -- briefly -- that I would like to make, and my completed, my formal statement is part of your record. Number one, don't reinvent the wheel. Number two, focus on where you can add value. And, number three, be unflinching. Let's talk about the wheel. This is the wheel. Here it is. I thought you should all see it. You probably have this on the library shelves. This is the Subcommittee on Terrorism and Homeland Security, brilliantly led by somebody named Saxby Chambliss and Jane Harman. We wrote a report to the speaker of the House of Representatives and the minority leader in July of 2002 -- lots of recommendations about the performance of NSA, CIA and FBI prior to 9/11.

Here's another one. This is the Bremer Commission. Bremer may not have been known to the world before last week, but he is now the civil administrator in Iraq. Again, there was a commission, 10 members. One of them was named Harman -- lots of recommendations, many of which have never been implemented, but they are good recommendations and worthy of consideration.

This is Hart-Rudman. We all know who Hart and Rudman are. Lots of little volumes: New world coming, American security in the 21st century, seeking a national strategy, so forth -- supporting stuff -- road map -- good word -- for national security -- two volumes of that.

This is the Gilmore Commission, former Governor Gilmore of Virginia -- lots of the same folks served on all these commissions. These are only the first four reports. A lot of trees died to prepare this material, and a lot of it is gathering dust. Lots of recommendations that have not yet been implemented.

Council on Foreign Relations, which is still at it, now has a new committee on homeland security, which I think is a good thing, led by somebody named Rudman. And these were earlier reports -- Hart and Rudman, "America Still Unprepared, Still in Danger."

And then we have the National Academy of Science. We have here the Heritage Foundation. This is CSIS -- a huge amount of work that's excellent that has been very helpful. And then we have the Kennedy School at Harvard, "State and Local Response to Terrorism." The Markle Foundation's brilliant work on technology

and terrorism. And I can't even read this -- Center for Arms Control and Non-Proliferation, and so forth.

And then we have the phantom report -- it isn't here yet -- it's called the Joint Inquiry, but it will be soon to arrive in June, we all hope, and on that point I am absolutely promised that there will be an all-hands meeting at the end of this month, which will meet all weekend if necessary, where those who can make the decisions about what's in and what's out of that report will be in the room, and hopefully then all of us will be relieved to put out there what was and is a very good work product.

So, please don't reinvent the wheel. Read this good stuff. Help us make certain that the recommendations of value, which is most of them, become law, become regulation, become practice in our intelligence community. All around me have spoken to a lot of the good recommendations. They should not be gathering dust. They should be helping us be safer. That's my first point.

Second point: Focus on where you can add value. Most of these reports -- not all of them -- focused on three of our intelligence agencies -- two to three, the CIA, FBI and NSA. You have a broader mandate, you know this. You can look at a lot of the other things that went wrong that should be fixed. The FAA comes to mind, the watch list problem comes to mind, the vulnerability, continuing vulnerability of aircraft comes to mind. Every time I go to a hearing everyone is worried about shoulder-fired missiles -- what do we do about that? We certainly had a near-death experience with one airplane headed out of Mombassa, Kenya. This is the kind of thing that perhaps you should think about -- what can we do to increase aviation security? What can we do to increase port security? There are lots of agencies that have to do with that. Many of them have moved on over to the Homeland Security Department. But, nonetheless, as a representative of the communities around the ports of Long Beach and Los Angeles, the largest container ports on the planet, you have lots of work that you could usefully do.

Third subject is the evolution of the Department of Homeland Security. You've heard that we all tried to design a bill that would not just move the deck chairs around, but create one deck. We still have a lot of work to do to create one deck. There is not yet, so far as I can tell, a vulnerability assessment, one national, integrated vulnerability assessment. Money is not infinite -- until we have that vulnerability assessment we won't be putting our resources behind our most

vulnerable targets, and that's something that I don't think should be a public document, because we don't need to tell the terrorists where we are most vulnerable. But, nonetheless, it's something that needs to get done. So that's where I think you can add value.

Final point: Be unflinching. Seek the truth. But, remember, at least this is my version of this -- the point of looking backward is to look forward. We can't fix it going backwards. We can fix it going forwards. Don't get stuck backwards. The best way to honor these families and those they lost is to prevent this from happening again. That's where you have to be going. How do we prevent the next one? We've done a pretty good job over 20 months -- lots of gaps, but we haven't had a major terrorist attack in the United States of America in the last 20 months. It could happen in an hour -- might happen in an hour. But if you do your work well, the chances of it happening in an hour will be less.

And finally, as you are unflinching, be sure you get the information you need from the Administration. Also be sure -- and I want to second something Senator Graham said -- that you fairly and evenhandedly assess the role of foreign governments currently and in the future in fostering spreading terrorism and weapons of mass destruction. That's a place we didn't get to fully, and it's a place that I think needs more attention.

Thank you very much.

MR. KEAN: Thank you, Congresswoman Harman. Thank you all very much for taking the time to be with us today. And could I ask Senator Gorton?

MR. GORTON: If I found one common theme through the testimony of all four of you, and reduced it to one word, it would be "frustration." I served for a little bit more than two years on the Senate Intelligence Committee, and quit out of frustration, thinking I wasn't learning very much, and that I was having almost no effect on how the agencies acted. And so, recognizing the short time period you have, I am going to fold three separate questions into one, and ask for the comments of each of you on it.

Take first the period between January 2001 and September 11th, 2001, when the three of you at one time or another were chairmen of the Intelligence Committees -- just that period of approximately eight months -- were there any changes in the policies, priorities, or practices of our intelligence agencies as

a result of congressional oversight, as a result of the suggestions that you all made? Now, if there were, some of them may be classified, but you could at least tell us whether any substantial changes were made as a result of your work, or were you totally frustrated during that period of time.

The second question is very similar. From September 11th, 2001 to December of 2002, were there any such changes? Now, obviously, Congress as a whole in that period of time passed the Patriot Act and created the Homeland Security Department. I'm not counting those. I'm just saying, were there any significant changes in the policies and priorities or practices of our intelligence agencies as a result of what you all did during that period of time?

And third, from December of last year until May, Congressman Goss has given us a, I think, a magnificent outline of what he can say about your joint committee report, but I don't see, Congressman, in your written statement, the slightest indication that any of those recommendations have been acted on in that time, or any of the others. And so the final question is, has the final report of the joint committee resulted in any significant changes in policies, priorities or practices of our intelligence community?

MR. KEAN: Who wants to take that one? Senator Shelby.

SEN. SHELBY: First of all, January 1 to 9/11, that was your first thing -- were there any real changes that we recommended or tried to mandate -- I'm sure there were some, but they were probably --

MR. GORTON: I know that you recommended, but they probably --

SEN. SHELBY: -- but they were probably not earthshaking changes at all. In dealing with the NSA, Congressman Goss, Senator Graham, Congresswoman Harman, all of us, we tried to -- hard, and I think NSA was moving in the right direction, is still moving in the right direction to modernize. And this was stuff coming from us. A lot of recommendations came from our joint -- our TAG team, Technical Advisory Group recommendations, and then the reality of NSA going down, you know, and just didn't operate for some hours, two days -- sure, there were some -- there was some heeding of some of our recommendations there.

As far as Langley is concerned, the first part, I know in the Senate, Senator Graham and I worked a long time, pushed a lot of emphasis on recruiting some of the best and brightest with different language skills -- I alluded to it earlier, Arabic, Farsi, you name it. Maybe just a little change, but no wholesale changes. Since September the 11th on, a lot of changes. One we had recommended before to take the wraps off the CIA that John Deutch had put on and had been continued under Director Tenet as to who the agents could recruit, their assets. You are very familiar with all this. The president was involved in that, and I think those were changes probably pushed by the White House, but also pushed by a lot of us in the Congress.

You also mentioned statutory changes to FISA and different things and how they operate, but I don't think their wholesale changes have been made. I think it's incremental, evolutionary, but some progress, yes, considering everything. I'm going to save some time for some others.

MR. HARMAN: Congresswoman Harman.

REP. HARMAN: I'm sorry, Senator, that you left the Intelligence Committees. I think they're fabulous places to be. It took me four years to get on the House Intelligence Committee, and I am highly honored to be the ranking Democrat on the full committee now.

I think there has been progress. Obviously, there needs to be more. Let me just tick off a few things. One is near to, I think, Tim Roemer's heart, the hiring of linguists. We found that we had basically zero language skills in the areas where we needed them, and the FBI, the CIA, and the NNSA have done a major job of recruiting the languages needed and training the linguists.

Information sharing -- I think we do pretty well horizontally across the federal government now. We don't do well vertically with first responders. There's a requirement in the intelligence authorization bill from last year that a new system be developed. It isn't developed yet. What we have through the NLETS and other forms of communication that the FBI uses is much better than what we did have, but we still need to go to tear sheets or some way to get declassified information in the hands of those who need it quickly.

Intelligence fusion -- Congressman Goss talked about the TTIC. I think that function is critically important. It's one we

all recommended in all these reports, and we're starting to do that.

The Homeland Security Department needs to develop one deck but it is, again, a step in the right direction. And finally, on NSA -- well, both NSA and the FBI -- their technology is rapidly improving in both cases. The FBI had to transit from the 16th century to the 21st century -- I mean, it was using abacuses and ancient parchment. I think Bob Mueller would agree with this. And now it has good, possibly excellent technology systems that can do data-mining and state-of-the-art intelligence gathering. The NSA had a lot of good technology but didn't use it well. And its new phrase, that I think is very appealing, is that it has changed from gatherer to a hunter, and it goes after clues that it needs to find. It couldn't possibly sift through all the stuff it has in real time.

So, I would just put all those things out there as evidence of real progress, and I wish you had stayed on the Intelligence Committee -- you would have loved it.

MR. KEAN: Senator, I'll --

SEN. GRAHAM: Could I just add a few words to --

MR. KEAN: Yes, of course, Senator Graham.

SEN. GRAHAM: -- to Senator Gorton's question. I would say that from January of '01 to September the 11th there was a considerable amount, primarily from the Senate side during the tenure of Senator Shelby, on reform. And those reforms had one basic starting point. We have had an intelligence system which basically started in 1947, which was totally focused on the Soviet Union. And as a result of that, we had developed certain technology, certain cultural orientations. What concerned me was that the Soviet Union had become history about 10 years earlier, and yet our intelligence agencies had not yet responded to that. And I think that is a very central question, which I hope you will explore, and that is why was there such reluctance to change during the first decade after the fall of the Soviet Union.

We tried to emphasize, under Senator Shelby's leadership, some of the things that we thought were critical for change. The senator talked about increasing the linguistic capability because now we weren't just interested in listening to Russian, we also had 20 or 30 other often arcane languages that we needed to be able to understand in real time.

There were other changes. The architecture of our satellite systems were based on putting big machines over big long-time projects, primarily things like the Soviet submarine capabilities. Now all of a sudden we needed to cover a dozen different projects. And one of the unfortunate things that happened is, for instance, we had to move coverage from India and Pakistan back to Bosnia when that war broke out. So, we were urging a new approach to satellite architecture that would be less expensive, smaller and more mobile in order to respond to the conditions that we were in.

January of 2001 to January of 2002 I think is an interesting period for the policy changes that occurred. I met in February of 2002 with the people at Central Command in Tampa, Florida, and the question was, how is the war on terrorism going? And the answer was, the war on terrorism has been essentially abandoned and that what we're now doing is conducting a manhunt -- that was their word -- to seek out those people that we consider to be the key figures in al Qaeda. I think that was a very serious mistake, as was the relocation of military intelligence capabilities, and that we probably were defective in not providing an adequate oversight of that policy judgment.

As to what's happened since December of '02 until today, I would have to say that I don't know what has happened because most of the answers are contained in first examining what parts of the committee's report will be released publicly so that then the right questions can be asked. As I indicated in the area of FBI reform, Congressman Goss and I have sent two letters to the FBI detailing those 10 steps that we felt were a key to expeditious reform of the FBI's ability to conduct domestic intelligence, and as of today we have not received a response, so, therefore, are not in much of a position to evaluate how effective our recommendations have been in terms of institutional response.

MR. GORTON: Is that the right answer to everything in the final report of the Joint Committee, Congressman Goss?

REP. GOSS: Well, my take on your question, Senator, is I think that the right way to answer your question, and I think all of my colleagues have hit on very, very important points, is that there has been an extraordinary degree of attention focused on the intelligence community in the oversight committees since 9/11. What we were doing before 9/11 wasn't a whole lot different than what we were doing after 9/11 on the committee, it's just the people were changing. So, what really changed was the audience,

not the message, as far as the work we were doing. And we were thankful to have the audience, but not thankful for the reason why we had the audience.

Things that have been mentioned, but one or two have been left out -- the TPED cycle, which is a critical cycle for us, and will come under a lot more scrutiny, was getting attention, but not the kind of attention it needed. What we found after 9/11 was suddenly there was more money, people were willing to take more risk. Different things assumed priority that were pretty much either off limits for discussion or too difficult to bring to the floor of the House. Some of the FISA debate would, I think, illustrate that pretty well. And that, of course, is far from over, and it should be far from over.

But I will also say that some of the processes that we have set up did work very well after 9/11, and I think that needs to be noticed, that the working relationship between the top responsible people on the Hill and the top responsible people in the executive branch actually function quite well to assist in our national security and how we have protected ourselves. I'm not going to go into a lot of detail, obviously, on that.

I think that there was certainly a lot less push back on some of the things we put in our authorization bills. We saw decisions being made, as Senator Graham has said, properly so, on the architecture of our overhead structures. Our problem there was we would make strong recommendations, but we couldn't get a decision. We finally started to get some decisions.

So, I think that by our continuous attention to the areas that needed work, we created a ball that rolled slowly at first, rolled much more rapidly after 9/11, and it's not a significantly different ball today than it was in January of '01.

And one other area -- has any of this stuff been implemented? The answer is some of it has. Now, what's happened is the executive branch is taking some steps on some things we all learned from the 9/11 review. They haven't formalized the responses to us. I presume Senator Graham has not gotten his copy, but I did get an interim answer from Director Mueller to our long list of "what are you going to do about this stuff?" And then we sent -- it wasn't a sufficient answer, it was an interim answer, clearly, and we sent back specifics. And I know that some of those specifics are being addressed in the FBI. I'm not sure I want to say which ones publicly, but the record will speak. And I think that the FBI has informed me that by the end of the month

that they expect to have the whole list brought up to attention, and serendipitously -- and this is serendipitously, our committee this afternoon is having the FBI in front of it as part of our authorization process, and those questions are out there.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: Thank you very much, Mr. Chairman. Mindful of the pressure on the schedules of our House member witnesses, let me say this first at the outset. I thank you for your dedication and evident enthusiasm for your work. Those of us from Washington know that membership on the intelligence committees does not offer some of the things that membership on other committee does. You hold your hearings mostly in private. You do not get to show the work that you're doing all that often. There is no obvious constituency for campaign contributions. And, therefore, you must be motivated by a strong sense of public service, and I think that is quite evident today.

My concern is that you don't have the powers, the tools or the mechanisms to align our capabilities against our threats, and that's what I'd like to probe however briefly this morning, and I know that we will have some more time with you in private. And if there is time, we can turn to the joint inquiry. I have spent time in the Ford Building -- it's not all that bad. The report is very impressive, and I know that the public, if and when it is able to see the report, will be very impressed with it. Congresswoman Harman, I will try to be unflinching and rise to your challenge. The committee's oversight is clearly the product of the entities that it oversees. And as Congressman Goss pointed out, the intelligence committee -- community -- consists of 15 agencies in six or so cabinet departments. Most of the resources actually belong to the Department of Defense and the committees that oversee the Department of Defense oversee those entities. The Director of Central Intelligence controls only the CIA, really.

Now, you recognized this problem, and what you did is you created a deputy director for community management, who is a tremendous public servant, but she has, I don't know, six people in staff, she doesn't have the CIA reporting to her at all.

And so, here is my question to you: How can you oversee the intelligence community when the agencies don't belong to any one that you have the right to oversee? And my second question is: Why shouldn't the director of central intelligence at least

have the authority, if he doesn't own the agencies, to execute the budgets that he is given?

SEN. SHELBY: If I can respond briefly -- that's an excellent question. You spent some time in thinking about this.

That's part of the whole problem in the intelligence community. Fifteen agencies is, without reciting it all again, you know who controls what. The director of CIA controls at the most 20 percent of the budget. Yet, if he is going to be in fact the director of central intelligence, I believe myself, and we've made some recommendations, that we need a national director of intelligence, we need a cabinet level position. Otherwise, the reforms we talk about, which comes with power, money, direction, management, it's not going to happen -- not in the manner that we think it should. If you can't control the legislative agenda or, more than that, the funding agenda for an agency, you can't control. You can't really influence them, except on the edge. That's my judgement.

MR. KEAN: Congresswoman Harman.

REP. HARMAN: Let me first commend the questioner for her enormous service to our country. To anyone who missed it, Jamie Gorelick was general counsel of the Department of Defense, deputy attorney general, and a variety of other very useful and important roles in our government -- a lawyer, a wonderful friend, and supporter of all these activities.

I think you're right. I think that there are limits on jurisdiction. There also is the dirtiest four-letter word in Washington spelled T-U-R-F, that limits what we can do, and also limits what others in Congress or in the executive branch or even you can do in terms of reorganizing. But on this point, I would like to recommend again the report of the Markle Foundation which is buried under all these trees, and its director, a fellow named Phil Zelikow, whom you may know, he's right in my line of sight --

MS. GORELICK: I think we may get an opportunity to review those recommendations.

REP. HARMAN: And -- yes, those recommendations had to do with using technology to tie together a lot of independent functions effectively. And, in fact, if you do reorganization without the technology, it won't work. So, there is a virtual reorganization option possible, which I think would go a long way to avoid the turf fights. The only place then left is the

budgetary reorganization. That's what we were able to accomplish with the Homeland Security Department, at least for 22 agencies. But that's not a home run either, given the fact that where we are now with the homeland security budget is -- it's just the aggregation of 22 agency budgets. So, this is a very hard problem, which you well know. I don't think the solutions are obvious, but I just want to put out there that technology is a major way to jump over some of the turf issues.

MR. KEAN: Senator Graham.

SEN. GRAHAM: Yes. Mr. Chairman, I'd just make two remarks. One is going back to what I said earlier, the degree to which our current intelligence practices are a reflection of a past which no longer exists. In 1947, the focus of the intelligence agencies was on protecting our atomic secrets, and the congressional committee which oversaw the intelligence agency was the Committee on Atomic Energy. That fact then caused a series of other things to occur, such as, as Congressman Harman has just said, placing much of the intelligence community under the direct control of the Defense Department and placing a significant amount of its total budget under the control of the Defense Department. Those are issues which clearly need to be re-thought in the post-Cold War era.

And I think it's not insignificant that the number one recommendation of the joint committee reads as follows: "Congress should amend the National Security Act of 1947 to create an sufficiently staff a statutory director of national intelligence who shall be the president's principal adviser on intelligence and shall have the full range of management, budgetary and personnel responsibilities needed to make sure the entire United States intelligence community operates as a coherent whole."

I would hope that when you complete your review, that you might find that that's a statement that you could endorse.

MR. KEAN: Congressman Goss.

REP. GOSS: Thank you. When I first took over as chairman of the committee, the policy that we had for intelligence was SMO, support for military operations. To put it in English, it was war-fighters -- take care of the war-fighters, force protection, force enhancement. Those were the concerns. Not a whole lot of audience out there talking about or a whole lot of

people screaming for, clamoring for the national intelligence program.

And so we've had this tension all along. It doesn't just measure up in whether I get an aircraft carrier or a satellite. It's measured up into various questions of what is the policy. So let's take a quick look at the situation today. We've been asked to look at vulnerabilities, in the United States particularly, in our homeland, because the two oceans aren't doing it for us anymore.

Then we're taking a look at what's the nature of the threat, because it's obviously very different. It isn't those tanks on the other side of the Fulda Gap anymore. So then the next thing we have to do is, once we understand the vulnerability and the threats, then we have to understand what are the policies that have changed. Okay, those come out of leadership, long process, a lot of debate back and forth. It doesn't happen instantly in this country.

The next thing that happens after that is when you have all of this understood of what your policy is, then you have to have the capability to accomplish it, to enforce it, to do it. Well, do we have the capabilities in the intelligence community to do it? No, of course we don't, because everything has changed so dramatically recently that we've got yesterday's capabilities on yesterday's policies, and we need today's. And we haven't quite got there yet. So I think that's what our committees are going to be basically functioning on, the oversight committee is going to be basically functioning on, no matter how we say it.

Then comes the final piece of the straw, which you've properly identified. And if you understand all this and can get your arms around all that, what would the management profile look like? And it would not look anything like what we have today. And I think you all understand that. I know that Lee Hamilton knows that very well. He has studied Congress many times.

And we try and solve the problem of overlap with other committees to deal with the other Cabinet-level secretaries by having members on the committee who also sit on the committees of those people. We've tried to create ways to make sure that we're heard in the proper space.

So if we're talking about the FBI, the part that's intelligence gets represented and the part that's not intelligence

gets represented. It's a cumbersome, inefficient, foolish system that has survived very well because it's the only one we have.

MS. GORELICK: Let me follow up on that. One of the reports that Congresswoman Harman waved around was Aspin-Brown, I think. And you were on that venerable commission; very good people on it, very good recommendations came out of it. You tried to implement it and you ran into a brick wall in the form of the Armed Services Committees. Do you have a proposed solution to that?

REP. GOSS: I think the brick wall has actually been reinforced by a concrete wall as well.

MS. GORELICK: Sounds like we need a bunker buster.

REP. GOSS: My basic conclusion is that the recommendations that we made in our report that you've seen the brief summary of are the right. I would prefer to go to DNI, director of national intelligence, take Joan Dempsey as the community management position and give it the clout that it was intended to have to coordinate, because coordination is a huge problem.

It's very hard to ask somebody in a lower-level position -- although that's a high position, it's relatively lower to dealing with three stars and saying, "You will do this," when the three stars can go to the Pentagon and say, "I don't think so."

It is an unworkable system. It was an inspiration that we put out there saying, "This will solve the problem." And like most silver bullets, it turned out to be lead.

MS. GORELICK: Let me follow up with two questions, if I can, about your actual internal mechanisms. I went back and read the Director of Central Intelligence's annual reports that he makes to your committees the beginning of every year, now called, I think, the worldwide threat hearings.

If you go back and you look at his statements from '97 through 2001, terrorism is in there at, like, number three or so until 2001, when it rockets in February of 2001 to number one with some very strong language. "The threat of terrorism is real. It is immediate. Osama bin Laden and his global network remain the most immediate and serious threat." In tone and content, I would say hair-raising.

My question to you is, what were your mechanisms for following up on that? I didn't see -- maybe there were any, but I didn't see any hearings on terrorism in your committees after that. That was an inflection point, maybe at least in retrospect, but it seemed to be an inflection point. What happened?

REP. GOSS: Well, the answer that I would give you on behalf of our committee is that we had been listening for some time about terrorism. Actually, terrorism, I think you can go back to Lebanon as sort of really the place we should start. But terrorism, in terms of our committee, is that we heard those threat briefings.

Now, understand that the threat part of it and the awareness part of it is part of our education process as members of the committees. It's providing the capabilities to deal with the threat which is our responsibility to deal with.

