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NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

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First public hearing of the National Commission on Terrorist Attacks Upon the United States

Statement of Michael A. Wermuth to the National Commission on Terrorist Attacks Upon the United States April 1, 2003

Mr. Chairman, Mr. Vice Chair, distinguished Members of the Commission, thank you for giving me the opportunity to come before you today to discuss "Key Issues for the Commission: Law Enforcement, Domestic Intelligence, and Homeland Security."

I will frame my remarks primarily in the context of my work with the Congressionally-mandated Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction. My remarks are, however, also informed by other research work that I have done and am currently doing at RAND.

The Advisory Panel was established by Section

Current News

The Commission has released its final report. [\[more\]](#)

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Commission Members

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Vice Chair

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

The panel shall--

1. assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;
2. assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;
3. assess deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;
4. assess the appropriate roles of State and local government in funding effective local response capabilities.

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

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

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Advisory Panel Composition

Mr. Chairman and Members, please allow me to pay special tribute to the men and women who serve on that panel.

This Advisory Panel is unique in one very important way. It is not the typical national "blue ribbon" panel, which in most cases historically have been composed almost exclusively of what I will refer to as "Washington Insiders"-people who have spent most of their professional careers inside the Beltway. This panel has a sprinkling of that kind of experience- a former Member of Congress and Secretary of the Army, a former State Department Ambassador-at-Large for Counterterrorism, a former senior executive from the CIA and the FBI, a former senior member of the Intelligence Community, the former head of a national academy on health and medicine, two retired flag-rank military officers, a former senior executive in a non-governmental charitable organization, and the head of a national law enforcement foundation. But what truly makes this panel special and, therefore, causes its pronouncement to carry significantly more weight, is the contribution from the members of the panel from the rest of the country:

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

- And, of course-in the person of the Chairman-a former State governor

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

Those attacks continue to carry much poignancy for us, because of the direct loss to the panel. Ray Downey, Department Deputy Chief and chief-in-charge of Special Operations Command, Fire Department of the City of New York, perished in the attack on the New York World Trade Center.

Observations about Terrorism Preparedness

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

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

attacks were further proof of that basic assumption.

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

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

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

Our thorough research and deliberations have also led us to observe that there is great apprehension among States and localities that some Federal entity will attempt to come in and take charge of all activities and displace local response efforts and expertise. That was not and likely could not, because of the actual circumstances in New York, have been the case in September of