So we took that on and said, "Okay, Mr. Director, if it is this way, what are you going to do about it? What capabilities do you need? We are concerned that you have enough people who speak the right languages in your counterterrorism center. We are concerned that you have enough people in the right field stations around the world to deal with terrorists when they show up here and there."

That dialogue does go on back and forth, but it does go on generally in closed session for a very simple reason. We're not out there making policy. We're out there trying to get capability, and we don't necessarily want to tell whoever might be listening in another country that we're having these discussions, because when it turns out we can't agree to fund the counterterrorist center, I don't think we ought to tell anybody. It's that kind of a problem.

SEN. SHELBY: In February 2001, I remember the briefing, the threat assessment. And it was real. I thought the director laid it out. There was continuous dialogue between the committee, the committee staff and the Agency on that. I know Senator Graham and I were conducting the hearing, the threat hearing.

I think the question is, you're going to have to look at what we did and what they did in the community, having laid out that this threat has escalated so highly, the terrorist threat, what they did during that time, because they were in the operational phase. We were in the oversight and legislative

phase. I think that's an important distinction. And you ought to look at the record.

REP. HARMAN: I would just add that when I returned to Congress in January of 2001, I was appointed by the speaker and the Democratic leader to be ranking member of a new working group on terrorism and homeland security. The date was January of 2001. And we began work on what became our report, which we issued shortly after September 11, 2001.

So I think there was interest focused in Congress. But I think the absolutely critical thing is what Congressman Goss said earlier. What changed on 9/11 was the audience. And finally there was momentum, attention to doing things that many people in Congress and in the executive branch and the involved outside community had wanted to do for a long time.

MR. KEAN: Senator Graham.

SEN. GRAHAM: Yeah. The kinds of things that needed to be done after terrorism emerged as our highest priority were not the kinds of things that were particularly dramatic in scope. In fact, they tended to be in the opposite direction. They became more micro as we left our focus on the one big target and started dealing with all of these individual targets.

As an example, we were still spending, in my judgment, an excessive amount of our research and development money to produce capabilities that didn't line up with our vulnerabilities. And that became one of the priorities of our committees, to assess what was going to be required, to think over the horizon 10 years.

And I might say things like the unmanned small aircraft that have proved so significant in the war in Afghanistan and Iraq and no doubt in future engagements, particularly with terrorist groups, was in large part a result of the prodding of the intelligence committees over the resistance of some of the agencies that like to build the bigger, more known aircraft.

So I'm not here to say that the Congress nor the intelligence committees were totally prescient or perfect. They understood the problem. They understood the analysis of the problem and were trying to carry out our responsibilities.

MS. GORELICK: It seems to me a completely legitimate position to take that, in the first instance, the responsibility

is in the executive branch agency. But I'm concerned about the mechanisms that you all have or don't for aligning, as I said before, the capabilities against the threat and to see whether they are doing what they need to be doing against that threat.

And there's some peculiarities of the way in which oversight is done in the intelligence community that I'd like to just ask one question about, and we can certainly follow up when we have more time.

The authorizations for the Intelligence Community contain these massive classified annexes, 500 pages of annexes, with very detailed prescriptions for what the intelligence community, all these individual agencies, will do, and reports that they must give.

And I look at that and I think, "Well, is that the best way to manage? Wouldn't it be better to have a more cross-cutting and strategic view of what their problems are and how they propose solutions?"

And the second thing I noticed is that unlike many departments, the intelligence community has to have both the appropriators and the authorizers before they can spend any money. So even if the appropriators say, "Here's the money to do something," unless you specifically authorize it and it's found in one of those many lines, they can't do anything. I think that that is, having been in the executive branch, where I didn't serve under such a system at Justice or Defense, that it would have been, at the very least, dispiriting. And I just wonder how you carry out your functions in such a system.

SEN. SHELBY: If I can try to answer that, because at one time I chaired the Intelligence Committee. And, of course, I was a member with Senator Gorton of the Defense Appropriations Committee that funded all of this. I can tell you there are a little different goals sometimes in the funding subcommittee, as you well know from your position at the Pentagon, of intelligence activities and what we did at times, and initiatives we tried to push sometimes were not funded, despite some of us being on both committees. It's a struggle.

But overall we had, I think, overall a good relationship with the Defense subcommittees on Appropriations in the House and Senate, but not always did we get our way.

MR. KEAN: Congressman Goss.

REP. GOSS: Thank you, Governor. I wanted to respond to that. You brought a little smile to my face, because by statute it's true; no intelligence monies may be spent unless they're authorized.

What you haven't read in the statute is the appropriators on the House side have decided that they have authorization power, which was news to some of us. But the system does not work as perfectly as we would like it to work. And I say that (at this?) very important point right now, because we are funding much of what we're doing in the intelligence community these days on supplemental budgets.

Supplemental budgets do not get scrutiny of authorizers to the degree that we would normally do our work. So one of the recommendations about the budget is very heartfelt. I agree with Senator Graham; we've talked long and hard about it. The DOD position has been, "We want the intelligence. We like it. It's useful. You pay for it." We understand that message.

The other thing that I would like to say in terms of a little bit of foresight -- and give full credit to Senator Graham for this because he deserves it -- shortly after we started working together in 19 -- in '01 -- Senator Graham said, "I feel the need to have a joint retreat. We have got a management mess on our hands." And we did pull off the Senate-House retreat, which was very useful, attended by the right people, and we came out and we analyzed a lot of these management problems.

September 11th came and we weren't in the business of management adjustment anymore. We were in the business of capabilities. So we tried, but it's been very hard to get the time to get out of the box lately and look five years down the road.

SEN. GRAHAM: If I could just return to one of the recommendations that I made to this commission for its study, and that is, first, the need to get the basic financial accounting systems in the intelligence agencies up to a point that they are at least subject to being audited. That may sound like the driest subject imaginable, but it is the key to being able to implement some of the other reforms.

And second, I believe that, just as has occurred with the Department of Homeland Security, that the intelligence agencies ought to be lifted from the Defense budget and given their own budget. Then at least the public will know what the bottom line

for intelligence was and they can assess: "That seems excessive or inadequate." Right now you can't even have that debate because it's buried inside the big Defense Department budget.

And second, there could be a closer relationship between the authorizing and appropriating committees so that common values and priorities, at least those that were considered to be number one, two and three, would get the priority attention that they deserve.

MR. KEAN: Congresswoman Harman.

REP. HARMAN: I'm the only one here who has not chaired one of the intelligence committees yet, but I -- maybe that makes me more fearless. I appreciate the question, because I think authorization by footnote is a pretty awful process and it really prevents most members from having any reasonable oversight over the process, because wading through 500 dense pages is pretty hard.

I turned around to smile at some of the Intelligence Committee staff because they've been having a conversation about how to change this. I suggest just taking the thrust of your question, that aligning capabilities, at least capabilities for terrorism, would be a good way to start.

We might not be able to fix all of it, but the whole world is focused on this problem. And we have to fix some of it so that our capabilities are aligned, so that we prevent the next major terrorist attack in America. And there is the political will to support that. So this is a great subject. And I hope that, should we appear before you again, we can report progress.

MS. GORELICK: Well, thank you for -- oh, I'm sorry. Senator Shelby, did you want to add something?

SEN. SHELBY: No, I was just --

MS. GORELICK: I wanted to thank you for inviting unflinching questions and for giving unflinching answers.

MR. KEAN: I think we have one final question by Senator Cleland. You've given us an enormous amount of your time. Thank you very much. Senator Cleland.

SEN. CLELAND: Thank you very much. Senator Graham, I could not agree more with you in the thrust of that number one

recommendation in the report that there's got to be somebody in charge of the intelligence community.

After spending six years on the Senate Armed Services Committee, where we got briefing after briefing in terms of appropriations needed by the intelligence community, that briefing was often murky. It was ill-defined. And, quite frankly, we never quite frankly knew exactly what was going on, because we were on one committee; the Intelligence Committee was on something else.

Secondly, I do think that, despite the massive amounts of reports, where the water meets the wheel is just the report today; two articles in the *New York Times*. We're now going back and wondering whether or not we had the right intelligence on the war in Iraq. Pre-war views of Iraq threat are under review by the CIA. I'd like, with no objection by this commission, to enter that into the record. And what happens? We have another tape from a bin Laden aide, and so the al Qaeda is still in operation. Something has to change dramatically. Thank you for your testimony.

What other lessons, Senator Graham, have you learned that you would like to share with us as we close out the hearing?

SEN. GRAHAM: First, that we are dealing with a much smaller but more nimble adversary in these international terrorist organizations. And we have got to similarly become more nimble and capable. There probably are few areas that illustrate this as much as one that we've talked about, and that is language, and I would also say cultural identity.

If you want to get somebody inside a terrorist organization, you can't go to the Mormon Tabernacle Choir to start recruiting. You've got to find somebody who looks and talks and understands the terrorists about as well as they do. We, frankly, don't have that capability. At least we don't have it today. We have trouble recruiting assets who do have that capability. I think that is an example of the kind of more nimble reform that we need to make.

SEN. CLELAND: Thank you very much. Thank you, Mr. Chairman.

MR. KEAN: Anybody else like to comment? Thank you. I think one thing we have learned today is just how able our leadership in the Congress is in this area. Thank you all very,

very much for taking your time. You know we'll be back to you, because we're going to need your help. Thank you very much.

Panel 3:

MR. KEAN: All right, we are going to start again, because I know some of the senators and congressmen have tight schedules today. Our third and final congressional panel this morning consists of senators and representatives who really come from the regions that experienced these particular attacks. I understand that very well. They, like I, I am sure lost people they knew on that day, and so have not only an intellectual but an emotional attachment and anger about what happened on that particular occasion. They have their own unique perspective. It was our intention actually to have them at our very first hearing in New York, but circumstances made that impossible. So, we are very, very pleased to have them with us today. The first two who are here, first of all Senator Hillary Clinton of New York and Jon Corzine of New Jersey. Senator Clinton?

SEN. CLINTON: Thank you very much, Governor Kean, and Congressman Hamilton, and members of the commission. First let me thank you for taking on this very important challenge and responsibility. As I listened to the end of the previous panel, I think it became clear how important the mission of this independent commission is for the future of us all.

I want to take this opportunity to speak with you about what happened in New York on September 11th, and the lingering consequences of those terrorist attacks on our city, and certainly on the surrounding region in terms of the impact in loss of human life, in grievously injured victims, and in the physical destruction that we are still coping with.

We are testifying while once again the threat level has been raised to code orange. New York City, which has remained at that high level of threat alertness, is instituting an operation, called Operation Atlas. It costs millions of dollars a week for the heightened security that is necessary. And it is imperative that as we review what happened in the past, for answers, for recommendations, for changes that we hope will make our country safer, that we also look at the human cost and the incredible burden that localities have borne because of their being the particular victims of this attack on America.

I applaud your efforts to get the funding that you need, and I hope that if there are additional resources that are

required, you will let those of us in Congress know immediately so that we can work with you to get every penny that you see as necessary.

But we are also here to provide more than funding. We want to provide support, and it is deeply troubling that the commission has had to fight to receive classified information, and the clearances that you need to effectively conduct your investigation. I am certainly well aware personally with a number of the commissioners and others by reputation. There could not be a more distinguished panel of Americans. And I hope that you and the staff you have compiled will quickly get access to everything necessary to make the conclusions that will be part of your recommendations.

If you run into any other roadblocks, however, with respect to classified material, again I hope you will immediately turn to Congress, which of course created you and in a bipartisan fashion stand behind you. When your investigation is completed, I certainly know my constituents want and expect a report that not only informs and sheds new light on one of the darkest days in our history, but also tells us how we are going to find our way into a safer future. It's critical that the new Department of Homeland Security and the new Terrorist Threat Integration Center have your recommendations as soon as possible. They need to establish the protocols for gathering and sharing intelligence, and I worry that with the insights you are acquiring, and the very pointed, unflinching questions you are asking, you are going to get answers that may be discomfoting, but necessary to be heard as soon as possible.

I certainly have urged the Department of Homeland Security and the TTIC to use this information to establish their new systems, so that we don't get off on the wrong foot. I mean, one of the problems we face are frankly the bureaucratic inertia, the difficulty of communication, the compartmentalization which has led to some of the difficulties that we have seen in the past, and we all hope we can avoid that in the future.

I also believe that part of your mission is to recommend not only what we must do to try to prevent any future attacks, but what needs to be done in the event unfortunately we are unable to. How do we respond in the wake of an attack? And there I think it's imperative to look at the lessons learned in New York. I am confident that no city in the world could have responded as heroically or as effectively as New York City did. Yet even today we are not given the resources in New York City to feel fully

prepared for whatever else might happen in the future. There are outstanding homeland security needs that are not yet met. We haven't prioritized sufficiently with the funding from the federal government, in partnership with our state and local governments, what needs to be done. I'll give you just one example. It's not classified, but it is somewhat horrifying. There is one hazardous material unit in the city of New York for a city of eight million people. That is unacceptable. We have not yet gotten the resources to be able to go further than that.

So I think it's imperative that we start where this commission is in the years and the certainly months and days prior to September 11th, but also in the aftermath, and to have strong recommendations along the lines of what the Congress and others need to be doing. And I certainly hope and trust that people in positions of influence and power, as well as citizens across our country, will pay more attention to this report than was paid to the Hart-Rudman reports, the first one released in February 2001, and the second in October 2002.

I want to thank the Commission for appointing a new family liaison, Eleanor Hertz, who lost her husband on September the 11th. I also want to thank you for opening the New York office, headed by Emily Walker, who worked in World Trade Center 7. These additional liaisons and staff members certainly send a very clear signal to the people of New York, New Jersey, Connecticut, the affected region, that there is someone they can go to for information, for answers to their questions, and frankly to hear ideas. I think some of the best ideas about what we need to do have come from family members who have taken this on as a mission, have come from fire fighters, police officers who are on the front lines day in and day out.

The support that America extended to New York was so heart-warming and essential, but we learned a lot about what didn't mesh. There was a great deal of effort to try to reach out and help New York that it almost became overwhelming. I recommended a national 211 hotline, because what happened in the wake of September 11th is that 400 independent hotlines just mushroomed up all across the country, people wanting to help, wanting to contribute, wanting to know what they could do from California, to Florida. We need a national 211 system where in the wake of a disaster -- natural disaster, terrorist attack -- people are able to know where to go to offer help and find help. We spend a lot of time, and my staff and I were involved in bringing together the charities and other groups to try to rationalize our efforts, so we didn't have duplication. We

learned a lot of lessons there. There are people I would recommend you speak with about what we learned that can try to streamline the process in the future.

Now, as we look forward, and you are going to be examining building codes, aviation security, intelligence, the whole range of issues, we have to find a way to communicate with the public beyond the screen, really the stone wall of classification. Part of the reason I think there are a lot of unanswered questions, part of the reason for the confusion -- and I thank my friend and colleague Senator Cleland -- I now serve on Armed Services -- I knew exactly what he was talking about -- is there is a glut of information. It is never summarized. There is no executive record that is put into the public domain. Members of Congress who are not on the respective committees often have no idea what is happening. So think about what it's like for the rest of the public. The need for information sharing, something that Senator Schumer and I have been advocating for 18 months, better information sharing between federal law enforcement, local law enforcement. We are still not where that needs to be. New York City is spending an enormous amount of money to put into effect its own counterterrorism unit. A thousand detectives have been taken off the street. They are now trying to run their own intelligence operation. Now clearly, in a city as big as ours you are going to have to have that. But I still believe that if we had a better system for sharing information with the federal government, some of that burden on the local community would be relieved, and certainly some of the funding that is necessary for the local communities, such as New York, to carry this function out should be forthcoming from the federal government.

In addition, I think that the personal commitment of many of the members of families that were directly affected, to ensuring this doesn't happen to anyone else, has been a tremendous source of inspiration, but also a motivator. Any time anyone flags about what needs to be done or should be done, you only have to remember what so many of these husbands and wives and parents and children have gone through. The lessons they have learned on the ground, in very practical ways. How does FEMA really work when it's not a flood or an earthquake or a tornado, but the obliteration of 18 acres in the middle of a huge city, where it's very difficult to know whether people are ever going to be able to put their lives back together, whether the businesses will recover, whether those who were forced out of their homes will ever come back, whether we need a special authority to be inspecting the air? My colleague, Congressman Nadler, has been a champion on this issue. The people who have gone through this

must be listened to, because the impact of what happened is so far beyond what the headlines can tell you or what the official reports will contain.

It is also imperative that the issue of building safety codes, which seems arcane, which seems somewhat a bit extra, as opposed to a core issue has to be moved to the front of the list. A group of New Yorkers led by family members who lost their loved ones has made this a crusade that is imperative it be learned from and looked at around the country, just as after the earthquake in California. The Clinton administration's FEMA officials made recommendations along with the state of California for increasing building safety codes when it came to earthquakes. We have to do the same when it comes to infrastructure that is vulnerable, heavy populated areas where the building codes need to be looked at. And this is an issue that obviously is sensitive, because it crosses jurisdictional lines. But people need to know what we have learned from this terrible tragedy.

Similarly, when we look at the resources for our front-line soldiers, I have said repeatedly that we now are fighting a two-front war. We are voting on our DOD authorization today. It is going to be everything we possibly can think of that is needed by our men and women in uniform. We are not doing the same for our fire fighters, our police officers, our EMTs, our public health and hospitals.

This is something that I feel particularly strongly about, because here we are in a budget crunch, and in New York City we are closing fire houses. Now, granted you hope that you never have to use a fire house. But how can we possibly have a plan to minimize and prevent the effects of terrorism when we are not looking at the infrastructure we have to finance and maintain no matter what happens? Our public health system, our hospitals are under tremendous financial pressures. They know what they are supposed to do. They are not getting the help they need to do it.

I also have taken on as an issue the health screening and tracking of those who worked and volunteered at Ground Zero. And this goes to a longer-term issue, but I would hope that you would include it in your consideration. When the terrorist attack took place, and those enormous buildings collapsed, the air was filled with chemicals of all kinds. We did the best we could. We didn't have, frankly, the legislative authority for EPA to do what was needed with a lot of the testing, outdoor and indoor, and we have been playing catch-up. That needs to change. Similarly, the people who were there at Ground Zero day after day -- the police,

the fire, the construction workers, the volunteers -- all are now eligible, because of legislation we passed, to have their health tracked. We have a program at Mount Sinai Hospital -- I will submit the findings of that to you. Twenty five percent of the people who are being screened have serious respiratory functional problems; up to 50 percent have stress, including post-traumatic stress disorder. The long-term impacts of these terrorist attacks are things that have to be taken into account as we plan for not only prevention, but appropriate response.

We had over 1,000 schoolchildren who were evacuated, who were very close to Ground Zero; about another 1,000 who were a little bit further away. We were able to get some additional counseling money for those children. The needs of different areas of population, when we think about how best to prepare, has to be included. Similarly, the related impact that could come from not just building collapses -- and this is something my colleague Senator Corzine has been the champion of -- chemicals, biological, radiological. I don't think we have even begun to figure out how best to be prepared in the event of such attacks occurring in especially heavily populated areas.

So I want again to thank the commission for undertaking this important mission -- and I view it as a mission. You know, there come times in nations' histories when we are called upon to really reach down deep and summon up what it takes to respond and move forward, and I think this is one of those times. And it is troubling to me that 18 months later I don't think we have put the resources, I don't think we are prepared. We've certainly made progress, and I give the administration and Secretary Ridge and others enormous credit, because we basically had to start from ground zero.

I remember in the 1980s when there were a series of research tests carried out by researchers in Canada, Israel, Japan and Europe, where they left unattended baggage, suitcases, backpacks, in public places like airports, bus stations, train stations. In other countries people reported it. In our country people walked by or kicked it out of the way. So this is not just a task for government. This requires a significant cultural-mental-attitudinal psychological change amongst our people. And I look to you to give us both the guidance and the impetus to try to do what needs to be done.

MR. KEAN: Thank you, Senator Clinton. Senator Corzine, who by the way was I think almost the very first one to call on the creation of this commission, to offer his help and support,

and has been there with us every step of the way. Senator, thank you, and welcome.

SEN. CORZINE: Thank you, Governor Kean, and Congressman Hamilton, and all the commissioners. Let me also express what I know all of my colleagues feel, an appreciation for the service you are giving to deal with something that I think is truly vital to the American people. It certainly is to those of us who live in the affected areas.

As I am sure you know, as the governor suggested, I was one of the original co-sponsors in December 2001, I think the date is important to remember, to establish this commission and to review the circumstances that surrounded the attack. I hope that you know that all of us, and I certainly have been intent on this, to make sure that you are fully funded, that you are fully staffed, that you are fully equipped with the authorizations and the efforts to carry out your mission. It is too important to not have the tools to make sure that you can do the job that you have been asked to do.

It is clearly a difficult task, but it is critically important that it is done and it is done thoroughly, credibly, and let me say expeditiously. It is imperative that you demand access to all the relevant materials, that you develop findings that lead to recommendations that will strengthen America's security. It's really about the future maybe even more than it is a review of the facts.

To do otherwise, in my belief, and I think probably in yours as well, would be disrespectful to the thousands of people, thousands of innocents who paid an ultimate price because of mistakes in judgment, sometimes worse, sometimes not because of intent, but because of mistakes that preceded September 11th.

But analysis of history aside, the root of this is how do we keep America safe for the future? The terrorist attacks of September 11th unmasked many vulnerabilities. We just heard Senator Clinton review a number of those areas that we need to go back in a very disciplined and thorough manner, review. History may not repeat itself, but as Will Rogers said, it often rhymes. And I think your job is to make sure that when that rhythm comes out that we have looked and done those things that create the greatest safety for us. We need to learn from the lessons of history.

And, by the way, I am very much of the view that this is not about finding blame, assigning blame. This is about genuine reform and accountability going forward. And I have to say I heard Senator Cleland mention this, it almost makes your blood boil when you pick up a newspaper today and see that the CIA is conducting a postmortem analysis of the difference between intelligence before the Iraqi conflict and what we have learned today. And why we haven't had the same--and this is not the Commission's problem--but why we haven't had the same incentive to do the look-back and the lessons learned that are so imperative I think to make the world a safer place.

In my view, and I say this absolutely with confidence, we are irrefutably tardy in carrying out this analysis with respect to 9/11. And, again, it's not the commission's problem, but this society needs to do it. And as a person who used to be involved in more than my fair share of mistakes in a world that I came from, one of the absolute essentials of serious management is to go back and understand what went wrong, so that you can prepare to make the world a better situation in the future. And I just believe we have fallen short on that, and I commend you for your efforts, but I also say it is one that needs to be brought to conclusion.

I find it almost hard for me to understand that we have already set about the greatest merger and acquisition effort in the creation of the Department of Homeland Security without doing the kind of work that I think sets the framework for how we deal with this. You know, it's almost every day that we get a call or two, or five or ten, to my office from victims' families seeking advice and support. All of them are struggling with the victims compensation fund. There are enormous challenges for people. We cannot let this tragedy not be a motivation for us to move forward. Seven hundred of my fellow New Jerseyians, Governor Kean's New Jerseyians, people in my hometown, 11 in my hometown, innocent people who were working hard lost their lives. We must accept this as a responsibility to move forward with the accounting.

I agree that we need to turn to many of the families for the lessons, many of the people who were involved in the immediate aftermath, to learn those lessons.

I'm just going to quote Kristin Breitweiser, whose husband Ronald was killed in the World Trade Center, somebody from New Jersey, who said the 9/11 families and the country have waited long enough for answers. Each day of delay is another day that

this country remains vulnerable and perilously at risk to another terrorist attack. Pretty common sense. We have all waited long enough. I know you understand the weight of your assignment. You have friends in the court of Congress to make sure that you have the ability to deal with all those various issues -- immigration policy, counterterrorism, the turf issues that we know exist, and how we put together the cross-fertilization and the information, the preparedness of first responders and on and on. I just want you to know, as I know you'll hear from all of us, we stand ready to do what is necessary to make sure you have the resources and all of the other elements that are necessary to pull this together in an expeditious and thorough and serious manner.

I appreciate the opportunity. I stand prepared to work with you and for you to make sure that this comes out in a way that the American people are more secure after your efforts, because we have the information and we have learned and looked at the lessons that can be learned. I thank you for your service.

MR. KEAN: Thank you, Senator Corzine.

We are glad to be joined by three more people who have been very supportive of this whole effort: Senator Schumer, Congressman Nadler and Congressman Shays. Senator Schumer?

SEN. SCHUMER: Thank you, Mr. Chairman. I very much appreciate the opportunity to be here and the work that you are doing. I want to just say two things preliminarily about people in this room. First, when I look up at the panel here, I know about half of you personally, and others not personally -- more than half personally -- it gives me confidence. And I want to say that to both the families who pushed so hard for this and for the American people. This is a Class A group of people. Every one of them has a reputation for honesty, for thoroughness, for integrity, and I think we can have a lot of faith in the results of what this panel does based on the membership of the panel. So I thank you for serving your country at a time of real need.

Second, I do want to thank the families who pushed so hard. I don't recognize everybody here, but I know we have someone from the Petrocelli family, and the day we read all the names on the first anniversary, I was with Mr. Petrocelli's widow, learned all about him. We have the Barkow family here. And as well we have Ms. Gutwilick (sp), who lost four employees and has made this sort of a crusade. There are probably other family members here, too, that I don't see, but I thank them for coming.

You know, we know, that without the efforts of the families, this panel wouldn't have happened. And it's a noble thing, when you lose a loved one, instead of simply cursing the darkness, to do something to correct, to change, to improve. It's a hard thing to do, because the hole in your heart never goes away and you're not as strong maybe as you once were.

And so I want to commend the families who are here and all of those who really made this panel happen by their dedication, by their sincerity, and by their spirit of generosity to make sure that what happened to their loved ones doesn't happen, as best we can, in the future. So I thank both groups for being here on each side of our little table today.

I also want to thank my colleagues. We've worked together as a team, Democrat, Republican, from the tri-state area to do the best for our community after this horrible blow occurred. We've accomplished some things and we have a long way to go.

Let me just say that, you know, the bottom line of this panel is simple, and I want to just add to something my colleague, Senator Corzine, said. If this panel were just constituted to find blame, it might make a few people feel good but it wouldn't be doing its mission.

The reason we're finding out what went wrong is so we can correct it in the future. And the great resistance to forming this panel befuddled me. A nation that is unwilling to confront truth, they almost always fail. They almost all tend to be secret societies, dictatorships, where the truth is abhorred.

We're a grand and great democracy, and the fact that we are seeking this truth is a testament to the strength of this country. And I just wish it had happened a little quicker, and I never understood the resistance. I never understood the resistance. But I think, again, that is gain said by the strength of this panel. Now, the bottom line is that to me there are so many things that this panel can do, I don't know how you're going to deal with all of them. Obviously information; why all the little signals beforehand didn't add up into a big comprehensive picture that we could see. We've changed in the way we're dealing with information.

Yesterday I met with the leaders of this new agency in Homeland Security, TTIC, which coordinates information from all the intelligence agencies. I guess we'd like to know from you,

and this is more normative, will this TTIC do the kinds of things that weren't done before 9/11? Will it work? Do we have to change the structure?

In other words, I guess if I had a message for the panel, be as prospective as possible. Look what happened in the past, but give us some recommendations. You know, the war on terrorism is not going to be over in two or three years. In a certain sense, our society is where we were in 1946. In '46 we had beaten the Germans and Japanese. The average American's-- you know, their view was, "Let's put our feet up on the table, relax and forget the rest of the world."

And all of a sudden we see this huge Russian monolith staring over our shoulder, and we don't know how to react. And we make a whole lot of wrong turns at the beginning. McCarthyism in the '50s, Vietnam in the late '60s. And finally we figured it out, and praise God, we vanquished communism.

We're at the very beginning now, and I think we all have to approach this with a bit of humility. Nobody knows what to do. The only people I resent are not the people who disagree with me, but people who think they have all the answers, because no matter how smart we are, both in our own minds and with computers able to assemble all this information, we don't have enough of an experience pool to know how to vanquish terrorism, which is a simple phenomenon, simple in describing it, which is that technology empowers small groups of people to do terrible and evil things which they couldn't do even 10 years ago. You can be in a cave in Afghanistan and be on the Internet if you have a wireless connection and learn as much about America as any of us know.

And the sad fact of the matter is that if all the people in this room, all of us were bitten by an evil virus and decided to devote the next five years of our lives fanatically and evilly to figuring out how to do terrible damage to America in implementing it? The odds are too high we could succeed. We need answers on how to stop this.

In terms of information and the failures of information, but more importantly on how we can pick up the signals, tie them into the big picture so that the norm is to find out something before it happens as opposed to the lucky aberration. We need your help on that and we need to know about coordination, coordination among federal agencies, coordination between the federal agencies and the local agencies. I think that's really important. I'd like to hear your advice on whether this new

trilogy system that the FBI has set up will not make the same mistakes that their information systems had in the past. I've spoken to the director and all the people he's put in. They put great stock in it. Will it work? None of us want to be back here five years from now and say it didn't and something else happened and we should have known about it.

Other things that I hope you'll look at, and that is how we deal with the openness of our borders, how we keep those and maintain those open borders, and at the same time prevent bad people who want to do terrible damage to us from coming in. Again, it seems to me a lot of that can be answered by technology. Are we doing enough?

I don't know, again, if this is your domain, but one of the great things we're debating in America is the push and pull between liberty and security. How much change do we need there? There are some on the left who say make no change. I don't agree with them. You have to change in a changing world. There are some on the right who say we can't afford any of our precious liberty or we give up too much of it. They're wrong too.

Where's the balance? A dispassionate, intelligent panel like yourselves might give us--you're not going to solve every one of these problems, but you might help us as we begin on this new path, protecting the world and America from terrorism, what directions we should go in and what kind of things we should do.

So when I think about it, the task before you is awesome, not in the way my 14-year-olds use it, but in a biblical way. The angels, in awe of God, trembled before Him. The task is awesome. It's huge. You're not going to answer every question. We shouldn't expect it. But I think you can help us the way no group in America can, because you're dispassionate, you are intelligent, you don't have any axe to grind. I know none of you do.

And so I just urge you on in your mission and pledge, in my small way, whatever cooperation that you need. Thank you.

MR. KEAN: Thank you, Senator Schumer. Congressman Nadler.

REP. NADLER: Thank you, Governor Kean, members of the Commission. I thank you for the opportunity to testify today. And I want to share my first-hand knowledge of events that transpired in New York following the September 11th attacks. I understand this commission is tasked with making recommendations

to improve the government's ability to detect, prevent and respond to terrorist attacks.

I will focus my comments primarily on the events in New York and our reaction to the attack, and perhaps some lessons that can be learned. But I'd also like to provide a few suggestions on ways to both detect and prevent future attacks. As I toured the devastation with the mayor and the governor on September 12th, the day after the attacks, I was impressed with the plans they were putting in place to respond to the attacks. It was quite impressive the way they were mobilizing, especially Mayor Giuliani, the apparatus of city government.

I also assumed that they would be preoccupied, of necessity, with the immediate problems of rescue and recovery and of getting the economy, especially Wall Street, back on its feet. I further assumed that many problems faced by local residents--and most people don't realize that 25,000 people live in Lower Manhattan below Chambers Street--that many of the people faced by local residents and small businesses would fall through the cracks.

Therefore, on September 13th, we formed the Ground Zero Elected Officials Task Force to coordinate the efforts of all the local elected officials from the area. The main goal of the task force was to assess the needs of the community of Lower Manhattan and to ensure that those needs were addressed by the appropriate government agencies.

When you pull together the staffs of several different city council members and state assembly members and state senators and a congressional office and a borough president, you have a formidable outreach organization that can ascertain the most urgent problems facing residents and businesses in the area and can work toward adjusting those problems.

We could also and we did perform a triage function by fielding thousands of calls that we intercepted that didn't have to go into FEMA or the mayor's office from people seeking help and distilling from them the most crucial and immediate tasks to press on FEMA and on the mayor's and governor's people.

We started by giving them first the daily memo of saying, "Here are the two or three emergency things you must do right now," and then it became every two days and then twice a week and then once a week and so forth. And I just say, that worked well for the first three weeks to a month after the attack. And after

that, some of the normal bureaucratic imperatives reasserted themselves and these government agencies became less responsive.

This is one example of the kind of thing I'm talking about. While many people were evacuated from their homes, many more remained behind, especially senior citizens, who were, in effect, trapped in some of the major housing developments in the area. These seniors needed to get food and water and medications, but all the pharmacies in the area were closed. There were armed guards preventing anybody from crossing Canal Street to get to Lower Manhattan, and no one and no supplies could get through.

So we had to ensure the delivery of medicines and food and water and so forth to those who needed it in the days immediately following the disaster, despite the fact of the armed guards and the total blockade of the area, which was there for good reasons but hadn't really thought of this problem, and despite the fact that all the pharmacies which had the prescriptions for all these people were closed.

We managed to do that. And one of the things we had to do was get the governor, for example, to suspend enforcement of the state law that prohibited a pharmacy from filling a prescription on file at a different pharmacy which was closed and therefore unresponsive to telephone calls.

So we handled a lot of these kinds of problems that really no one had anticipated. And as I said, the governor and the mayor's people were focused on getting Wall Street running again and rescue and recovery, and someone had to do this. The Elected Officials Task Force stepped into the breach.

And one thing you might consider is seeing if there's some kind of mobile mechanism you can set up or recommend perhaps to local governments to deal with these kinds of problems that might get overlooked in, God forbid, the event of some future disaster in the normal course of events.

On the legislative level, of course, it was imperative to get tremendous aid into New York. And Senator Clinton, Senator Schumer and the president led the effort on this, and the congressional delegation. President Bush was quite responsive, for which we are very appreciative.

But we also realized very quickly that the attack was devastating to small businesses all over the downtown area, not to mention to the tourism and entertainment industries all over New

York City, and that the existing loan programs in the Small Business Administration would be wholly insufficient to begin to meet the needs of devastated small businesses.

Most of those programs are predicated on the assumption that you can lend money to a small business which may have suffered physical damage, which can then fix the physical damage and amortize the cost over a period of time and repay a low-interest loan, or on the assumption that a small business will have a business interruption of maybe a few weeks. And that cost, again, can be amortized, you know, when you get back into shape and you can repay a low-interest loan.

But some of us immediately realized that what you're dealing with here were small businesses that might have, by government edict, no access for weeks or months because there are armed guards saying, "You can't go to that small business because it's below Canal Street," so several months of 100 percent business interruption, followed by a 40 or 50 or 60 percent business interruption that might last for years because 100,000 people, 100,000 customers, suddenly weren't there. Because they weren't going to be there maybe for years, and that these businesses, if they were going to survive, were not going to be able to repay loans, which was the only federal government relief available.

So we worked very hard to establish a program, a federal program, to provide direct grants to small businesses to cover their losses. And this was done, although I would say that the amount of money that has gone into it has been insufficient and the grants too small.

Hundreds of people were helped by the mortgage and rental assistance program, which was essential in the wake of the attacks. This provision should not be allowed to expire. And there is legislation pending to extend the program. When disaster strikes and thousands of people are forced from their homes, it is essential to have in place a system to help families find immediate shelter.

Our office also worked closely with FEMA. FEMA funds, of course, paid for the cleanup of the debris, which was accomplished very quickly, and I applaud them for that. However, possibly because they had other pressing matters to attend to, FEMA was not nearly as responsive to local residents and local business people as I would have liked.

My office had to usher a good number of people through the FEMA process and to open doors for them simply so they could get the aid they were entitled to by law. People should not have to rely on a congressional office to access the aid they're entitled to in the aftermath of a disaster, and perhaps some better procedures could be put into place through your recommendations.

Additionally, it is clear that many OSHA standards designed to protect the workers were not followed in the cleanup. I understand that in the haste to get as much done as possible in the first days, when there was still hope of rescuing people who might have still been alive buried in the rubble, there may have been a lag time in instituting safety procedures. And I am more than willing to say that in the immediate aftermath of the attacks there was considerable confusion, to say the least.

But a short delay in instituting safety procedures is not what happened. Some workers on the site were never given the correct personal protective equipment, such as respirators, to protect themselves against the hazardous debris and fumes. Testimony at the EPA Ombudsman's hearings stated that many police officers worked on the pile without respirators for 41 days, despite repeated requests to be equipped with respirators. And there were thousands of respirators lying around in National Guard armories all over New York City that were never used--a failure of communications. This is inexcusable.

The term World Trade Center cough should never have entered our lexicon. Now that it has, however, the government must commit to funding lifelong--and this is something that Senator Clinton has been particularly energetic in pursuing and I commend her for it--to funding lifelong health monitoring, including physical examinations of all the people whose lungs were damaged, whose health was damaged by their work at the World Trade Center.

And I must say that there were really three different environmental problems that we have to look at, and too often no one has made the distinction between the -- among the three different problems. One problem were people caught in the immediate aftermath who were there, who were engulfed in the debris cloud, who ingested unavoidably for several hours perhaps, every contaminant known to man. And there's nothing that could have been done to prevent the damage done to them, and all we can do for them is follow-up, monitor their health, and provide whatever assistance we can, perhaps for their lives.

The second problem are the rescue workers, who I just referred to, much of the health damage to whom could have been avoided had we had property safety precautions after the first couple of days. But again, that's past tense. There's not we can do about that now except to do follow-up, proper follow-up, monitoring, and providing health services as long as they need it, and putting into place procedures to make sure that that doesn't happen again. That could have been avoided, and God forbid, in future occurrences, should be avoided.

The third thing I'm going to talk about is the long-term health consequences for people, residents and who work in the area, which is still avoidable, still ongoing, and is the fault of the one federal agency whose response was grossly inadequate, and I believe violated the law in many ways, and that is the EPA. The EPA did not seriously address the presence of hazardous waste, such as lead, mercury, asbestos, benzene, PCBs, to name a few, in people's homes, schools, and businesses, brought there through the air from the collapsing of the World Trade Center, and continues to this day what can only be called a willful cover-up of the damage that was done and the lack of proper response that continues to this day.

Just two days after 9/11, when EPA Administrator Christie Todd Whitman made a completely false statement based on no empirical data that, quote, "The air is safe to breathe and the water is safe to drink," based on no testing to that date, the EPA has systematically misled the public about the safety of the environment, and that continues to this day.

In the days following the attack, the East of Hudson task -- I'm sorry, it's a different task force -- the Ground Zero Elected Officials Task Force, heard countless complaints from people who suffered from adverse health effects and/or lacked the resources necessary to properly test and clean their apartments or their work spaces.

When EPA was presented with such information, the agency either maintained that everything was safe, again based early on no information, and after that on inadequate testing, or claimed that the City of New York was in charge of indoor environments and that EPA had no authority for ensuring indoor air quality.

Now, I must say that when we get to the question of their authority, I believe the EPA not only had adequate authority but was mandated by law to do what they have refused to do to this

day, and in fact I will commend to the Committee a white paper published by my office in April of last year doing an extensive legal analysis of the authority of EPA, and of the mandate for EPA, a mandate they have not pursued, they have not fulfilled, authority not in the Clean Air Act, which is what they usually refer to to mislead people, but in the CERCLA act, which is commonly referred to as the Superfund act, and in Presidential Decision Directive 62, issued by President Clinton in 1998.

The agency maintained their position, even after being presented with independent air quality air test results conducted by long-time EPA consultants and contractors, which showed grossly elevated and unsafe levels of hazardous materials inside downtown apartments. This situation made it very difficult to address the mounting casework from constituents who had literally nowhere to go to get hazardous waste out of their homes. Citizens were left to fend for themselves, often ended up in court proceedings against their landlords and building owners, and expended vast resources on a cleanup downtown that was not conducted adequately. And when you consider that the average cost of properly cleaning up an apartment is probably on the order of \$8,000 - \$10,000, you have to realize why this was not within the means of most people, a clean-up that was not conducted adequately or systematically, but on an ad hoc basis, if at all.

The EPA only began, and I must say, city agencies and state agencies only began to respond at least verbally to this problem after pressure from U.S. Senate hearings conducted at the request of Senator Clinton at the end of January 2002, four months after the disaster.

After the Senate hearings, I asked the EPA National Hazardous Waste ombudsman, Robert Martin, and his chief investigator, Hugh Kaplan, to initiate an EPA ombudsman's office investigation of the situation. Their involvement produced a sea change in the relationship of my office and local residents with EPA. I have always maintained that EPA should use its existing authority to take any and all actions necessary to find out where all the hazardous materials went following the collapse of the World Trade Center, and to remediate all contaminated spaces, indoors and outdoors, and that New York should not be treated differently from other parts of the country where the EPA has engaged in proper response activities to hazardous waste releases on a smaller scale, and where Administrator Whitman, four days before September 11th stated in response to a different disaster, a smaller disaster, that it would be immoral for the EPA to expect

residents and homeowners to pay for the cleanup. But in New York it was apparently moral.

Ombudsman Martin and his chief investigator, Mr. Kaplan, were able to tell us what EPA should have done under the law, could have done, and has done at other hazardous waste sites around the country. But most importantly, the ombudsman process provided a forum to communicate with my constituents, to listen to their complaints and concerns, to issue requests for the production of documents and interrogatories, to hold public hearings, to bring in experts from around the country, to help the citizens understand the full magnitude of the issues, to make recommendations for corrective actions, and to get to the bottom of what the EPA could do, should have done, and was not doing. Through activities, the ombudsman process documented areas where EPA was not following the law and standard procedures that were followed in other cases but not in Lower Manhattan, not in the World Trade Center case, and recommended corrective action to protect the public.

The key to all of this is that it was a public and transparent process. The ombudsman, with my office, held two 11-hour hearings that were open to the public, documented with a court reported, the transcripts of which are available to anyone. We heard from residents, workers, business owners, city and state elected officials, firefighters, police officers, parents, and the New York City Board of Education. We would have liked to hear from the government agencies, in particular EPA, but the EPA declined to participate and urged other government agencies not to participate.

Except for the ombudsman, who has now been fired because of this and other activities, the EPA's ombudsman office has essentially been dismantled, and robbed of its independence, we were able to get a lot of information. The EPA, beginning in May of 2002, eight months after the disaster, decided that they would indulge in a cleanup, that they would establish a cleanup process for residences in Lower Manhattan, although they continued to maintain that this was not necessary, that everything was hunky-dory, to assuage public fears. In other words, for public relations purposes, they said they would engage in a cleanup.

The EPA cleanup plan, however, is still woefully inadequate in the following respects. Number one, they would only cleanup apartments upon request, ignoring the threat of cross and decontamination from uncleaned apartments and from building air conditioning, and HVAC systems. The EPA will test only for

asbestos, only in the air, and not for dust on hard surfaces and in carpets and draperies that will get into the air over a long period of time. The EPA will not test for any of the other contaminants that were present in the World Trade Center debris, such as lead, mercury, dioxin, and fine particulate matter.

The cleanup plan is available only south of an arbitrary boundary at Canal Street, as if there was a Star Trek force field preventing the debris cloud from going north of Canal Street or crossing the East River into Brooklyn and Queens, which we know from satellite photography it certainly did. Besides not dealing with many potentially contaminated areas, this presents an environmental justice problem.

The EPA will not cleanup commercial spaces and schools, and EPA refuses to authorize the cleanup workers to wear protective gear, which will get us further people with great health problems, and which seem to be a clear violation of OSHA regulations. The EPA has developed this plan without public comment, has not established a citizens advisory group, or held public hearings. It has established an administrative record available accessible to the public.

The EPA's cleanup plan does not comply with applicable laws and regulations, specifically with the National Contingency Plan, with OSHA regulations, and Presidential Decision Directive 62. You could serve a great public purpose if you would examine this and conclude that the EPA should amend its procedures to follow the applicable laws and that these laws are in fact applicable.

Let me say very briefly, on one other topic, we are not doing, I fear, what we must do to prevent a future nuclear attack by terrorists. When I first saw those planes going into the towers -- in real time, the second plane, I thought immediately, "My God, this is a terrorist attack, and thank God they don't have nuclear weapons." The greatest danger we face is that al Qaeda or some similar group will get nuclear weapons. The knowledge and the ability to make nuclear weapons is widely available and easy to do today if you have access to nuclear materials, to weapons grade plutonium and uranium, that's the hard thing to get. But there's enough weapons grade plutonium and uranium to make 40,000 bombs sitting around in the Soviet Union, not properly guarded, available for sale on the black market, or through theft and through smuggling.

We have an agreement with Russia under Nunn-Lugar to buy this material and make it not usable in nuclear bombs, over a 30-year period. We are out of our minds to do this over a 30-year period. We should purchase all this material immediately. For \$25 to \$30 billion, we could get legal title to all this material immediately. We could take it into our own care. We could make sure it's guarded properly and not available for smuggling to al Qaeda.

Secondly, we must properly guard our ports. There's six million containers a year enter our ports. Two percent of them are inspected. If we fully funded the port security bill, about three percent, albeit better targeted, would be inspected. We should insist that no container in a foreign port gets put on a ship bound for an American port, no container until it's inspected by an American or joint inspection team and certified and sealed. Secondly, we should insist that no ship gets within U.S. territorial waters until it is boarded a hundred or 200 miles out by the Coast Guard or the Department of Homeland Security and searched from stem to stern because a nuclear bomb, which may not be bigger than a suitcase, can be anywhere on the ship, in the galley, in the living quarters, wherever, in the engine room, not just in the containers.

And finally, we should equip commercial planes, certainly airlines with missile deflection shields. We got a warning from this in Kenya last year. And we can otherwise anticipate that we will see American planes shot down in the not too distant future. This is cheap enough. It can be done for \$8- to \$10 billion in one shot.

I want to thank you again for the opportunity. Let me say also the government, as Senator Clinton said, must respond to the needs of first responders, must respond to the need for funding first responders, which it is not doing adequately.

And I want to thank you for the opportunity to testify at this hearing. And I commend you on your efforts, and I hope that your work will make a great deal of difference in the future. And I thank you.

MR. KEAN: Thank you, Congressman Nadler. I welcome Senator Frank Lautenberg, and at this point, Congressman Shays.

REP. CHRIS SHAYS (R-CT): Thank you very much. My statement will be less than five minutes. And I just want to first recognize Beverly Eckert, who is representing her husband,

Sean Rooney, who was killed on September 11th, and Mary Fetchet, who is representing her son Brad, who was killed.

Governor Kean and Congressman Hamilton and other members of the commission, thank you for the opportunity to testify today on the events of September the 11th. In March I submitted testimony describing your task as a difficult and urgent one. In the intervening months, your mission has not become any less pressing or any easier. Each day, louder calls by the living echo the voices of those who died, asking why we still seek answers to basic questions about the attacks of September 11th, 2001.

For residents of Connecticut's Fourth Congressional District, these attacks had obvious and personal impact. Family, friends and neighbors lost loved ones. Seventy-eight people I represented, or who grew up in the district, perished that day. Their families lost a spouse, a parent, a child, a sibling. The impact of their loss was immediately felt by all of us.

September 11th was a wake up call from hell for all of us, not just because of our losses but because we as a country were previously warned, and September 11th exposed the extent to which we as a nation, our government and our people failed to heed that warning. I believe that we could have prevented September 11th. We knew the terrorist threat was there. Prior to 2001, there were three national commissions--the Bremer, Gilmore and Hart-Rudman Commissions--charged with assessing the terrorist threat. The National Security Subcommittee, which I chair, held 23 hearings on terrorism prior to September 11th. The jurisdiction of my subcommittee was rewritten in 1999 so we could examine the terrorist threat at home and abroad.

While we received cooperation from the departments of State and Defense, we received little cooperation from the intelligence community. We sought to look at how the intelligence agencies communicated with each other, but we were stonewalled. It is absolutely imperative this commission not be stonewalled as well. And I want to concur with the comments of Senator Clinton that you need to come to us if you aren't able to get any information.

It is also imperative we come to grips with the fact that our nation knew of the threat. Terrorist attacks against the United States go back more than 20 years, but a particularly sentinel moment was the taking of our embassy in Teheran in 1979 and holding of our diplomats hostage for 444 days. The World Trade Center was previously attacked by al Qaeda, the same

organization that ultimately destroyed it. We knew of Osama Bin Laden's hatred of the West and his commitment to its destruction. And we knew where he ate, slept and trained in relative safety.

In the course of the more than 40 hearings my subcommittee has held on this issue, we found a pervasive inability or unwillingness to counter terrorism aggressively. Sadly, the 23 hearings we held prior to September 2001 received almost no attention. The media was focused on other issues.

Well before 9/11, the Bremer, Gilmore and Hart-Rudman commissions recommended the executive branch bring greater urgency and focus to federal efforts by establishing a national strategy to combat terrorism. All three agreed our government needed to better reorganize, recognize that threat, develop a strategy to counter it, and reorganize the government to implement that strategy. The only disagreement they had was on how to implement such a strategy, in other words, how to reorganize the government.

Regretfully, regrettably, there simply was no urgency in responding to these threats or recommendations. Deafened by our own Western preconceptions and biases, we failed to listen to what the terrorists said in Arabic. Distracted by smaller matters at home, we failed to understand the magnitude of their commitment to global terror and to our destruction.

September 11th answered the one question to which we did not know the answer. Terrorists had the capability for mass destruction, but would they ever use it? Typically, tragically, we learned on September 11th there is no moral, political, or geographic red line that terrorists would not cross. Immediately after September 11th, I felt our primary task was to respond to the terrorist threat with all our time, energy and resources, with no distractions. Now, we need answers.

I don't believe this commission will find a silver bullet, or a scapegoat because I don't believe there is one. If we're honest with ourselves and each other, we will admit that all of us, in varying degrees, could have been more alert. The past administration, this administration, Congress, and the media all could have done a better job.

What my constituents ask now, particularly the families, is that we find and tell them the truth, the whole truth, and nothing but the truth, whatever that is, and wherever it leads. You can, and I know you will be thorough and dispassionate in the

vital work that you have undertaken, and we in turn can trust the results of your investigation and learn from them.

Thank you.

MR. KEAN: Thank you very much, Congressman, Shays. Senator Frank Lautenberg.

SEN. FRANK LAUTENBERG (D-NJ): Governor Kean, Lee Hamilton, lots of good friends up there. Max Cleland, and Slade Gorton, and Jamie Gorelik, and Ben-Veniste, Richard. You have a distinguished panel and wonderful, I think, patriots and ambitious workers and the others, oh, Tim Roemer, I -- I know just about everyone -- John Lehman -- and I'm confident that you will do the work that's required.

And while I doubt that all of the questions, and I think Chris Shays just said it, all of the questions that stand out there will never quite be answered. But we don't know how much we can find out about this until the work that you do and the work that others are doing is complete. So, we urge you on and commend you again for the task you've all agreed to undertake.

Nearly 700 New Jersey residents were killed in the attack on the Trade Center on September 11th. Our states and our citizens suffered enormously, and we continue to suffer. Thinking of that day still pervades the minds and activities of people across the world. As luck would have it, I was on another trip, and I had made a stop in Israel on that given day, where I was in a bullet-proofed bus going through the Gaza area, and to watch the citizens there weeping for America, weeping for themselves at the same time, because we all know that we were blighted something in our lives that would change perhaps our views and our activities forever.

The commission has an enormous responsibility, which is to prepare a full account of the circumstances surrounding the September 11th attacks and to provide recommendations on how our country might guard itself against future attacks. I can't get over the fact that you've got 500,000 pages of information to review, and lots of them classified, which reduces the amount of staffing that you can get. I served on the Intelligence Committee, and one of the worst parts was that you never had enough staff to help you remember the things that you had to put together. It's going to be a difficult task, but I know that you are going to do a thorough job.

And I would point out, however, that the thousands of families most directly affected by September 11th are growing anxious and impatient. A person I know, Patty Cazaza (sp) of Colts Neck put it this way: "I'm concerned that we're 20 months past September 11th and the Commission has been running for about five months, but we're just getting into the investigation phase of our work." She lost her husband in the attack, but that's her point of view. A woman who is working in my office in Newark, Jennifer Jacobs, lost her husband Jason, she volunteered in my office solely to serve as a liaison between the families and my office to see where we can be of help. We want to. She tells us that the families have suffered greatly. They're having problems with the compensation fund. They feel a growing frustration that the federal government is moving too slowly on too many fronts. And by the way, that view is probably going to last with us for a long time, because what people really want down deep is the restoration of the families, the restoration of the lives that they knew and treasured so well.

My daughter, who worked on Wall Street for a long time, had a friend when the two of them were at the firm Lehman Brothers, and my daughter went off to law school and her friend went to work at Cantor Fitzgerald and perished that day, leaving three young children behind, and her husband refusing to accept the fact that she was gone. He toured the hospitals in the area day after day after day looking for some kind of a sign that there had been a mistake in identity that she might be alive. But the best is that her son, a very bright young man, is working at the remnant firm -- remainder firm is really a better word, of Cantor Fitzgerald, and I met him just a couple of weeks ago, and he's enthusiastic about carrying on his mother's tradition.

The Commission can't replace the loved ones lost on that terrible day, but it does have the ability to help relieve some of the grief. Americans want and need to know how their government may have failed them and Americans want and need to know that their government is doing everything possible to prevent another such tragedy.

And I know that you will keep your shoulder to the wheel so that the Commission not only does a thorough job but does it as quickly as possible also. It's about accountability. And I think one thing this commission can do that would help is to review something that we've talked about regularly here, and that is the color-coded alert system.

I don't know whether you have input there, but I'm going to be quite frank with you, as my name and my character indicate, I think. I don't think that this system is doing anything other than scaring the hell out of people. And perhaps you can make it more meaningful and more helpful to us.

There is that old expression, "You can run but you can't hide." We can't hide from the fact that we're being stalked, apparently, at all times. And what would we -- what should we do? Do we all retreat to our houses and not leave? I get calls in my office and I wonder if Senator Clinton gets the same thing. "Well, I'd like to come to New York. Do you think it's safe? You know, we'd like to take the kids to Disneyland. Dare I venture that far, you know, take that kind of a trip?" And since the color is yellow or orange, without specific knowledge.

I think that citizens have a right, the country has an obligation to tell people if they're in imminent danger. But if the danger is somewhere in our 3,000-mile width and our 2,000-mile depth, what do you do? I don't know whether it's as much a concern in the plains of Kansas or the mountains of Colorado, where I have a son and a couple of grandchildren. What does one do?

So I think it ought to be reviewed. We need to face up to the fact that we're dealing with terrorists. That is permanently in front of us. If anyone ever has to travel, if you go to a building in a large city, New York among them but any of them, you check in, you take your time, you show your ID and things of that nature. You get a plastic knife when you get on airplanes, still leaving you with a pointed fork and glasses you can break.

These are the reactions of a country. There is something about America that you can really love, and that is there's a certain naivete that creeps through us all the time, as sophisticated, as good as we are at so many things. We like to believe in people. We like to believe that somehow or other there's good in most folk.

This constant surveillance that we go through and the larger guns, the uniforms, don't make us feel any better. And we're about ready to embark on a study of how we build tactical nuclear weapons within our arsenal, and we go to war to take those similar kinds of weapons away from Iraq and threaten North Korea with the same thing, and we worry about Iran and Pakistan, India. Here we're telling those countries, "You shouldn't have those

things. Put them away, get rid of them," Israel as well, "but we're going to build some more."

So the whole thing fits into a kind of peculiar matrix when you think about it. There's a lot of work that we have to do to convince people that they can be safe, that the country is doing something that really registers logically as an attempt to protect their families. We should take prudent precautions. We can never be completely safe, especially if we want to retain some semblance of liberty. To pretend otherwise does a disservice to our people.

As I mentioned, New Jersey suffered a terrible human toll, losing nearly 700 residents. The economic toll was also very significant. Forty-five percent of the people who commute into Manhattan every day come from New Jersey, Senator Clinton, and we want to be --

SEN. CLINTON: And we're grateful.

SEN. LAUTENBERG: We want to treat those people very nicely and not tax them. When the twin towers collapsed, they took with them 10 million square feet of office space. And I had served as a commissioner on the Port Authority before I came to the Senate, a beautiful space, energetic, cities in themselves, cities that point to the sky, but cities larger, Governor Kean, than many we have in our own state.

Damage to surrounding buildings claimed another 10 million square feet, and over 1,200 businesses employing 50,000 people were displaced. Many of the major financial, insurance, real estate firms affected have branch facilities in New Jersey, which they've expanded, at least in the interim.

One might think that having displaced firms relocate from Manhattan to New Jersey would be a boom, but this is a Frank Lautenberg personal view. The economies of the three states -- New Jersey, New York, Connecticut -- are so intertwined that when any part of the metropolitan area suffers, especially in a tragedy of magnitude, we all suffer. Our region has lost 350,000 private-sector jobs in the last two years.

New Jersey is particularly vulnerable, which gives us a cause for so much anxiety. Our state is the most densely-populated state in the nation, eight and a half million lined between New York City and Philadelphia, with several large cities of our own, including Newark and Camden and others. New Jersey is

interlaced with highway, transit, freight and passenger-rail systems that serve as major thoroughfares for the state, the region and the nation.

We have one of the country's biggest and busiest airports. We have pipelines, chemical manufacturers, nuclear power plants, 127 miles of coastline and major ports. Three million containers move through the Port Authority of New York and New Jersey facilities each year. Just a fraction of them, I think Congressman Nadler mentioned, get inspected. According to the Coast Guard, the Port Authority needs more than \$7 billion to bring security and emergency response capabilities up to snuff.

In short, we have people, facilities and infrastructure that terrorists are likely to target. And yet the Department of Homeland Security officials think that it's more important--and I don't mean to criticize, because there's an enormous job there, and I serve on the committee of jurisdiction--but as we go through trying to consolidate 170,000 employees, a budget of \$33 billion, 22 different departments of government, bring them all together and have them be able to make sense is a very difficult job.

But when it's thought that it's more important to allocate scarce resources across the country, regardless of threat level, than to do other things that could, in my view, have a significantly different value. Earlier this year, when the Department of Homeland Security distributed the first round of emergency-responder grants, New York and New Jersey, the two states that suffered the most, received a per capita allocation well below the national average.

To Secretary Ridge's credit, he acknowledged problems with the allocation formula and he's pledged to fix them. I think one of the most important things his commission can do to enhance our nation's preparedness is to determine, without prejudice, which parts of the country are most at risk. You can't do this on just a per capita grant, because some of the places, thank goodness, a lot of them, are really not at risk. You can always dream up a risk, but the practicality is that we've had the tragedies and paid a terrible price.

We need to bolster our security everywhere, but the fact remains that, as I just said, some parts of the country are truly more at risk than the others. And the usual practice of sprinkling money everywhere to placate Congress won't enhance our security. In fact, it'll diminish it. Simply put, we need to get

the resources to where they're most needed and will do the most good.

I've got a few specific recommendations that the Commission may want to consider. One is we've made progress bolstering aviation security, especially by federalizing baggage screeners, moving them from private hands to government hands. Twenty-eight thousand people we've moved over, put them on the federal payroll. It's all right with me as long as the jobs get better done. Frankly, I have a different program to recommend.

But now the administration is talking about privatizing air traffic control. Talk about a program that's in reverse. I mean, take the baggage handlers away and put them in the government and take the controllers, who worked so hard that day to direct airplanes to safe landings, thousands of airplanes in the sky, while all that confusion and terror was going on. It's like the fifth branch of our service, and it ought not to happen. So I hope the Commission will have some view on that.

On a related note, we do need to consider rerouting air traffic away from our bigger cities. Given the location of our airports, limited air space, it would be difficult, too, to say the least, but we think it's something we have to consider.

The twin towers didn't collapse because of the impact of the jets crashing into them. The intense heat of the burning jet fuel snuffed out the buildings' fire control system before they could do any good, and the structural steel melted. We need new federal standards for building materials and design.

Many first responders serve in the National Guard or Reserve. Because of Afghanistan and Iraq, these men and women have been called up for longer and longer tours of duty, and it's jeopardizing our emergency preparedness at home. And I've introduced a bill, S. 2921, to reimburse state and local governments--I think Senator Clinton has something similar--who lose their first responders to active duty call-ups for six months or more ought to be compensated in a way that these communities can handle the cost.

I've heard it said that 9/11 didn't alter the American character; it merely revealed it. We'll continue to recover from attacks. We will be stronger, in part because of the important work that this commission will do in the weeks and the months ahead.

I thank you again, Mr. Chairman, for inviting me to testify at this important hearing, and I pledge to you my full support for your efforts. Thank you very much. Sorry I ran so long.

MR. KEAN: Senator Lautenberg, thank you very much. Thank you, Congressman Shays. Senator Clinton, thank you very much for coming and staying. And Congressman Nadler, thank you very much.

We will reconvene at 2:00.

PANEL 4:

MR. KEAN: We're going to reconvene. We're going to go on real time, not the time of that clock there, which is not accurate. So, we're going to start our hearing. But before we convene our first aviation hearing, I want to do a little bit of housekeeping. We've said on previous occasions that the Commission would take steps to guard against even the appearance of conflicts of interest involving its members. I have an announcement to make about the recusal of three of our commissioners on matters relating to commercial aviation security.

Commissioner Thompson is a partner in a law firm which American Airlines is a substantial client, and he will not personally work on American Airlines matters during the life of the Commission.

Commissioner Ben-Veniste recently joined as a partner a law firm, and Commissioner Gorelick will soon join as a partner another law firm at which United Airlines is a substantial client. Neither of them has worked or will work on United Airlines matters.

However, to avoid any appearance of a conflict of interest, all three commissioners have decided to recuse themselves from the Commission's deliberations and recommendations with respect to commercial aviation security. Their recusal does not extend to matters relating to air traffic control systems, or, of course, the role of military aircraft.

And now we'll turn to our first panel on aviation security. Anyone who is considering commercial aviation in the United States confronts a striking paradox. On the one hand, the FAA-led aviation safety system has, in the words of the National Research Council, provided and excellent decades-long safety

record. Indeed, the effectiveness of that system was no where more in evidence than on the morning of September 11th, when the air traffic control system efficiently and safely ground over 5,000 flights and did it in less than three hours. The nation, and the entire world, honestly owes a debt of gratitude to the controllers, to the FAA, to Administrator Garvey, and to the Transportation Secretary Norman Mineta for that achievement under very, very trying circumstances.

At the same time, according to numerous government and non-governmental reports, the security side of aviation safety has been beset with numerous problems and instances of under-performance. In 1990, the President's Lockerbie Pan Am 103 Commission, which is one of the most interesting commission reports of all the ones I think that have been written, found that the U.S. civil aviation security system is seriously flawed and has failed to provide the proper level of protection for the traveling public. The FAA, it said, was a -- and I'm quoting now -- "a reactive agency, preoccupied with responses to events to the exclusive of adequate contingency planning and anticipation of future threats." Now, there are similar assessments that have been made repeatedly in GAO and Inspector General reports, congressional testimony, National Research Council studies and other reports both before the Lockerbie Commission and after, all the way up to September 11th.

So, today this commission begins its inquiry into aviation security and 9/11 attacks by looking at the civil aviation security system as it existed heading into that particular tragic day. What were its strengths? What were its weaknesses? What did it know about the terrorist threat? And certainly, how did it respond to that threat?

We are privileged to have a very distinguished panel with us this afternoon to help us begin to answer these and related questions. The first panel will have Mrs. Jane Garvey, who was the FAA administrator in September of 2001, and thus was in charge of federal civil aviation security and safety on 9/11. With her will be Mr. Kenneth Mead, who was then and still is inspector general of the Department of Transportation and who has a very informed perspective on the operation of the civil aviation security system.

After we have heard from them and questioned them, we will welcome James May, president of the Air Transport Association, and he's going to give us the perspective of the airlines, which had a significant share of responsibility for

civil aviation security in 2001. And our final witness, Mr. Bogdan Dzakovic, he was security investigator for the FAA in 2001, and is for TSA today. And he has lodged some complaints about federal aviation security efforts.

Before I start and recognize the witnesses, I want to alert everybody that, two things, one is that this hearing record will remain open for 14 additional calendar days and you can submit any additional material you'd like to, and for the Commission, to send your follow-up written questions. And that we have these lights, which will hopefully regulate the time.

And with that, Ms. Garvey.

MS. GARVEY: Thank you very much. Mr. Chairman and members of the Commission, thank you for this opportunity to testify and to provide my perspective as administrator of the Federal Aviation Administration from August of 1997 until August of 2002. I recognize, as many before me have, recognize the importance of the commission's work.

Today I'd like to discuss the assumptions and the policies that underscored the aviation security program that was in place on September 11th, 2001. I hope that my testimony contributes to an understanding of the history and helps to inform the recommendations that will come from the Commission's work.

On September 10th, 2001, by statute, civil aviation security in the United States was a shared responsibility. Air carriers had the primary responsibility for screening passengers and baggage, and for applying security measures to everything that went on their planes. Airports were responsible for keeping a secure ground environment and for providing law enforcement support.

Government's role, that is the FAA's role, was regulatory. By rulemaking, the FAA set the security standards for U.S. airports, for U.S. airlines worldwide, and for foreign air carriers flying to the United States. The FAA also ensured compliance with those standards.

On September 10th, we were not a nation at war. On September 10th, we were a nation bedeviled by delays, concerned about congestion, and patient to keep moving. On September 10th, aviation security was responsive to the assessed threat based on information from intelligence and law enforcement agencies.

Within the FAA, the Office of Civil Aviation Security was the primary office responsible for security. The FAA, as others may point out, was not an intelligence gathering organization. Threat analysis was conducted in collaboration with the U.S. intelligence and law enforcement communities, and based on raw and finished intelligence products supplied to the FAA from these communities.

Aviation became a high-profile target in the '60s, when hijackers took over flights and diverted one after another to Cuba. But the 1970s, government responded with a series of countermeasures that included tougher penalties, closing safe havens, and the use of airport metal detectors. Those measures helped to stem the domestic hijacking epidemic.

In the 1980s, the nation's attention was drawn to the greater threat overseas to U.S. carriers, first with the three-week ordeal of TWA flight 847 in 1985. This attack led to Congress instituting the FAA's first intelligence division, authorizing staff overseas to work with American carriers in foreign airports, and the reemphasis of the Federal Air Marshall program for international flights.

But it was the bombing of Pan Am 103 in 1988 that was the crucible for aviation security. The world saw the devastating effects of an explosive device in checked luggage. This incident stimulated the most significant changes in aviation security since the 1970s. Based on the findings of the presidential commission, Congress elevated the stature of aviation security within the FAA. It directed the use of explosive detection systems. It gave the FAA additional responsibility for research and heightened the emphasis on intelligence and threat assessments.

As a result of the '90 Commission, the FAA established a special group to simulate criminal and terrorist actions and to conduct covert examinations of the effectiveness of aviation security systems. This red team augmented the work being done by the inspectors, and reported to the top FAA security official. Red team findings influenced screener training, led to changes in the computer-assisted profiling program, and helped direct changes in the protocol for positive bag match. In effect, they helped shape the policy and direction for security programs.

Over the years, the U.S. aviation security community had its successes. A frustration in aviation security, as it is in safety, is measuring success, because it is the absence of failure. The positive results are usually unseen. Some have

suggested that the greatest aviation security accomplishment was thwarting Ramzi Yousef's 1995 plan to bomb as many as 12 U.S. jetliners nearly simultaneously. Working with the Philippine authorities, the U.S. law enforcement and intelligence officials uncovered the plot to destroy U.S. passenger aircraft in the Pacific by putting explosive devices aboard. FAA immediately issued specific countermeasures for U.S. carriers operating in that region, and adjusted its countermeasures as more information about the new approaches the terrorist were planning became available. Thanks to solid and integrated intelligence, as well as to coordination among the intelligence and law enforcement communities, the plot was stopped.

Earlier in '93, after the World Trade Center bombing, FAA had begun reexamining its assumptions about domestic aviation security. This concern was heightened given the connection between the recent plot and the 1993 World Trade Center bombing. At this time, the FAA initiated discussions with the executive branch, Congress, and the industry on the greater domestic threat to aviation. The FAA achieved some consensus that domestic security measures in place, what we call our baseline, needed to be redesigned. The FAA established a baseline working group composed of government and outside experts. Its first meeting was on July 17th, 1996. TWA Flight 800 crashed into the Atlantic that evening. It's not surprising the initial focus on the cause of this crash was criminal, most likely terrorists. The president acted, swiftly establishing the White House Commission on Aviation Safety and Security, or known as the Gore Commission. That commission's security recommendations centered on improving screening and countering the effects of explosive devices.

At the time of the September 11th attacks, FAA had implemented 24 of the commission's 27 security recommendations assigned to the FAA, and was addressing three others through rulemaking. With the Gore commission's determination that aviation security was a national security issue, for the first time, significant federal funding was directed toward the purchase of security equipment for civil aviation, \$100 million a year. Most of that funding was directed to explosive detection equipment.

On September 10th, the FAA was procuring and installing explosive detection equipment. We were focused on improving screener performance through training and standards. And on September 10th, based on intelligence reporting, we saw explosive devices on aircraft as the most dangerous threat.

We were also concerned about what we now think of as traditional hijacking, in which the hijacker seizes control of the aircraft for transportation, or in which passengers are held as hostages to further some political agenda.

The most powerful weapon the hijackers carried on 9/11 was not box cutters. It was their knowledge that our aviation systems policy was to get the passengers on the ground safely, and that meant negotiation, not confrontation.

We can all share some blame in hindsight for not seeing the jeopardy in that policy. But it was developed and continued over decades as a policy that we knew from experience would save lives. No one had to order that policy changed. The men and women on the fourth airplane that crashed in Pennsylvania changed that policy. It will never be our country's policy again.

We shouldn't make the mistake of thinking this tragedy was fundamentally about then-legal box cutters carried on the planes. We are fighting an intelligence war against small special operations type teams of suicide pilots, in aviation's case, and they will always be gaming the ways to get around the holes in whatever mass deployment and system-wide policies we develop. Such small terrorist teams which can train for years prides predictability of procedures and expectations above all else in their planning. So our job is to give them unpredictable and some non-publicized layers of security in our aviation system. This is a much more important focus than hoping we can foresee and intercept every potential weapon that a determined terrorist team may devise from seemingly harmless items in the future.

We are fighting a special operations war within a public transportation system, and our greatest challenge may not be improving security. That may be the easy part. It's how to improve security and keep the system convenient and affordable to 700 million passengers. The terrorists have two ways to undermine our aviation system: future successful attacks or the effects of security measures that drive away the traveling public. Our job is to make sure that neither one happens. Thank you very much.

MR. KEAN: Thank you very much. Mr. Mead?

MR. MEAD: Thank you, Mr. Chairman. Good to be here, and Mr. Cleland, Mr. Gorton, in particular I recall testifying before you when you were in the Senate.

I'd like to acknowledge the presence here today of family and friends who lost loved ones and colleagues on September 11th. Nothing we can do is going to diminish the pain in their hearts. But my hope is that the work of this commission will result in a sustained and permanent improvement in security. My testimony today is based on audits and criminal investigative work spanning a number of years, covering a broad range of aviation security subjects. Before my current job, I worked at the General Accounting Office, and was testifying on aviation security at FAA as it existed in 1987. So, I'll try to bring that perspective to bear.

As you know, FAA had the responsibility for overseeing the security of the nation's aviation system before September 11th, and that responsibility transferred in November '01 to the Transportation Security Administration. On March 1st of this year the Transportation Security Administration was transferred to the Department of Homeland Security, in what was I think the largest reorganization in government since World War II.

At the outset, I think we believe that aviation security will require continuous improvement and vigilance. There is no such thing as an end state in this business. But it's important to note that the aviation security that we have today is demonstrably, noticeably tighter than it was before September 11th. I think during the 16 months after the passage of that act, and at the direction under the leadership of Secretary Mineta, much has been accomplished.

But I want to focus on the aviation security system in place before September 11th. I know that's the charge that you laid out, Mr. Chairman. I think that the system that we had in place before September 11th had in fact undergone incremental improvements over the years, especially in the last five or six, and I believe in fact provided a deterrent value for certain types of threats. Overall though, the model on which the system was based did not work very well, and there were significant weaknesses in the protections it provided, even for the types of threats the system was designed to prevent. And, as a result, that system has undergone fundamental change. That model has undergone fundamental change.

I would like to speak to several attributes of that model, if I might. Before September 11th, the model was mostly based on reacting to known security threats instead of being proactive. That is to say that the security requirements that were in place were predicated largely on responding to threats

that we had actually experienced. Examples: screening checkpoint security came about as a direct result of the aircraft hijackings worldwide during the late '60s and the '70s. In almost all those cases guns were the weapon of choice for hijacking the plane, and you can see that reflected in the system. Airport access controls were further strengthened after the crash of Pacific Southwest Airlines Flight 1771 in 1987. This was where an employee didn't have to go through the normal screening. He was disgruntled, I think an ex-employee, smuggled the gun onboard a plane, fatally shot his supervisor, the pilot and co-pilot. And shortly thereafter requirements designed to address that threat were implemented. Check baggage security, as the chairman mentioned, was strengthened during the '90s after the bombing of Pan Am Flight 103. And I could go on. Security underlying that model and the assumptions on which the pre-9/11 aviation security model were predicated did not envision a scenario of commercial airliners being used as a weapon, or the use of box cutters by individuals who were prepared to die in the commission of their terrorist acts.

Now, the model that we have dates back to the early 1970s. This is the pre-9/11 model. It was implemented through kind of an odd sense, an odd assortment of shared responsibilities. Industry provided and paid for the security, that is, the airlines and the airports. The FAA's role was to establish the security requirements and ensure compliance with those requirements. We feel that within that model there were strong, very strong, counterpressures to control security costs, because it was a cost center for the airlines, and to also limit the impact of security requirements on aviation operations, so that the industry could concentrate on its primary mission of moving passengers and aircraft. In our opinion, those counterpressures in turn manifested themselves as significant weaknesses in security that we, the GAO, others, including the FAA, repeatedly found during audits and investigative work. I'd like to mention some of them, and these were not new--I mean, they didn't just crop up before 9/11. They've been around for many years.

First, screener performance. Air carriers were required to screen passengers and their carry-on baggage, and they would typically award the contract to the lowest bidders. Employees of these screening companies, they would typically get maybe 15 hours of training, and that was after an FAA regulation requiring it. They usually picked up the minimum wage. Our work has shown that wasn't unusual for these screeners to be getting less money than the starting wages for an employee in a fast-food restaurant right

down the concourse. And those conditions, among others, resulted in screener turnover rates at some airports were running about 400 percent a year. And that is going to translate into the performance on the screener's part. So when we would go out and we would try to penetrate security at FAA. Going back nearly a decade, we'd find that the screeners would frequently fail to detect items, firearms and mock explosives, at security checkpoints. And I can't get into the details at an open session here, but suffice it to say it was significant.

GAO recommended performance standards for the screeners going as far back as 1997. The FAA reauthorization act of 1996 directed FAA to issue a rule on certification of the screening companies, which in turn would result in standards for the screeners.

The FAA first proposed the rule a year after that law was passed, but experienced various delays in the rule-making process. And I'd just like to parenthetically note for the Commission here I think the rule-making process is one that is worthy of your scrutiny, and the role that cost-benefit analysis plays in the issuance of rules in our system of security. As it turned out though with respect to this rule, ironically FAA was prepared to issue this final rule the week of September 10th, 2001.

Another area, underutilization of explosive detection machines. In 1998, we found air carriers were significantly underutilizing explosive detection machines. The machines cost the government about \$1 million a copy. These machines were capable of screening 125 bags an hour. They were certified by FAA at that rate. We routinely were finding that the vast majority were screening between 250 and 700 bags a day.

Background investigation requirements. Criminal investigations that we conducted before and after September 11th showed serious weaknesses in the background checks of contract screener and airport workers. In October 2000, one of the nation's largest private security companies pled guilty to a felony, paid more than \$1 million in fines and restitution for actually falsifying the criminal history checks and screening qualification records at one of our nation's major airports. This was not an isolated case. Before September 11th, little public attention was being given to that issue. After September 11, we participated in law enforcement sweeps at more than 30 airports nationwide, and those sweeps resulted in indictments or arrests of more than a thousand individuals who had falsified records about their identities.

Positive passenger bag match. For years the carriers said that we can't do positive passenger bag match on domestic flights, it would be too costly, it would bring the system to a standstill. It's now being done, and the system still seems to be working.

Airport access controls. This is where going down the concourse you will see doors. Those doors access into secure areas of the airport. During the late '90s we successfully accessed secure areas in 68 percent of our tests at eight major U.S. airports, and once we entered the secure areas we were able to walk on the plane unchallenged 117 times.

Cargo security is another area that I think is in need of some improvement. FAA made some improvements. I think some are still in order.

Covert testing. I think it's very important in our system that we have covert testing employed to see how strong the security is. FAA standard protocols for testing how well screeners performed used carry-on bags with a firearm or fake bomb inside, and they didn't have much clutter -- there wouldn't be much in that briefcase. And so you run up to the screen, and it would be, I don't know, to me it would be kind of hard to miss. It was totally unlike the techniques the saboteur or terrorist might use. But FAA did establish an outfit called the red teams, which would, and I understand you are going to be taking some testimony from another former red team member later, they did use sophisticated testing techniques. We were encouraged the use of those. There were allegations FAA tried to cover up the results of the red team test. We did an investigation. We did not find that they covered them up. What we did find though that that there was not effective follow-up in terms of permanent improvement.

MR. KEAN: If we could wind up ahead on time.

MR. MEAD: I guess I would just like to close by saying that I think the new security model is based on very powerful lessons learned, but the more distance and time that passes between a security event and the current day, I think we all have to guard against complacency and pressures to relax security rules, even under the new model of security that is in place. Thank you.

MR. KEAN: Thank you very much, Mr. Mead. The questioning of the panel is going to be led today by Commissioner Fielding and Senator Cleland. Commissioner Fielding.

MR. FIELDING: Thank you, Mr. Chairman. Good afternoon. Thank you both very much for coming to help us today.

Our task is really four-fold when we are dealing with aviation security, because we are trying to figure out, first of all, what was the state of the system on 9/11. Secondly, What happened specifically on 9/11? Which of course could be different from the particular state the system may have been. What's the state of the system today? And what are our recommendations to do everything we can to assure that this sort of thing doesn't happen again? In my first line of questioning, I would like to concentrate and focus on 9/11 itself. When we've reviewed, and from what we know up until now, these hijackers beat the system. Whatever it was, they beat it. We know that they practiced, we know that they took trial runs, we know that they must have figured out where the weaknesses were, consistent with their plans, because after all they had to be 100 percent sure they all got on the planes that day. So they had to test that system. And they gamed it, and they beat it. Painfully so, they beat it. So what I'd really like to figure out is, and what we all want to figure out is how that happened, and specifically what happened in the case of these hijackers.

And so I guess my first question, and it's probably addressed to you, Ms. Garvey, is what inquiries and investigations were initiated after 9/11 that would have reflected and identified the causes and actually actions that took place on 9/11 vis-a-vis the hijackers?

MS. GARVEY: Well, Commissioner, in some cases we really had the protocols already in place. In other words, we had security people at all of those airports, and so there was an immediate communication from Washington to those airports, and sort of direct line of communication collecting information. But I would say also that almost immediately the FBI obviously was involved. So the FBI became the sort of lead agency, if you will, with us gathering information for them at those airports and funnelling that directly to them.

I will tell you quite honestly I do not know all of the pieces of what the FBI has uncovered. I was briefed in October. The question, the line of questioning I had for the FBI at that time is, what actions, based on what you know, I obviously do not

need to know everything that you do, but based on what you know, are there changes we should be making to the system? So when you look back and see all the security directives that came out very quickly after 9/11, the new directions to the airlines, those were based on communications with the FBI and the intelligence community. What changes should we make based on what we know?

MR. FIELDING: Okay, thank you. But what we are trying to look for is we are trying to identify answers and also sources of information so that we can divine the answers.

MS. GARVEY: Right.

MR. FIELDING: So I guess what I'm also asking you, or both of you, I mean, if you feel there is insufficiency to an answer, and you can add something to do it, please do, Mr. Mead, but what reports were prepared by the FAA that we should be looking at?

MS. GARVEY: There are a number of reports that were prepared both by our security teams, those folks who were actually in the field. There were reports that were coming up literally, the first few days literally hourly, but then certainly daily reports, reports that we were getting directly to the secretary. So the reports are coming very quickly. They were coming orally and they were coming in a written fashion. But the point of contact, the initial point of contact, were those field inspectors, those agents, those people literally in the field, literally at the airport. They were gathering information, communicating it both to us and then also to the FBI. That was pulled in at the local level as well.

Another source of information of course would be the air traffic control side of the house. The radar information, the tracking information, the air traffic control tapes, all of those were readily made available to the FBI. All of those, you know, very, very, very clearly in some cases lay out a sequence of events.

MR. FIELDING: I have a couple of questions about those I'd like to come to that, but speaking of that day, and in particular if you know, and if you were briefed on this, you know, the regulations speak of dangerous weapons. There's a definitional issue of what's dangerous weapons. But was there any evidence of, for instance, in weapons, of guns being transported on those planes?

MS. GARVEY: There, to my knowledge--I'm going to be more definitive than that. There was not. We were briefed on that. There was a lot of confusion, as some have called it the fog of war. There was a report that at one point surfaced, and it may have been even part of a written report that had surfaced from somewhere in the field -- it may even have been from American Airlines in particular, that spoke about a gun. The FBI to my knowledge, and, again, I don't know if this has changed since I left, but certainly when I was there the FBI looked at that. GAO I believe also did a report on that as well and found no evidence of that. It may have been something that was reported in the confusion. And, frankly, that's a challenge for people even going through the information to make sure that we are sorting out what really happened from what may have been some extraordinarily difficult moments obviously.

MR. FIELDING: Mr. Mead, do you have any information that differs from that?

MR. MEAD: No, sir.

MR. FIELDING: Okay, well thank you. Also, how about any evidence of bombs on board any of the three planes?

MS. GARVEY: No evidence that certainly I am aware of.

MR. FIELDING: Okay, then going back to my prior question, the reason I had raised the thing about the guns was that there was an earlier FAA report, or reported report --

MS. GARVEY: Reported report, yes.

MR. FIELDING: -- coming out of American 11. How about box cutters? Have any box cutters been recovered?

MS. GARVEY: I do not know, and I would assume that obviously would be the FBI. I will tell you again how we approached it in going to the FBI and saying we are obviously going to make some changes here, what do we need to consider? Were box cutters involved? And I want to be careful about this, because I do recognize the sensitivity. We were certainly, if "encouraged" is too strong a word, I don't mean it to be too strong, but it was suggested that prohibiting box cutters would be a good thing. To the extent to which they were used or how they were used, I don't have that information.

MR. FIELDING: Mr. Mead, anything?

MR. MEAD: No, sir.

MR. FIELDING: The box cutter issue is kind of an interesting one to us, and a little perplexing to us, because, candidly, as I read the regulations, a box cutter that's four inches was a prohibited item. A box cutter that was under four inches was not. Is that your understanding as well?

MS. GARVEY: That is correct, Commissioner.

MR. FIELDING: So, theoretically, if somebody went up with 20 three-inch box cutters, they could get on the plane, theoretically.

MS. GARVEY: Theoretically, yes. Twenty individual ones.

MR. FIELDING: Yes, yes. I don't mean --

MS. GARVEY: That's what you're saying.

MR. FIELDING: Okay. Was there any evidence that you're aware of pre-positioning of weapons on aircraft?

MS. GARVEY: I simply do not know.

MR. FIELDING: How about strategic pre-boarding, selection of seats?

MS. GARVEY: I don't know. I think that's all part of the FBI investigation.

MR. FIELDING: But none of that's been brought to your attention.

MS. GARVEY: No, it has not, Commissioner.

MR. FIELDING: Mr. Mead? Okay, thank you. Let's go to the investigations. After the incident, did the FAA conduct any interviews of the people that had access to the aircraft? By that I mean the sweepers, the cleaners, anybody. Were they interviewed?

MS. GARVEY: We became very quickly the sort of supporting role for the FBI. The investigation and those individual interviews would have been conducted by the FBI. I would certainly want to check, but I would certainly imagine in

some cases that some of the FAA personnel may have been present, may even have been responsible for facilitating the meeting or whatever. But the lead focus or the lead agency very quickly became the FBI.

MR. FIELDING: Were there any FAA reports on this that you're aware of?

MS. GARVEY: There may have been some summary reports. I'd certainly want to go back and check.

MR. FIELDING: Another thing that's always interested me was have they ever gone back and checked the videos, the taping of the screening process, when people were going through the --

MS. GARVEY: I do know that those were turned over to the FBI. I do know that they were carefully reviewed.

MR. FIELDING: At both airports?

MS. GARVEY: I believe it was for both, but I know for at least one of them.

MR. FIELDING: You know, when you go through an aircraft, I mean, boarding an airliner, and you go through and occasionally somebody asks you to step to one side, take off your shoes, take off your belt, whatever it is, and then they screen you, I guess 99.9 percent of those people then ultimately get passed on and passed through. But in an incident where somebody would be pulled aside and there would be some question, some serious question as to whether they could get on the aircraft, are records kept of those incidents?

MS. GARVEY: There are records, Commissioner, yes.

MR. FIELDING: And have those records been reviewed with regard to identities of people that were -- well, the hijackers basically?

MS. GARVEY: I know that they have all been turned over to the FBI, yes. Yes, Commissioner.

MR. CLELAND: Thank you very much, Ms. Garvey and Mr. Mead, and thank you for your service to our country in so many, many ways. I just was sitting here trying to connect some dots in my own mind. And Ms. Garvey, when you said the most powerful thing that the hijackers had going for them, I thought you were

going to say, their willingness to die. Because in many ways I think that's the essence of what we now know since September the 11th, the essence of catastrophic terrorism.

The fascinating thing, too, is that if the FBI as a law enforcement agency, which is used to gathering evidence for prosecution of offenders--if those offenders are willing to die, there's very little evidence to prosecute. There may be a trail leading up to that, but what do you do after that?

So I think that brings us to the discussion we were at this morning of how do we get hold of matching foreign intelligence and domestic intelligence? How do we hold someone accountable in the government for these 15 agencies and half a dozen different Cabinet departments that are somehow responsible for just foreign intelligence? And how do we bridge that gap between foreign intelligence and domestic intelligence?

That is a big challenge, because I do believe that part of this is as -- I think it was Jane Harman said, or someone else said, that we do have to go forward in a strategic offensive, and part of that offensive is intelligence to pick up, before they get here, people who are willing to die. So I think this has changed the dynamic here.

May I just ask kind of a time-line question here? Because I said that at the outset because I do not want to miss the strategic importance of what has changed here. September the 11th wasn't a hijacking. It was a hijacking, with a political purpose, but the means of executing that were so much different than anything we had experienced. The willingness to die, the willingness to plan for a long time, financed out of a cultural sense of mission against the West. This is powerful stuff.

And your point about what we're up against is a special operations against a public transportation system and the 700 million passengers a year or so. There are a lot of people who travel on subways, lots of people who travel in cars, through tunnels and so forth. So there are other parts of people's transportation system. We have to think about cargo coming into our country and so forth. So we have a massive challenge if we are indeed up against a special operations thing here, and we are, with the willingness to die.

Tom Friedman calls these people non-deterrables. It's one thing, as Senator Graham was talking about, to deal with in the Cold War, to deter the Soviet Union through better

intelligence and mutual assured destruction. But for people who are willing to die, how do you deter that? I think you deter it with better intelligence, for one thing, coordinated intelligence, and do everything you can, as you pointed out, to change the system from time to time and to have deterrence built in that nobody knows about.

So I think you're on to something here, because this is a new era here in terms of defense. May I just ask a little time-line question here? You may or may not know some detailed answers, but I'll try to run through it. Published accounts indicate that Boston flight controllers determined that American Airlines Flight 11 had been hijacked as early as 8:13 a.m. that morning and that two flight attendants telephoned American Airlines personnel with confirmation that a hijacking occurred at 8:21.

Yet, according to the FAA official time-line, NORAD was not notified until 8:40, about, what, 20-some-odd minutes later. Is that basically accurate? Is that basically your understanding?

MS. GARVEY: Commissioner, I did see the notice of the flight attendants. I'm not aware of that. And I will give you the synopsis, or the chronology as I understand it. But, again, I think I'd want to get the real precise numbers from the air traffic control people. But as I recall it, and from my own notes, looking back and jotting some things down, 8:20, about 8:20, was the first indication for Boston that there was a problem.

Now, there was no -- there is a special signal that a pilot can give, as I know you know, Senator, for if it's a hijacking or there is an emergency. There was nothing like that. But the transponder or the signal was lost. And so the procedure is to begin to contact the aircraft. And I believe, and again, we would want to double-check this, but I believe there was an attempt to raise the pilot, raise the aircraft, about three or four times. And they were unsuccessful.

And so, at about 8:34, based on the good initiative of the controller and his supervisor, NORAD was actually--that was the first notification from the controller and the supervisor to Otis. It was -- the official one is 8:40, as you've suggested. After they did that, they then called up to headquarters, and then the official notification.

What that said to us, and when we think about what protocols did we need to examine, that was one. We applaud the controller, applaud the supervisor, for taking individual initiative on taking that action, but we recognized that we needed to make that communication much clearer. We needed to change the protocol. And there are some changes. Some are classified, but certainly could be provided to this committee. But there were changes that were made that made it very clear, or made it much clearer.

But I do want to commend the controller and the supervisor who at 8:34 called Otis.

MR. CLELAND: The reason I asked that question was the Commission has been made aware of a communication that alleges that there was some kind of planned test attack, a drill attack, on the United States on that day, scheduled for that day, and that maybe some of the slippage in time, either by the FAA or NORAD, might have been due to the fact that there was somehow an awareness that whatever problem was going on in the air was a drill.

Are you aware of any planned drill, mock attack on the United States, that might have just been misinterpreted by either people in the FAA or NORAD as just a drill, and then found out that something really was going on?

MS. GARVEY: No I am not, Commissioner.

MR. CLELAND: Mr. Mead, are you aware of any drill that was going on that day, some mock attack on the country that we should have, that people might, have, slowed down their reaction, said, "well this is just a drill, and it's not really real," that might have slowed down any reaction by NORAD or the FAA?

MR. MEAD: No, sir.

MR. CLELAND: Thank you very much. We have some questions we'd like for you to submit for the record. May I say, what is one of the things you carry away from this experience, Ms. Garvey, having in effect as head of the FAA and dealing with the responsibility for safety and promotion of the airline industry. Looking at it all, you've had time to reflect, what's one or two things that you really carry away from this experience, you mentioned your understanding that we are in a special world now, special operations against a public transportation system. Do you have some other thoughts about what that day meant to us and what

future FAA directors or this commission should look at in terms of recommending to the United States government?

MS. GARVEY: Well some thoughts, I will tell you, are very personal. And those thoughts are thoughts of anguish. As Mr. Mead said, I don't think any of us will ever forget the pain and the anguish the people of New York felt and the individual families felt. One thought was the remarkable work, and I appreciate the Chairman mentioning this, that the air traffic controllers, that the managers, that the pilots and the flight attendants on the other aircraft, many of whom knew what had happened in the system. I think the magnificence of the professional work done by those men and women is something I will certainly always remember. They were remarkable individual acts of courage.

The inspector general and I were speaking the other day about the need to stay focused even as we move forward. And he mentioned that in his comments. There many instances, and we are probably are all guilty of it, where we are captured by something, we know its importance, but we are diverted to other things. So the challenge of keeping the focus, keeping the attention on security. But at the same time, the tremendous challenge that both the Executive branch, that Congress and many in the private sector as well, of how do you find the right balance--how do you make sure we are as secure as we can possibly be but also recognizing too that we are a free and open society.

MR. CLELAND: And therein lie the great challenge for all of us. Mr. Mead, what do you think that you have learned, in understanding not only the weaknesses, and you've articulated them very well, before 9/11, but what have you learned that maybe we should still be doing, or this commission should recommend to the Congress or the government to do in terms of aviation safety? Because you know the airlines are in great trouble right now, people are afraid to fly for many reasons, and as the coding system goes up, the anxiety of the country goes up, people are scared. How can we go about our business in this country and not just live constantly in fear particularly as we fly? What are some of the things we ought to be thinking about, what are some of the things this commission ought to be recommending?

MR. MEAD: That's hard to put into law, I think, but one characteristic of the security program you're reviewing has been in the past that it tends to respond to empirical evidence of tragedy or an incident.

MR. CLELAND: Closing the barn door after the horse is out.

MR. MEAD: Yes. And it's all meant in good faith, and it's a sensible thing to do. But I think we have to broaden our thinking to think of the different scenarios that can play out and give the regulators the charge to do that, and then to the authority to do something about it.

I think when you look back over the experience with the system that we had in place before 9/11, that admittedly wasn't designed to catch box cutters, wasn't designed to catch people that were willing to kill themselves. But it had a lot of weaknesses that a lot of people knew about for many years. And I think our tolerance level of that has to be very low. That's one of the lessons of 9/11.

I mentioned in my testimony covert testing. What I mean by that is testing that's unannounced, that's rigorous, that would mock what the types of scenarios would be; test the system, find the holes in it, and don't tolerate long delays in closing those holes.

MR. CLELAND: Good guidance. And as one who was sitting on the Commerce Committee and was the original co-sponsor, with Senator Fritz Hollings and others, of the new Transportation Security Act, in terms of aviation security, hopefully we are doing a better job out there now.

But I think we go back to the same point. If people are willing to die, it's hard to defend against. We just have to keep changing it, taking away some of the predictability, because one of the things that I've learned about the al Qaeda and some of the terrorists that we face is that they practice long and hard based on predictability. Then they rehearse. Then they get the committed individuals.

If we can keep them off-balance, either be on the strategic offensive militarily, strategic offensive in terms of preemptive intelligence, identifying the problem before it gets to us, those kind of things, that we are in this war game here. And is that your understanding, Ms. Garvey?

MS. GARVEY: Absolutely. And I think you make an excellent point; in addition the layers of security. It's changing it. It's being somewhat unpredictable, and it's the layers of security. I think it is, Brian Jenkins or someone I

have read, mentions keeping the veil of mystery between some of the layers. And I think that's an important notion and an important concept to keep in mind.

MR. CLELAND: Mr. Mead?

MR. MEAD: Yeah, I think so. You know, I think one of the interesting things about security now is it's almost as though we're trying to cover every exigency or every possible contingency with the screening. And one of the big issues I see for the Transportation Security Administration is making sure that they keep the heat on. It's not going to be automatic that we're going to have a sense of vigilance. It's a matter that we're all going to have to work very hard at.

MR. CLELAND: Good point. Mr. Chairman, are there other commissioners to ask questions?

MR. FIELDING: Let me follow up a question. When the FAA notified NORAD, what did the FAA expect or ask NORAD to do?

MS. GARVEY: Well, the expectation at that point, I believe, was really to respond as they did, by sending planes in the sky.

MR. FIELDING: So is it your understanding that once you give them the word or notify them, then their own procedures take over?

MS. GARVEY: Would take over, exactly.

MR. FIELDING: There's nothing further required of the FAA?

MS. GARVEY: No, NORAD's procedures would rule at that point, would prevail at that point.

MR. FIELDING: You said in your prepared testimony something that kind of jumped out at me. You said that the FAA didn't have any solid intelligence which indicated the type of attack that we saw on 9/11. Can you amplify that answer? Particularly, what level of information or specificity of threat would constitute solid?

MS. GARVEY: Well, the evidence that we had or the information that we had certainly indicated a growing threat and a concern. But the threat was much more focused on overseas

targets. We were concerned about American targets. We were concerned, to some degree, about American airlines and notified the airlines accordingly. But the focus was much more overseas.

I have seen a number of reports, for example, in the paper referring to other signals, to other signs and so forth, and, again, repeatedly have gone back to staff to say, "Were those run to ground?" And that's exactly why I said solid, because those were run to the ground by the intelligence community, by our own folks with the intelligence community, and for various reasons were discounted as not credible.

And when you say, "What would constitute it?" Frankly, it's really the expertise and professional judgment of the intelligence community.

MR. FIELDING: Well, following up on that, are you saying that there was information of a possible use of aircraft as a weapon that was --

MS. GARVEY: I was not aware of any information of it being used as a weapon that was credible. I'm saying that correctly.

MR. FIELDING: That was credible. But I assume from that that there may have been information provided.

MS. GARVEY: Well, you know, to me directly, Commissioner?

MR. FIELDING: Well, the FAA, to you.

MS. GARVEY: Well, again, there were reports coming in. There was a great deal of information that would come in, sometimes 300 messages in a day. If there was anything like that, it would have been run to the ground and it was not deemed to be credible. We were not aware of anything like that. I'm always hesitant, because there might have been something in that pile that I didn't see. But to my knowledge, there was nothing. And I've asked that question repeatedly, I will tell you.

MR. FIELDING: When you say run to the ground, who would run it to the ground?

MS. GARVEY: The intelligence community, both our intelligence folks and the intelligence community, whether it's the FBI or the CIA or the intelligence community.

MR. FIELDING: Did you ever ask, in your capacity as the administrator, for additional cooperation or additional assessments or assets from the intelligence community?

MS. GARVEY: No, I did not personally. No, I did not. Whether or not Admiral Flynn did, obviously we'd want to ask him. But I did not.

MR. FIELDING: If I can ask you one quick question about air traffic controllers--

MS. GARVEY: Sure.

MR. FIELDING: -- as I said I'd come back to it. Did the FAA investigate how the air traffic control system responded on 9/11?

MS. GARVEY: Oh, absolutely, really almost the next day. I will tell you, for those days following 9/11, we were meeting almost around the clock. And what was particularly interesting, in terms of air traffic control, is, again, I think a new area for us and another protocol that perhaps we had not in place was really the kind of communication we were going to need between air traffic control and security. Security all of a sudden was concerned about things like crop dusters. What do we do about general aviation?

And there was much more than of a need for a kind of protocol to be developed for communication with air traffic control. But there was also very much an assessment. How do they bring the planes down? It worked very well, we know. But what was the protocol? And a protocol has since been designed based on the experiences of that day.

MR. FIELDING: Well, based on the existing protocols of that day, there was a situation where flight paths obviously deviated. There was a point in time when an inactive transponder --

MS. GARVEY: Absolutely. Absolutely. And if you look at the current protocol, what has been developed post-9/11, you will find some very specific steps that controllers are instructed to take. If a transponder disappears, there's a protocol that has been established. If they see something unusual in the flight pattern, essentially it is reported immediately. But it is spelled out in the protocol.

MR. FIELDING: Well, was the protocol that was in place on that day observed?

MS. GARVEY: You know, was it observed for that day? I think so, yes. Yes. I mean, the protocols before that did not anticipate anything of that magnitude. The protocols that were in place pre-9/11 anticipated some crises, but not of that magnitude. I mean, we're used to crises that involve weather, Y2K, those sorts of predicaments, not anything of that magnitude.

MR. FIELDING: Thank you. Mr. Mead, the security function is now transferred to the jurisdiction of the Department of Homeland Security. Isn't that correct?

MR. MEAD: Yes.

MR. FIELDING: And they have their own inspector general?

MR. MEAD: Yes, they do.

MR. FIELDING: Given your many years of experience and your able service, are they coordinating or consulting with you, and are you consulting with them, the new IG, to ensure that there's a continuity of oversight?

MR. MEAD: Yes. Fortunately there's -- the law contemplated a transition period. In other words, we have about two or three months to talk to each other, and have done so.

MR. FIELDING: Okay, well, thank you.

MR. MEAD: I must say, the security thing was becoming all-consuming in the year or so following 9/11, at least for this inspector general. So we passed the mantle.

MR. FIELDING: You have a little glee in your voice.

MR. MEAD: Yeah.

MR. FIELDING: Yeah. Okay, thank you.

MR. KEAN: A follow-up by Senator Cleland and then any other commissioners who have questions.

MR. CLELAND: Yes, sir. The point that comes through to me, Ms. Garvey, is that your first go-to agency was the FBI. But

it was basically the intelligence community that dealt with foreign intelligence that began to pick up indications that airlines might be used by hijackers for destructive purposes or cataclysmic terrorism, or whatever, several years earlier.

I mean, the notion of using an airline to crash into someplace and create havoc was not new to the intelligence community, but apparently that wasn't genuinely widely known in terms of, shall we say, domestic use. Certainly that was not something that you were privy to. Is that right?

MS. GARVEY: That's correct. Again, the threats that we received, particularly in the months before, the summer months before September 11th, were very focused on overseas targets, concerns about American interests overseas, but primarily overseas. And I remember following the news, of course, at the time, and there was so much unrest in the Middle East, that even just intuitively, just from the newspapers, that was borne out.

MR. CLELAND: Thank you. Thank you, Mr. Chairman.

MR. KEAN: I've got one brief question, then Senator Gorton. You talked, Mr. Mead, in your testimony about your recommending, and others, I guess, too, of ways in which to make the handlers, the checkers at the airports professional and how this was tied up in rule-making for maybe a number of years.

My question, really--I'm not from Washington; I don't really understand rule-making that can tie up something that logical for years. Who would have been opposed to that? It obviously would have made people safer, might have done something to help on 9/11. How was that tied up in rule-making? And is there anything else you're recommending to make the American public safer that is tied up in rule-making now?

MR. MEAD: This particular rule...what happens when a rule, FAA is supposed to come up with what they call an advance notice of proposed rulemaking. They did so. They did so. In my judgment they should have done it much earlier, many years before they did it. But a law came around --

MS. GARVEY: (unclear)?

MR. MEAD: Yes, I said before. I said in the last five or six years in particular there had been improvements, and I mean that sincerely. But FAA issued the rule in 1997, which is a year after the law was passed. It then had to go through the office of

the secretary at the Department of Transportation and then to OMB. And different people in that process, it has been my experience, have different points of view. The cost-benefit analysis-- sometimes people say, Well, is this rule that will require FAA -- that will authorize FAA to certify screen companies and impose performance standards on the employees of those companies, are the benefits of that going to be outweighed by the costs, or vice versa? And if the costs outweigh the benefits, people will raise eyebrows about whether that rule. Well, there's no question in my mind that that rule was going to increase costs, because the quality of the people, the expenses for the training of them, was going to have to increase in order to meet the performance standards.

Ms. Garvey can give a further exposition on this, but the point I was trying to make in raising it is before you focus in on FAA, while FAA was in charge, and FAA is totally responsible, I just wanted to mention to the Commission that there are other parties in government that should be spoken to as well.

MS. GARVEY: Just one additional note. Congress did give the ability to TSA in the last legislation the ability to streamline the rule-making process. And I think that would be worth looking at to see how successful it was. I would say post-9/11, when we issued a whole series of rules, there were a number of the sort of steps that you had to go through that were eliminated, and we got those out very quickly. But clearly there's a trade-off, because certainly we all care about an open, transparent process. But, again, it's finding that right balance. And Mr. Mead is right: this was extraordinarily expensive. The rule was extraordinarily expensive, and we actually pulled it back a couple of times because it wasn't meeting the cost-benefit analysis, and we kept working it and reworking it. MR. MEAD: I'd like to just add that I think the role of cost-benefit analysis in this type of area--I agree that cost-benefit analysis should be one of many tools, but sometimes it can play too big a role when we are dealing with areas like this, because how can you ask, how can you speculate about how many lives might be saved from speculative terrorist attacks if the screener is efficient at screening and catching various devices? It's a very tough task to assign somebody to do that.

MR. KEAN: I the other part of -- by the way, I think Washington streamlining to me sometimes means two years instead of three. But the final part of my question was there anything you are proposing now that is tied up in rule-making? Is there any cost-benefit analysis for the last one would have indicated we

ought to do it right away, to me, because it would have saved more lives.

MR. MEAD: No, I can't think of one that's pending. That doesn't mean one doesn't exist. And one reason for that was mentioned by Ms. Garvey. Under the law that was passed, Congress gave TSA the authority to move rules on more of an urgent basis.

MR. KEAN: Senator Gorton and then Congressman Roemer.

MR. GORTON: There is a remarkable similarity in the written testimony that each of you have prepared in one respect that really stands out to me, and that is the response to particular challenges. And I sort of wrote them down in this fashion: You know, the first major challenge was the hijacker who wanted to go to Cuba--transportation, you responded. The second perhaps was the hijacker who wanted money or to free prisoners, the Hezbollah type. And there was a response. I think a third one was explosives on board without the person who put the explosives on the plane, and certain steps were taken to meet with that. And the fourth, and sort of incidental one, was the disgruntled employee, or former employee, who wasn't subject to security. And you said in each of these cases there was a response with respect to rules. And I think as we look back on it those responses were probably fairly, at least fairly adequate to meet the specific challenges at which they were aimed. But then what both of you said, I think quite accurately, was no one really conceived of the kind of challenge with which we were faced on 9/11, that you would have people who were perfectly willing to be suicidal, to make a point who were not hijacking an airplane to take it someplace but to make a weapon out of it. And we have concentrated ever since 9/11 on how do we deal with that particular challenge.

But the question that I have for each of you, if your imagination is broad enough, what's the next different challenge that we haven't thought about, at least thought about sufficiently? Has either of you, with your professional being in this, thought, well, this last one was very different from the predecessor. Is there another significant challenge out there that hasn't been used yet to aircraft safety and the safety of people on the ground?

MS. GARVEY: I think that's one of the most difficult questions to answer.

MR. GORTON: Sure is.

MS. GARVEY: Because, and you know I thought a lot about this particularly in relation to safety. When you are dealing with safety issues -- and we have become much better with this with the improvement in technology, you can, the FAA is beginning to do this very well, which is to track trends, to look at some incidents and see if you can track trends. It seems to me, but I'm not an intelligence expert, but it seems to me that's more challenging on the intelligence side when you are dealing with human nature. And is it possible to think of every scenario? And I don't think it is, which is why I think we get back to layers and being not so predictable.

I do think, as many have discussed, that while aviation is an important area, you certainly, as has been alluded here too, get awfully concerned about other modes of transportation, and is there something within the other modes that would be equally as dramatic. And I think you can quickly come to some scenarios in those areas of well.

MR. MEAD: One area I would encourage the Commission to explore in depth, and I imagine you would want to devote part of a closed hearing, closed session of this, is the area of cargo flying on passenger airliners. I think that is an area that in my judgment is not as mature, one might say, as is the handling of checked baggage, the passage of passengers through magnetometers and the like, and the use of explosive detection machines. I think cargo is an area you should look at.

Secondly, in the other modes, perhaps some of you caught this in the news, but a spokesman for the cruise industry was responding to an announcement by the Transportation Security Administration that there was going to have to be some screening of passengers on cruise lines. And I thought that the gentleman's comment was instructive and clearly up the lines of the question you asked. He said, "Well, we are quite different from the airlines, we're quite a different business. This type of thing will bring our industry to a halt, and who is going to pay for it?" I have heard that before in the context of a different industry. But I do think that we have to think about other modes of transportation and the type of security we can afford, the type of security that is going to be provided. But you can almost see the drum beat beginning in some of these other modes of transportation.

MR. GORTON: Thank you, Mr. Chairman.

MR. KEAN: Okay, we have time for two more questions, and I think they belong to Congressman Roemer and Commissioner Ben-Veniste.

MR. ROEMER: Thank you, Mr. Chairman, and I want to thank the witnesses right off. You have been extremely helpful, and I know we will hopefully rely on you in the future. Administrator Garvey, you have handled yourself very well. Let me tee one up for you. I am sure you will handle this one well, it's a tough one, it's a direct one, and it comes from some of my experience from the Joint Inquiry where I served trying to put together the information that was coming forward from the intelligence component here to the FAA. This is unclassified and was read from our report in open hearing by one of our staff members. In January of 1995, a Philippine national police raid turned up materials in Manila, indicating that three individuals, including Ramzi Yousef, planned, among other things to crash an airplane into the CIA headquarters. This information was passed onto the FAA, which briefed U.S. and major foreign carriers. That's 1995.

In 1998, August, the intelligence community obtained information that a group of unidentified Arabs planned to fly an explosive-laden plane from a foreign country into the World Trade Center.

September 1998: The intelligence community obtained information that Osama bin Laden's next operation could involve flying aircraft loaded with explosives into a U.S. airport.

In November 1998, the intelligence community obtained information that a Turkish Islamic extremist group had planned a suicide attack. Part of this would involve crashing an airplane packed with explosives into Ataturk's tomb during a government ceremony.

In March 1999, the intelligence community obtained information regarding plans by an al Qaeda member who was a U.S. citizen to fly a hang glider into an Egyptian presidential palace.

And in August 2001, the intelligence community obtained information regarding a plan to either bomb the U.S. Embassy in Nairobi from an airplane, or crash an airplane into it.

The CIA disseminated several of these reports to the FBI and to the agencies, and one of the agencies it disseminated this to was the FAA. Now, I know that since 1991 the FAA also had,

since the counterterrorism unit was set up in 1986, the FAA had an intelligence liaison officer full-time with the CIA, FBI and State. So my question is: You've got these different reports coming in from intelligence sources, you have got a full-time person from the FAA picking this stuff up -- now, it may not be, We have a planned attack on such-and- such a date, but it's certainly an accumulation of evidence from intelligence sources that the FAA has access to that this could be a scenario that happens in the United States. It's being planned, it's being talked about all over the world. Why didn't the FAA do more to look at the possibility that this could happen in the United States?

MS. GARVEY: Well, first of all, the 1995 incident that you referred to, I think the first one you began with, in fact that is one where a series of countermeasures were developed literally as we learned information. And in fact that is one where the appropriate action was taken and the plot was thwarted.

The other ones, I'd like to go back and provide some information to you for the record. I can tell you that again, the threat assessment that we were getting, and that we were letting the airlines know about, was very much focused on overseas targets, overseas U.S. interests. That's really where the emphasis was.

MR. ROEMER: But that '95 incident was Langley, Virginia. It wasn't overseas.

MS. GARVEY: Right. But again, I think that is an example where we did take the appropriate measures. And again I'll go back and say in each one of these cases or -- I'd like to provide more information for the record -- but in any number of those cases, again working with the intelligence community, it was tracked down and the source was deemed either not credible, or the -- or most likely or most generally the source was not credible. But it was --

MR. ROEMER: But, administrator, how do we get this intelligence capability where FAA has a permanent stand-up capability within CTC to communicate these things to the top level of the FAA, and then hope that these administrators will at least evolve plans? Mr. Mead said that the 1970s plan did not really evolve much over the last 20 or 30 years. You kept targeting a hijacker and these other plans kept coming at you. How do we set up the intelligence component with the top people at the FAA to be

proactive on this kind of possibility rather than just reactive to it?

MS. GARVEY: Well, first of all I think there were a number of -- if you look back at some of the history, I think you will find some places where we were very -- the FAA was very proactive, the countermeasures were developed, and I will again mention '95. And we do have, or the FAA does have a very, very active intelligence branch. We are dependent on the information that we get from the CIA, and with a close examination of that information with the CIA, with the FBI. We do depend on them for the raw intelligence.

Should there have been better communication? I think absolutely. I think that's been acknowledged really right from the beginning. I think in some cases we got appropriate and right information. I think in other cases we probably didn't get enough.

I think it's also important to remember that there's a lot of information coming at the intelligence community, and that very often trying to determine what is the right priority, whether or not the source is credible, that is a very great challenge. I think there have been tremendous strides since 9/11 in terms of communication. The posture I think for the FAA always was we set up the criteria, pass that on to the intelligence community, this is what we need, they would give us information where they thought there was an aviation threat. Sometimes perhaps the information we needed perhaps wasn't necessarily a specific aviation threat. We may have missed some.

MR. ROEMER: Let me just conclude by asking you one final question about the red teams. Mr. Mead agrees with you that there was no cover-up involved in some of the complaints about what red teams reported. But he did say that it either would be a cover-up or implementing effective improvements, and you were unable to do them. Were there reasons, institutional reasons, that you could not implement the recommendations of the red team, or what were the problems there?

MS. GARVEY: In my experience the red team recommendations were implemented. I think the point that Mr. Mead made in his report, which I think he was absolutely right on, is that we were not always as effective as we should have been in circling back to the red team, letting them know what recommendations had been implemented.

I will say in the summer, pre-September 11th, the new deputy associate administrator for security recognized that as a problem and actually had a meeting with the red team and said, Look, we have got to do a better job at that. That was reinforced by the work that Mr. Mead did, and I believe we certainly made those changes, and I believe some of that is still incorporated into the TSA.

In any case where a recommendation may not have been implemented, I would like to go back and look at it. But we really implemented many, many, most of them, nearly all of them. I think there may have been some individual ones where for various reasons there was a policy decision that it wasn't the right recommendation. Again, I want to go back to what I said. It was that kind of work that helped to shape and make the changes to training, help us formulate the security rule, the screeners security rule. So it was a part of that.

MR. ROEMER: Mr. Mead?

MR. MEAD: I have to clarify --

MR. ROEMER: Please.

MR. MEAD: -- what we found. There was an allegation the FAA covered up. We did not substantiate that allegation. In fact, we found that after the red team would go out, they would for example, just an example of their activity. They would try to get through passenger screening checkpoints with prohibited objects, not box cutters, but clearly prohibited objects in their luggage. They would try to conceal it, as would a saboteur or a terrorist. Or they would try to get something through the explosive detection machines. These are these \$1 million SUV-type machines. They would achieve success in more times than you would like to see.

FAA would in fact take, communicate that the red team had found these shortcomings to the airlines and to the screening companies. They would not, one, they would not feed back that they had done so to the red team, so the red team was frustrated. But, also, our work has shown that whatever the airlines did with it did not yield permanent improvements, because we would go back out with our auditors and investigators, we would try to penetrate security, and we would be able to.

MR. ROEMER: Same rates?

MR. MEAD: So that's what I mean by the follow-up. The follow-up, there was communication back to the airlines, but and then FAA's ability -- what is FAA going to do? Fire them? They didn't have -- the fines were a cost of doing business. I think Ms. Garvey would agree with that. That was another weakness in the system. And --

MS. GARVEY: And Mr. Mead is right. And that is exactly why the screener rule in our view was so important -- why we were focused on it, why we got it ready in the fall of 2000.

MR. ROEMER: Mr. Chairman, thank you very much. I think that's a ripe area for us to follow through on, and that's why fines are out there and penalties are out there as well, too.

MR. KEAN: Thank you, congressman. And the last questioner from the commission of these witnesses, Commissioner Ben-Veniste.

MR. BEN-VENISTE: I want to join my colleagues in thanking you both for your help and for your testimony here today. I want to ask a very specific question about September 11th, and I want to focus on Flight 77, American 77, which, according to the timelines that we have, indicate that at 8:55 in the morning, the FAA received information that Flight 77 turned off its course. By that time the fate of American Airlines 11 was known, and United Airlines Flight 175 was declared to be hijacked and crashed shortly thereafter. Why was it, according to all the information you have been able to accumulate since, that Flight 77 was not immediately declared to be hijacked? According to our information, NORAD was not notified until 9:24, approximately a half an hour, after in hindsight it would indicate that FAA had very good reason to know something was terribly, terribly wrong?

MS. GARVEY: Commissioner, I would like to go back and look at those records more carefully, because that is not consistent with my understanding of it and the timeline that I remember. The timeline that I have, that I remember, is one that had a notification of NORAD twice before the time that you mention, so that there had been three notifications. But, again, I would like to submit that specific timeline for the record, with the first notification being at 8:34.

MR. BEN-VENISTE: At 8:34?

MS. GARVEY: At 8:34 from a controller at the Boston office. And, again, let me submit those for the record or let me double-check. The notes that I have were 8:34.

MR. BEN-VENISTE: We are talking about American Airlines Flight 77, the plane that ultimately crashed into the Pentagon.

MS. GARVEY: Yes.

MR. BEN-VENISTE: Now, our information, and I will repeat it again, because this is grossly outside what we have been informed, is that at 8:55 Flight 77 was detected by controllers and FAA personnel to be off its course. By that time we knew that two planes were hijacked, the two that hit the Twin Towers. At 8:55 this information was recorded according to FAA. Now, it was not until 9:24, according to NORAD -- and if you have some other information, we would be very interested in receiving it -- but it was not until 9:24, according to NORAD, that they received any advice from FAA with respect to Flight 77. Do you have some other information that would indicate that FAA notified NORAD prior to that time?

MS. GARVEY: My understanding, commissioner, was that the notification was earlier. But I would like to ask that the FAA air traffic control chronology be submitted for the record.

MR. BEN-VENISTE: Well, we are operating on the basis of the material that has already been submitted. Mr. Mead, can you shed any further light on that?

MR. MEAD: No, sir, I have no information on that.

MR. BEN-VENISTE: Do you have in the after-action investigation that has been conducted by FAA any information to shed light on why it was that FAA delayed notifying NORAD, if it is in fact the case that they had information suggesting that Flight 77 was off course? Because this is the information we are receiving from NORAD.

MS. GARVEY: Commissioner, the information that I have is that the first notification was at 8:34 from an individual controller in Boston to Otis, to NORAD at Otis. The next notification I believe was about -- and it was about 8:20 when the first indication that there was a difficulty with the American flight, and that --

MR. BEN-VENISTE: Are you not confusing Flight 11 with Flight 77? Because --

MS. GARVEY: Sorry. I may be. I may be. If I could, if I could go back and, it's been a while since I have looked at that chronology.

MR. BEN-VENISTE: In a general sense, having in mind that you do not have this squarely in mind at the moment, in a general sense did you investigate whether there was a delay by FAA in notifying NORAD with respect to Flight 77?

MS. GARVEY: We investigated the whole process of the NORAD notification. My belief is that we did notify them in a timely fashion, but we also felt, as I mentioned a little bit earlier, but we also felt that NORAD, that the procedures with NORAD and the procedures for communication needed to be much clearer, and those protocols were changed directly after 9/11.

MR. BEN-VENISTE: Well, Mr. Chairman, may I simply for purposes of perhaps refreshing our witness's recollection read from the testimony of General Eberhardt, who will be here tomorrow from NORAD, who testified before the Senate Armed Services Committee on October 25th, 2001, in answer to a question from Senator Levin. "General Eberhardt, there's been some confusion about the sequence of events on September 11th. Perhaps you can clear this up for us. Timeline that we have been given is that at 8:55 on September 11, American Airlines Flight 77 began turning east, away from its intended course, and at 9:10 Flight 77 was detected by FAA radar over West Virginia heading east. That was after the two planes that struck the World Trade Towers. Then, 15 minutes later, at 9:25, the FAA notified NORAD that Flight 77 was headed towards Washington. Was that the first notification, the 9:25 notification, that NORAD or DOD had that 77 was probably hijacked?"

And then General Eberhardt said, "I show it as 9:24 that we were notified." And then he indicated that this was the first documented notification that he had. And then, interestingly enough, the questioning was, Well, why was the delay -- I'm paraphrasing -- and General Eberhardt said, "You'll have to ask the FAA." So we are asking.

MS. GARVEY: Right, and I'd like -- I appreciate that. I'd like to submit for the record. I really -- it is not as clear perhaps -- my recollection is not quite the same, so I'd like to double-check it before I say it here.

MR. KEAN: Well, you will double-check it, and you will get back to us?

MS. GARVEY: Certainly will.

MR. KEAN: It would be useful if you could get back to staff this evening.

MS. GARVEY: I was thinking that we could probably get the answer this evening, because --

MR. BEN-VENISTE: Thank you.

MR. KEAN: Mr. Mead, Mrs. Garvey, thank you. Thank you both very, very much for your time. And is there anything else either of you would like to say? If not, again, thank you very much on behalf of the Commission.

Mr. May is president of the Air Transport Association of America. Mr. May, thank you for coming, and welcome.

MR. MAY: Governor. Should I begin, sir?

MR. KEAN: Yes, please.

MR. MAY: Mr. Chairman, members of the commission, I am Jim May, president and CEO of the Air Transport Association of America. I will go through my statement in fairly rapid fashion so that you can proceed with the activities of the evening.

On behalf of the ATA, let me begin by thanking this commission for the service it is performing. I don't think there's any higher goal than ensuring we learn everything possible.

MR. KEAN: Could you maybe get a little closer to the microphone. I'm having trouble hearing.

MR. MAY: Sure, I can. How's that? On behalf of the ATA, let me begin by thanking the Commission for the service it's performing. I don't think there can be any higher goal than ensuring we learn everything possible from the events of 9/11.

When I joined ATA about three and a half months ago, one of the top priorities I was given by our board was to build on the relationship with the TSA. And in coming to better understand the

TSA/industry dynamic, I've been briefed on the history of the relationship between government and the airlines regarding security, both before and after the events of 9/11. On that basis, let me offer a few observations relevant to your inquiry. On 9/11 the airlines administered an aviation security program directed and approved by the FAA which originated 30 years earlier, and had been developed fundamentally to avert the threat of a conventional hijacking, that I think has been referred to earlier today. This system was specifically designed as a, according to statute actually, a prevent-or-deter system, and was not a more intrusive prevent-and-detect system. The system was designed by the government to screen passengers and their hand luggage for various prohibited items, predominantly weapons, but including an array of other weapons and devices. These items were believed by the FAA and law enforcement to be the likely tools of choice for a hijacker.

In the event of a hijacking, the policy, which reflected the government's long-standing assessment of how to respond to such situations, was one of cooperation. In addition, in cooperation with the government, the industry was engaged in deploying and testing various explosives baggage screening technologies to avert the threat of terrorist bombings of aircraft. Under the Security Equipment Integrated Product Team Program, which was established in the mid 1990s, approximately 160 explosives detection machines purchased by the FAA were installed and utilized by the airlines to both screen for explosive materials and provide real-world testing of technologies that had been certified under laboratory conditions. While with tragic hindsight we can now see that pre-9/11 government security regimes in totality did not anticipate the kind of attack that we experienced.

I am aware of no deviation from the established screening laws and regulations in effect on 9/11 that contributed in any way to the terrorist attack on the United States.

Now, let me candid with regard to the reported role of box cutter devices in the attack. Under pre-9/11 FAA regulations, only, quote, "knives with blades four inches long or longer, and/or knives considered illegal under local law were prohibited." Under a nonregulatory checkpoint operations guide, or COG, developed by the FAA, the Regional Airlines Association, ATA, with FAA approval, interpreting FAA regulations, box-cutting devices were considered a restricted item posing a potential danger. This meant that if such a device was identified it could be kept off the aircraft. The FAA mandated metal detection walk-through

systems however, which were designed and tested to detect metallic items about the size of a small handgun or larger. Therefore the pre-9/11 screening system wasn't designed to detect or prohibit these types of small items, and I don't think we have any information indicating they were in fact identified in the 9/11 screening of the terrorists.

Prior to 9/11 there had not been a hijacking of a U.S. carrier since 1991. In the three years prior there had been three hijacking events involving U.S. airlines worldwide. In 2001, prior to 9/11, the FAA had issued 15 information circulars, ICs, relating security information to the industry. Now, those ICs, as you probably are well aware, are used to communicate routine, nonspecific security information. Of these, four mentioned the term "hijacking," three of them making a generic reference to the threat, and one providing a more descriptive reference to a conventional hijacking concern. Beyond this there was no general industry intelligence threat briefing conducted during the period, and no relevant security directive was issued. An SD generally deals with more definite threat information warranting modification of security procedures.

Finally, if the FAA had more specific credible threat information directed at a specific airline, it would have been communicated through an SDU, and directly to that airline. At ATA, we are not aware of such communications.

Now, post-9/11 the world changed. Legislation establishing the TSA put aviation security directly in the hands of the government. The events of 9/11 changed the threat equation, which TSA is now dealing with, and they are meeting the challenge with the full cooperation and support of our industry. In the 20 months that have passed, the entire aviation security regime has been revamped in response to a new threat. All cockpit doors have been hardened with stand-and-attack. Federal air marshals have been deployed in substantial numbers, and more recently armed federal flight deck officers have begun to be introduced into the system. New and improved training programs for crew members have been developed to proved and implemented. TSA conducts all passenger and baggage screening, using procedures and equipment appropriate to newly identified threats. All checked baggage is subject to explosive detection screening. TSA is working with the airlines to develop information technology, taking advantage of known passenger information to better determine where to focus its screening resources.

Behind the scenes, intelligence priorities and practices of government have shifted dramatically. Finally, of course the mind-set of the government airline security screeners cockpit and cabin crews, and society at large has been permanently changed by the events of 9/11.

The government's newly intensified intelligence focus is particularly important. The government has at its disposal the tools necessary to identify, assess and address or resolve evolving threat situations in a manner which really was impossible under the bifurcated government-industry relationship that existed prior to 9/11. And while no one would suggest that the current system has completed its development, it's strong and growing better every day with experience and with testing.

As to the future, the airlines industry has long been on record that advocating over time the TSA security system evolve to focus more intensively at looking at people rather than searching solely for things. The events of 9/11 make that less inescapable. And, as I mentioned, TSA is moving in that direction to the development of a more sophisticated computer-based technology, the so-called CAPPS 2 system, that will complement and facilitate even better use of the physical screening resources.

The second inescapable lesson from 9/11 is the imperative for aggressive collection and analysis of intelligence, always searching for new and evolving threats. Because of the historic pattern of terrorists targeting of aviation as a surrogate target for the United States, the airline industry has long sought intelligence resources dedicated to identifying and resolving terrorist threats to aviation. In the post-9/11 world, clearly those resources are being utilized by the TSA as an activist consumer of intelligence information, and it is our belief that today intelligence's flow and analysis has improved dramatically.

This reorientation is indispensable. Deterring future acts of violence against U.S. civil aviation cannot occur without meaningful real-time intelligence assessments. It is imperative that in the future we recognize that the public interest demands an aviation security system that effectively deploys a prudent mix of technology and procedures capable of counteracting all vulnerabilities. The system must recognize that evolving threats require a continuous and accurate reassessment process guided by the best available information. The system must recognize as well that undue reliance on one or two technologies or procedures invites failure. Security must evolve and adapt to meet the changing nature of the threat.

In conclusion, I would like to again thank the Commission for its important work and reaffirm our commitment to work unceasingly with the government to provide a safe and secure air transportation system upon which the public and our nation's economy can and should rely. Thank you.

MR. KEAN: Thank you, Mr. May. Commissioner Fielding?

MR. FIELDING: Thank you, Mr. Chairman. Mr. May, did the ATA do a post-9/11 analysis or prepare a report or review?

MR. MAY: To the best of my knowledge, Commissioner, they did not. Individual airlines certainly worked cooperatively with the FBI, but the association as an entity did not.

MR. FIELDING: Were you provided with copies of the individual airline reports?

MR. MAY: We were not. Those were discussions, as I understand it, that were conducted directly with the FBI and other intelligence agencies.

MR. FIELDING: The Commission is interested in what programs and procedures the airlines had in place to check the efficiency of the screening contractors prior to 9/11. I understand that the ATA provided figures, cost figures, but that there's some discrepancy. The figures range from 330 billion to one trillion.

MR. MAY: I think, commissioner, the higher number probably was 100 million, if I recall. I don't think in my briefings I've ever heard a number that was as high as one trillion.

MR. FIELDING: Tell me again what you think the figures were?

MR. MAY: I think it ranged from 300 million -- I'm sorry, to a billion, I apologize.

MR. FIELDING: Okay, 300 million --

MR. MAY: That was the range that was discussed during the latest supplemental discussions before Congress on this very subject.

MR. FIELDING: How do we reconcile that discrepancy? The question came up because people were trying to evaluate how you could really assess the quality, if you couldn't really know, you know, less than that kind of a spread?

MR. MAY: That's a very fair question. That's one I asked as well when I joined the organization, and it's my understanding that the high number was a number that was originally used almost as an offhand comment by one of the executives of the airlines involved, and that was, as all of us who are involved here in Washington recognize, sort of became gospel overnight. When the industry went back to do an in-depth analysis and an assessment, I think they reported back to Congress with a far, a lower number. I think the range was somewhere between three and five hundred million dollars. There are some documents that have been prepared by ATA that I think more accurately clarify what the industry was spending on security pre-9/11. I'd be happy to provide those to the commission for the record.

MR. FIELDING: That would be appreciated. Thank you.

MR. MAY: ure..

MR. FIELDING: I have no further questions, Mr. Chairman.

MR. KEAN: Mr. Cleland.

MR. CLELAND: Yes, sir.

MR. KEAN: Senator Cleland.

MR. CLELAND: Thank you, Mr. May. Thank you very much. We appreciate you and the American airline industry. Is it your assessment that basically 9/11 has been the main factor in the airlines' decline, or how do you see that? I mean, the airlines are in trouble now in America, and one of the things that bothers me is that part of the early rationale for al Qaeda attacking the country was to go to the heart of our economy and used airlines to do it.

MR. MAY: Senator, I think this industry is still suffering mightily as a result of the 9/11 tragedy and attack. There is no question that the drop in traffic still continues. We saw some rather significant spikes that resulted as a result of the increased hostilities in the Far East and the Iraq war. We have seen certainly a drop in traffic as a result of the SARS

crisis in the Pacific. But I think we have a systemic drop across the board below pre-9/11 numbers that we attribute directly to the continued reluctance to fly, even though we have probably the best security system today that we have ever had, and a safety record that for three years running has been virtually perfect.

MR. CLELAND: Give me the idea of -- the Department of Transportation has talked about what a sieve the pre-9/11 security system was. Published reports indicate that at least nine of the 19 hijackers were selected for special security scrutiny prior to boarding the hijacked flight, nine of the 19; six by the computer-assisted pre-screening program, CAPPS; two because of ID document irregularities; and one because he was traveling with one of the latter two. Are these reports accurate? Were nine identified somehow for a special security scrutiny, do you happen to know?

MR. MAY: Sir, I do now know the answer. I am not familiar with the specifics of the nine. I can tell you this, that there clearly have been a number of reports as to the effectiveness of the pre-9/11 security system. We are well aware of the red team activities and so forth.

I would simply remind the Commission that the security system that was in place at the time, however good or efficient or inefficient it may have been, was designed to do two things: detect weapons coming on board because they were challenged with trying to sort of passively present or prevent hijackings; or, two, to detect explosives in the belly of the aircraft. And those were the two primary missions. To the extent that the system overall was effective, I think in a period of time from 1990, when that system was put in place, until the events of 9/11, there was something on the order of nine billion passengers and 50 million flights that were checked without incident. And so I think we can all look back and a lot of reason to think that it wasn't as effective as we would like it to be, and I think be accurate in that. I think overall it did do what it was intended to do. Unfortunately, the threat of 9/11 and the changes have shown us that the system wasn't effective in taking care of what happened then.

MR. CLELAND: Thank you, Mr. Chairman.

MR. KEAN: I've got just a couple of questions. Forgetting the systems for a minute, if everybody on that day had done their job, would the tragedy have been prevented?

MR. MAY: Governor, I can only give you a personal assessment on that answer. I don't have hands-on knowledge. Given what I understand about the nature of the security system that existed at that time, and the manner in which our crews and others were expected to respond to the kind of threat they were presented with historically, they could all have been doing a perfect job, and we still good have had the tragedy.

MR. KEAN: I'm talking about the screeners too, which were part of --

MR. MAY: Yes, I understand.

MR. KEAN: -- which were part of that operation.

MR. MAY: Yes, screeners and all. We don't even -- I don't think -- this commission may determine that we don't even know for sure that box cutters were brought through the screening process, as opposed to being on the plane, for example. But there was nothing in that screening system that would have guaranteed that box cutters would have been detected, and certainly even if they had, they were not a prohibited device at that time.

MR. KEAN: Another question. You said look at people, not things.

MR. MAY: Yes, sir.

MR. KEAN: Is that what I would call normally profiling?

MR. MAY: Yes, sir. And interestingly this industry, and I'd like to submit it for the record, made a series of recommendations to the Gore Commission back in 1996, and one of those was to focus very intensively on the profiling process and to look at people as well as things.

MR. KEAN: And you were suggesting that the pilots are now going through a different kind of training, the training has been changed --

MR. MAY: Our crews --

MR. KEAN: -- could you elucidate that a little bit, elaborate on it a bit? What's new in the pilot training now that might prevent this ever happening again?

MR. MAY: I am not sure it would be wise for me to go into a whole lot of detail in an open session on all of the training. Suffice it to say that both pilots and flight crews have a very different training regimen than they had pre-9/11. I think it is also safe to say, I can tell you even as a passenger, I think the mind-set of everyone on an airplane today is far different than it was pre-9/11.

MR. KEAN: Okay. Commissioner Hamilton.

MR. HAMILTON: Mr. May, would your primary recommendation to make air travel safer be the use of profiling? Is that the most important single thing that you think can be done?

MR. MAY: No, sir, I don't think there is one single thing that can be done. You know, it's interesting, we went back to do a little research preparing for this, and we looked at the recommendations that we made to that Gore Commission back in 1996, and I don't think there are any that wouldn't apply today in some respect. They range from improving analysis in the intelligence product to a heightened role -- at that time we said the FBI, because the TSA didn't exist, in reality or in our minds -- detection device deployment, which is clear that the new technology is out there today and getting better all the time, profiling technology, canine support, screening, contractor certification, expansion of screener development programs -- a lot of things that TSA has already done. And I think we think they are doing a heck of a fine job. The human factors work, non-automated passenger profiling, and so forth. And I'll, as I said, submit these for the record. But I think we need to focus on people as much as we do on things to have as complete a security system as possible.

MR. HAMILTON: Perhaps you could just furnish to us the details -- you don't need to do this now -- but you could furnish to us the details of what you mean by profiling.

MR. MAY: Certainly, sir, I'd be happy to. I think the CAPPS 2 system is probably a good example of what we are talking about, and again it's one that the details of which are probably best not discussed in an open session.

MR. HAMILTON: Thank you.

MR. KEAN: Secretary Lehman.

MR. LEHMAN: Just to follow up on the profiling, this is a pretty politically sensitive issue, as you know, and generally the gold standard in this air transport security is accepted to be the Israeli airline and airport security systems, which depends very heavily on ethnic profiling. Do you advocate specifically including ethnic profiling in the CAPPs system? Was there any ethnic profiling going on before 9/11? Should it go on today?

MR. MAY: Mr. Secretary, I am not in a position to suggest what the profile ought to consist of. That is a role of the TSA, exclusively the role of the TSA. We have a single airline that with respect to CAPPs 2 is working to facilitate the deployment of a system, but it's up to the federal government, and I don't think it would be appropriate for me to suggest.

To the best of my knowledge, on the second part of your question, I don't think racial profiling was included in the earlier system, but there are those that I am sure will be testifying that can give you a more accurate reflection of the detail of that system than I can.

MR. LEHMAN: But did the industry advocate, given that we are at war with Arab fundamentalists, that there should be a element of narrowing down special attention on an ethnic basis?

MR. MAY: Commissioner, we have not made any recommendations as to the detail of profiling, other than to say that we recommend that there ought to be profiling as part of the overall intelligence process.

MR. LEHMAN: On another issue, we have had reports that there was very heavy lobbying from the industry during the '90s, particularly after the recommendations of the Pan Am 103 panel, to water down the rule-making, to prevent its funding properly, and then when certain things were implemented, like cockpit access, that once the heat was off, the key system and the locked cockpit doors and so forth was basically dropped by the industry, and that they successfully blocked Kevlar doors, which was one of the recommendations. Is that an accurate depiction? Did the industry lobby, pressure, to reduce and lower the cost of screening and other security procedures?

MR. MAY: I don't have personal experience, Commissioner, as to what the industry did or didn't do at that time. I wouldn't be surprised in looking back at the history to discover that the industry did, or at least the trade association on behalf of the industry, worked to find rules and regulations that were as cost

effective as they could be. So it, you know, it is entirely possible that they worked hard on behalf of their member companies to work with the FAA and with others to try and come up with the best solutions.

MR. LEHMAN: Thank you.

MR. KEAN: Any further questions of Mr. May? Yes?

MR. FIELDING: Just one follow-up question, Mr. May. You were talking about the training programs for new pilots. Is that

--

MR. MAY: And flight attendants.

MR. FIELDING: Is that an industry program or is that a TSA program?

MR. MAY: No, it is both an FAA program, and there are some TSA programs that are under development.

MR. FIELDING: So our source of information should be there on that program?

MR. MAY: Both cases.

MR. FIELDING: Okay, thank you. That's all. Thank you, Mr. Chairman.

MR. KEAN: There are no more questions, Mr. May. Thank you very much. I know you have a plane to catch.

MR. MAY: A later one than I originally anticipated.

MR. KEAN: Thank you very much, sir.

I want to pronounce it right. Mr. Dzakovic?

MR. DZAKOVIC: Mr. Dzakovic.

MR. KEAN: Mr. Dzakovic.

MR. DZAKOVIC: No problem, I've got a slight sore throat myself.

MR. KEAN: Thank you very much for coming and being with us today.

MR. DZAKOVIC: What I would like to do is give you a perspective of what led up to 9/11 from a person that worked in the field, in the trenches. But first, before I get into that, I would like to just say that I will always be held in shock and awe when I hear people who work in this field say that 9/11 was a totally unpredictable situation. And I say that for three reasons.

One, as was briefly discussed earlier today, the aviation field has always been the favorite target of terrorism, going back to the 1960s, for a number of reasons, which I won't get into. The second is the intelligence information was so great that something was going to happen, and I acknowledge the fact that we didn't know when or where, but something was going to happen, something in the near future. And Commissioner Roemer went into that in a little detail, a little more detail earlier today.

But I would also like to read a statement from the former associate administrator of FAA security on April 6th of 2000. This was to the Committee on Commerce, Science and Transportation, Subcommittee on Aviation Security. And I quote, "Moreover, members of foreign terrorist groups and representatives from state sponsors of terrorism are present in the United States. There is evidence that a few foreign terrorist groups have well established capability and infrastructures here." When you combine that with what the Commissioner said earlier, that's a pretty strong indication that something is brewing.

The third thing is we proved in the red team that FAA did not even enforce its own minimum standards of aviation security. When you combined all three of those, to me that's pretty much like adding two plus two and getting four, that maybe we ought to do something to beef up security.

And, as another example, in my written statement to you I received a document in the course of my whistle-blower complaint that was written by an FAA agent at Boston's Logan Airport. And this was written on May 18th of 1999, in which the agent became so frustrated working through the system, the FAA system, that the person went to the inspector general's office and described a very serious problem at Boston Logan Airport, which as you recall is where two airplanes left from. And, I quote, "As a result of this situation, Logan International Airport is in a critical state of noncompliance with federal aviation security regulations." And this went to the inspector general's office, and no action was

taken by the IG's office as early as 1999 to correct the problems there.

But to give you my own background check, I first started working for FAA in the latter part of the '80s, and it was a direct result of the murder of Robert Stethem, who was a Navy sailor that was killed on TWA 847. When I was recruited I was told that FAA was looking for appropriate people with military and law enforcement background to start fighting this war on terrorism. So there was absolutely no doubt that our mission was to fight terrorism as it applied to the aviation industry.

A little time went by and then we had Pan Am 103, and in the presidential commission that investigated that afterwards, they interviewed an FAA field agent who did some work in Frankfurt, which of course was where the bomb was placed on the plane. This was an inspection the person did several months prior to the bombing. The agent said, if I recall right, that the only thing that is holding security together at this airport are the tenuous threads of luck. And nothing substantially has changed in FAA's attitude about security since before the Pan Am 103 bombing.

One of the high points, however, that occurred as a result of Pan Am 103 was the appointment of General Orlo Steele (ph), a retired Marine Corps general who was appointed, I believe in 1990 to take over security. And he did try to change the culture, and was in fact changing the culture in FAA security, but he had only a very limited tour of duty, two or three years, and he was in a position where he was forced to resign at that point. And I recall being at headquarters at the time, I was actually a team leader in the federal air marshal branch when he resigned. And the very next day that he resigned FAA rescinded a lot of his orders and directions as far as how we conduct business. I knew from that point we were going back to business as usual.

I then quit the air marshal branch, because it was outright dangerous, some of the things they were proposing that we do, as well as changing our rules of engagement and training and what-not. And in 1995 I became a team leader in the red team. And it took me about two years, between one and two years, to realize that there was a very serious problem in how FAA conducts its business. And the reason it took me that long is we would test virtually every aspect of security from the screening checkpoints, to access control, CAPPS--we didn't have CAPPS at that point, but it was profiling. Later we did test CAPPS, screening of checked baggage, and some other areas, cargo security. And we found major loopholes in every area of security that FAA was involved in. But

after two years, I started trying to work within the system, and I knew that was a pointless effort, because criticism is not accepted in FAA. That's part of the culture. And I became so frustrated that I joined up with another red team, former red team leader, who also found problems similar to what I had, and the two of us, his name is Steve Elson (ph), just for the record, we started going to the inspector general's office to try to get them to do something about this sorry state of aviation security. And they did nothing. Then I talked to a senior official in the IG's office, and he actually explained to me that when Mary Schiavo was the inspector general of the IG, she had a very aggressive stance against FAA, and it caused a lot of political problems. After she resigned, the IG had a kinder, gentler approach to dealing with problems with FAA.

At a later meeting he actually informed me that unless I gave him a dead body and a smoking gun, there is nothing he can do against FAA management. Well, I submit now he has close to 3,000 dead bodies and a gun the size of a canon, and they still have not taken any action against anyone in FAA for the poor manner in which they executed security.

Anyway, life went on and we continued doing testing around the country and around the world, and I've probably been to around 30 or so countries around the world looking at their security systems and how our aviation industry was impacted by that. But still there was no improvement in security.

And we then went to the General Accounting Office and tried to get them to do something about aviation security. I was not aware of it at the time, I learned of it since then, but the GAO has their own long history of reports going back 20 years documenting how poor aviation security is. And somewhere during that timeframe we were also joined by Bob Monetti, whose son died on Pam Am 103. He joined us on some of these meetings to the GAO and some other offices.

So after that, realizing I wasn't getting anywhere, I sent a letter to Administrator Garvey in August of 1998, trying to explain to her that there's a serious culture of gross mismanagement in civil aviation security. She didn't even have the courtesy to respond to my letter, much less take any action on it.

I did send a letter, a copy of the letter at the same time to the Secretary of Transportation Rodney Slater, and he at least had the courtesy to respond to my letter, and he advised

Jane Garvey to look into some of my issues, but there was never any follow-up, and nothing ever occurred as a result of that.

More time went on, and while I was actually doing my testing, what I found out over the years is that the red team was basically working its way out of a job. Whenever we found major problems in security, such as the screening checkpoint. We did some massive testing in 1998 I think it was, lasting almost a year, where we came up with horrendous results on the screening checkpoint. After that project was over, we were prohibited from testing and screening checkpoints anywhere since 1998.

We also did testing overseas in their explosive detection systems, and we found major problems with those, and FAA prevented us from going back and retesting to try and find what those problems were and to correct those problems.

More time went on, and I don't have time to go into all of it, but basically we were working our way out of a job. Every time we found a major problem in security, beyond the normal problems, we were restricted from doing testing. And by the time of 9/11, about the only kind of testing we were doing was explosive detection systems domestically. We also did some international testing, but not a whole lot.

And on the day of September 11th I was working in the operations center of FAA, and I forget who brought it up, but someone brought up the issue of a gun being on one of the flights. What happened that day we received information from a credible source at the operation center that a gun was in fact used on one of the flights. Around four o'clock that afternoon Ms. Garvey asked for an executive summary for everything we knew up to that point in time. If I remember right, it was just a one-page document, just a summary. And we reported the gun on American Airlines Flight 11. There was also some issue of a possible explosive on another aircraft. When this went on, I didn't give it a second thought at the time, because at the time I figured, if you are going to hijack a plane, why not bring a gun? And I knew from working on the red team that it was fairly easy to do. So I didn't give it a second thought.

Two or three months went by when the press resurfaced that issue, and FAA's immediate response is that there was no such document. Then apparently they were confronted with the actual document, and then FAA's response, and this was written in the press, was that we admit that there is a document, but there is an error in it. They actually stated that what the person meant to

write was it wasn't a gun but it was a knife, and instead of a bullet wound it was a stab wound. It was that kind of activity going on this entire time, where they just denied, and in my opinion tried to cover up, what actually went on. I don't want to take up too much time, but that is the gist of the history of how we got to 9/11.

MR. KEAN: Thank you very much. Commissioner Fielding?

MR. FIELDING: Thank you for appearing today and helping us. You said in your testimony that on 9/11 you received information that there was a firearm from a credible source?

MR. DZAKOVIC: Yes.

MR. FIELDING: Can you provide us that credible source?

MR. DZAKOVIC: I don't know who specifically it was. However, in the operation center not just anybody could just call us up and say, you know, we think this is what happened. Any information that came to us had to come from either the airlines or an FAA office or the FBI or some other government agency. It wasn't something that just anybody could access. So I personally don't know where that came from, but any information we had came from a credible source.

MR. FIELDING: Well, help me out a little. You're in a room and you hear that somebody else has received that information?

MR. DZAKOVIC: What we had was just a standard operation center, had four walls. And on each wall we had big blocks of butcher paper where whenever anything of substance came in we would write that information down on the paper. Then, when we were putting together the executive summary, without looking at things politically or using any other filtering process, we just wrote down the facts that we had. And one of them was that a gun was on such-and-such a flight, and the person also identified the seat where the gun was held by the passenger, and then apparently an individual sitting in front of that seat was shot. And we just reported that.

MR. FIELDING: Do you remember who wrote it on the butcher paper?

MR. DZAKOVIC: Yes, it was a lady by the name of -- not on the butcher paper, but I know who wrote it on the executive summary.

MR. FIELDING: No, but I'm trying to figure out who received the information and wrote it on the butcher paper.

MR. DZAKOVIC: I really don't know.

MR. FIELDING: How many people were in the room?

MR. DZAKOVIC: Between 15 and 20 I would think.

MR. FIELDING: Okay. Let me switch gears here a little. You made reference to the CAPPS system.

MR. DZAKOVIC: Yes.

MR. FIELDING: And we have not had much testimony about that today, but from your understanding how did the CAPPS system operate on 9/11?

MR. DZAKOVIC: We tested CAPPS in the red team. CAPPS is one of the most dangerous systems out there. It gives a totally false sense of protection. And the reason is when you look at CAPPS from a red team perspective or from a terrorist perspective, the way you look at it is how do what criteria do I have to use to apply to this not to be selected as a CAPPS selectee? That's fairly easy to do just by flying around a little bit and testing the system and see if you are made a selectee or not, based on CAPPS. I really believe that CAPPS is the number one most dangerous system out there, because it just totally gives a false sense of security. And CAPPS only, I don't know what the percentage is, but like it would make a selectee out of 10 or 15 percent of the population of travelers. What that does is it totally eliminates the other 85 to 90 percent of the people from further selection other than on a random basis. It's already been demonstrated that terrorists have the capability to do a little research beforehand and they will find out what it takes to find out not to be made a selectee by CAPPS. And now we have CAPPS 2, which I am not familiar with the specifics, but if it's anywhere near the way CAPPS 1 was conducted, it's simply a very dangerous system.

The single most effective deterrent against aviation-related terrorism is profiling the way it used to be called, or now a risk assessment that is conducted by a human being in an

interview process with the passenger. And that's not something you can do with every single passenger, but you can certainly weed people out a little bit. But from our red team experience, being interviewed by an experienced profiler or risk assessment person is the biggest deterrent against aviation-related terrorism.

MR. FIELDING: Going back to CAPPs, CAPPs 1 or whatever it was called at that time, we have reports that six of the people, the hijackers, were identified by CAPPs. Though in this case it didn't eliminate them. They weren't in the other 85 percent or whatever it is that went on. So it actually identified them. But then where was the breakdown?

MR. DZAKOVIC: Well, that's part of the problem with CAPPs. It makes you a selectee, but if all you're doing is going through the regular screening process without an appropriate interview, an in-depth interview, it really doesn't do anything. I read that there were nine people that were made selectees as a result of CAPPs. But so what? I mean, it had absolutely no impact. And I don't know how much money CAPPs costs, but I am sure it is in the millions of dollars. But it's a total waste of the money, if not a danger, in my opinion.

MR. FIELDING: Well, if you had to identify a single -- or what would you say was the direct an immediate cause of the 9/11 tragedies? Where was the specific breakdown with this group of hijackers?

MR. DZAKOVIC: The only think remarkable about what happened on September 11 is how unremarkable their tactics were. And we proved on the red team that the best way to conduct an operation is to keep it as simple as possible. They didn't even need box cutters. I mean, they could have just walked on the plane as a regular passenger and taken over the plane without any type of weapon, because there's plenty of weapons on a plane you can use anyway. And apparently some of them also had martial arts training also. But as I put in my whistle-blower complaint, what happened on September 11th was not a failure of the system; it was a system that was designed for failure. Every single aspect of it did not work to either deter or find terrorists.

MR. FIELDING: I have no further questions. Thank you, sir.

MR. KEAN: One or two questions. I gather from your testimony before September 11th it was unsafe to fly.

MR. DZAKOVIC: Yes.

MR. KEAN: All right, now we have heard a number of people here testify about the difference in pilot training, a number of other systems that were put into place. The federal government has taken over the checkers. There have been a number of improvements made. Tell me about the system now.

MR. DZAKOVIC: I think we have got a long way to go. Just to give you one example, because of the situation I have been in as a whistle-blower, I have been given a tape of TV news reports from around the country, and I am not sure how many there are in there, 20 or 25 different reports from around the country where television news people are breaching security with almost 100 percent regularity. And take it from -- and I have not worked with these people -- but, take it from me, TV news reporters are not the best terrorists in the world, but the methods that they are using are more sophisticated than what our own red team, what the current red team is using. In fact, I call it a pink team, because it is not as aggressive as it should be. But if TV reporters from around the country are breaching security with this kind of regularity, I mean that's a serious indication that things quite aren't quite what they should be.

One of the other things is I spent quite a bit of time working in the explosives detection systems for checked baggage, and we are spending billions of dollars on this, and, not in all cases, but a lot of these machines are placed -- I don't want to go into too much detail, but they are being placed in the absolute worst possible environment given the capabilities of the machines that you could possibly put them in. And it's only a matter of time if terrorists are so inclined to figure out how the system works that they are going to figure it out, and they could blow up 50 planes in one day. But they are going to figure that out by themselves, because that's what they are fairly good at.

My concern is, which is one of the reasons I am not going into it now, is the high school freshman class could do this same thing as a class project, and -- but it's not just my opinion. I had discussions with our own explosives unit last summer about this same thing. They agree with my assessment of how they are deploying these machines and how they are using them. But nobody in the unit is going to rock the boat by sending this information up the chain, because in the culture that we have is that you simply don't rock the boat. And that is something that needs to change, and you have to come up with a system where the street-level employees, who are the ones that are going to stop the next

terrorist attack, are in a position where they are encouraged to use initiative and their brain to try to do the job they are trying to do. And that does not exist right now.

MR. KEAN: So you'd change the positions of the machines. You'd get a sophisticated form of profiling. Are there any other recommendations you would have to make us safer when we fly?

MR. DZAKOVIC: Well, there's mechanical things such as changing the training of the screeners. What was demonstrated in the TV news reporters across the country is, no terrorist in his right mind is going to walk through a screening checkpoint with a gun taped to his forehead. He is going to conceal it. So what the TV news people did is use what they called opaque objects, so that the X-ray could not see through the device, where you could easily hide a gun or a bomb or whatever, and they are getting through with almost 100 regularity. I mean something simple like that could be easily changed, if they provide the appropriate training for the screeners.

MR. KEAN: Congressman Hamilton and Congressman Gorelick.

MR. HAMILTON: It may be that the Chairman has already asked the question. Do you believe the system today is unsafe?

MR. DZAKOVIC: There's a bigger deterrent now than there was before September 11th.

MR. HAMILTON: You believe the system today is unsafe?

MR. DZAKOVIC: Yes.

MR. HAMILTON: You recommend to improve it, to kind of repeat what the chairman said, profiling?

MR. DZAKOVIC: Risk assessment.

MR. HAMILTON: Risk assessment. Better detection devices, which will take time to bring on screen, I suppose?

MR. DZAKOVIC: The equipment they have now isn't bad equipment, but it's not being used right.

MR. HAMILTON: So the solution to that is better training of the people?

MR. DZAKOVIC: Better training, but also deploying the machines in a better manner. But I would rather not get into the specifics on that right now.

MR. HAMILTON: And what else would you recommend?

MR. DZAKOVIC: Better training. I mean, there's pros and cons with pilots being armed, but the hazard with that is pilots need to know that their authority is completely limited to their cabin, or rather the cockpit of the airplane, that they are not, no matter what goes on behind me or in the cabin, that their main job is to get the plane on the ground as quickly as possible, and then disable the plane once it gets on the ground. And I am not sure those procedures have been ingrained in the pilots. But that's essentially it.

MR. HAMILTON: Are there any systems around the world that you consider safe?

MR. DZAKOVIC: Any airline?

MR. HAMILTON: Yeah.

MR. DZAKOVIC: Not really. I mean, I've been to some airports that are better than others.

MR. HAMILTON: What's the best one?

MR. DZAKOVIC: Amsterdam. And the reason Amsterdam did so well, is the law enforcement authorities there take direct and personal interest in every aspect of security. If they see a screener, for for example, having a problem with a passenger, they will automatically get involved and resolve the situation themselves. It's done in a very professional manner. It's not intimidating. But that is by far the best place I witnessed as a red team member.

MR. HAMILTON: Thank you.

MR. KEAN: Commissioner Gorelick.

MS. GORELICK: I'd like to follow up on some questions that Senator Gorton asked earlier. He pointed out that we are not that bad on following up on the last problem, on trying to solve the last problem. And as I appreciate your testimony and Jane Garvey's testimony, the FAA security operation relied pretty heavily on these red teams. And as I understand your testimony,

the red team's job under statute was to determine the effectiveness and the vulnerabilities of the systems.

Now, the red teams contest known vulnerabilities, like screening, or are doors closed, go through a list and just probe the list of known vulnerabilities. But it seems to me the best test, the best and most effective uses of a red team are testing unknown vulnerabilities. Now, to do that you have to have intelligence or imagination. You have to have some ability to creatively assess what your enemies might be doing, so you can essentially put yourself in their shoes. You can read novels -- not a bad way actually to imagine what your enemies might be thinking. Or, instead of waiting for the intelligence community to feed you a list of items that Congressman Roemer read, you on the red team, or you in security, can pulse the system and say, What have you got out there that we ought to be thinking about? And my question to you is did you on the red team, or did anyone in the FAA security operation, affirmatively go to the intelligence community and say, Let us imagine what the next threat might be -- what might that be?

MR. DZAKOVIC: No. And the reason for that is, aviation security under the whole guise of the homeland security responsibility, aviation security is probably the easiest system out of all this to protect. You don't have to go into using all kind of imagination to figure out how to beat the system. There are basically two threats against aviation, and that's a hijacking or a bombing, and all you have to do is focus on those two issues: how to minimize a hijacking and how to minimize a bombing. There's other issues, like a rocket.

MS. GORELICK: It does seem to me you would defend -- and we have heard that you would defend against a hijacking that is not designed to land the plane safely and get some ransom or some other action differently than you would defend against a hijacking designed to fly a plane into a building and kill the hijackers and everyone else. We have seen that the defensive measures would indeed be different. So if you were to imagine the latter situation as opposed to the former, you might probe the system differently, wouldn't you?

MR. DZAKOVIC: Well, there really, from a security point of view there is no difference between defending against a hijacker that wants to do a September 11th thing or a hijacker who wants to go to Miami. The key word is you are defending against a hijacking, and you worry about his motivations later.

Now, there are other in-flight procedures that they can use regarding that type of stuff. But as far as keeping a hijacker off a plane and keeping the weapons off a plane, there's no difference between how you handle either situation.

MS. GORELICK: That's if you define defending it as keeping the weapons off the plane. There are other lines of defense if you failed in that first one, which you would put in place, like barring the doors and having redundant systems for alerting that a hijacking was taking place, that you might implement if you thought that the threat was different. And I'm asking whether anyone in the FAA security chain tried to imagine a different scenario than the one we have previously faced.

MR. DZAKOVIC: Not that I am aware of. But I still say from a purely security point of view, whether a person is hijacking a plane, you know, some nutcase that wants to go to Miami or Las Vegas, there is no difference between providing security to deter that person as opposed to providing security against professional terrorists who want to crash a plane into a building. The key word is the basic procedures are the same. You can have heightened procedures, but the basic procedures are the same as far as deterring either one of those type of hijackings. There are only two threats: hijackings or bombings.

MS. GORELICK: I think as a baseline that might be correct. I don't agree that there's nothing further that you can do once you imagine the threat differently than it has been imagined in the past.

MR. HAMILTON: Do you fly?

MR. DZAKOVIC: Not anymore.

MR. HAMILTON: You never get on an airplane?

MR. DZAKOVIC: Actually I was grounded professionally on September 11th, and I haven't flown anywhere since then.

MR. HAMILTON: Because you're afraid?

MR. DZAKOVIC: Well, I'm not flying professionally, and for personal reasons I almost went overseas but then I decided against it because of the war. But what I do know is that if a terrorist wants to -- they are sophisticated enough to figure out how to get through the systems that we have now.

MR. KEAN: Congressman Roemer?

MR. ROEMER: You described the new red team in a pretty derogatory fashion there. In a serious vein, what are they not doing that they should be doing?

MR. DZAKOVIC: I received as a response to my whistleblower complaint, the Transportation Security Agency provided a letter to the Office of Special Counsel that they let me read, and the OSC asked them to demonstrate how they have changed the red team. For one thing they are not using the same type of opaque objects for example that the TV news media is using. They are using real weapons, which is a plus, but like I said, a terrorist is not going to put a handgun or something worse --

MR. ROEMER: So your argument then is that the standards and the difficulty has digressed since what you were able to achieve in terms of testing the systems today?

MR. DZAKOVIC: In some respects. But the other part of it is they are not even testing certain areas that they should be testing. And one of them is the -- according to this letter -- the explosive detection systems. And we identified in the red team massive problems in this current generation of machines, and under the best of circumstances, with very few bags going through the machines and the machines in ideal situations, they only detected about one third of our devices. And now they are using those same machines in the worst possible condition, at least at some airports. And I would wager a paycheck that they could get close to a zero percent success rate on finding explosives the way some of these are deployed.

MR. ROEMER: On page four of your testimony you talk about in 1998 the red team did extensive testing of screening checkpoints, and then an FAA field office conducted screening of different airports. How did you finally assess the safety of the airport? Was it based on the red team's penetration? The FAA field office penetration? Combination score? Median score? How was that done, and how is that being done today?

MR. DZAKOVIC: Which paragraph are you referring to?

MR. ROEMER: I'm referring to in your prepared statement page four, point number four: "In 1998, the red team completed extensive testing of screening checkpoints at a number of domestic airports. Basically our test results were the inverse of the

results FAA field offices achieved. In one case we had documented an airport detection rate of about three percent."

MR. DZAKOVIC: Right. I'm sorry, can you repeat your question then?

MR. ROEMER: Well, my question is then during your time on the red team, how did the FAA finally announce the success rate of the screening rate at that particular airport? Was it your score at the red team, three percent or 10 percent? Was it the FAA field office score of 90 percent? Was it a combination of those two? And then how are they doing that? How are they determining that kind of penetration rate today, if you know?

MR. DZAKOVIC: There was a big division of labor between how the red team operated and how our FAA field offices operated. Someone else will have to define exactly what "cover-up" means, but in my opinion they covered up our results, did nothing with it. This is back in '98.

MR. ROEMER: That's a strong term, and we asked that question to one of the preceding panels, and the inspector general said it wasn't a cover-up. In fact, he argues that it was difficulty in implementing some of your recommendations, or a failure to implement those. How would you respond to that? Do you say they didn't even try to do it, or they did not announce the results of your screening and results?

MR. DZAKOVIC: They pretty much kept our testing secret. However --

MR. ROEMER: You disagree with the inspector general's definition of "cover-up" --

MR. DZAKOVIC: Yes.

MR. ROEMER: -- versus effective implementation of your recommendations?

MR. DZAKOVIC: Yes. Not only that, but when the IG finished their investigation in the whistle-blower complaint, under law I was allowed to respond to their investigation. And one of the things I stated to the OSC is that the IG did not do a poor investigation; that they falsified their investigation into my whistle-blower complaint. The reason is that they did not include any of my documentation. They did not include any derogatory statements from my witnesses. They basically came up with a

fairly lame investigation into my whistle-blower complaint. The OSC then kicked it back to the IG to have them re-do certain issues, and this kind of went on back and forth for a while. But this is one example that politics and image takes precedence over reality when it comes to aviation security. And that's the whole history of FAA-regulated security.

MR. ROEMER: Finally, Mr. Chairman, how many red teams do we currently have out there working today?

MR. DZAKOVIC: I think there's quite a few of them, but again, I would use the term "red team" rather loosely. But when I was there in the red team we only had one red team that only had from two to six people on a team.

MR. ROEMER: The whole country?

MR. DZAKOVIC: Yes.

MR. ROEMER: Thank you, Mr. Chairman.

MR. LEHMAN: Just a quick follow-up. Do you ascribe this cover-up or willful ignoring of the results of the red teams to clientitis? To pressure from the industry, or to pure bureaucratic inertia, or to something else?

MR. DZAKOVIC: I think it's a combination of a number of factors. One is the pressure from the airline industry. The other is blatant incompetence on the part of many of the managers. But also keep in mind what a red team does. Basically all we do is dig up dirt or negative information and you don't get ahead in a career in the federal government by constantly bringing up dirt. So their reaction was to try to minimize that as much as possible. And I think that's what's happening now with the current red team, is they are being minimized far short of what they should be doing. And if they really wanted to do it right, I think you would have to have a red team that is totally independent of TSA to actually be doing what they should be doing.

MR. KEAN: If there are no further question, Mr. Dzakovic, thank you very, very much for your time and for your appearance. Congressman Hamilton and I will be available for a brief press availability I gather right outside those doors, I am told. I would ask the Commission members if we could have a brief meeting in about 20 minutes back in back of us that shouldn't last too long I hope.

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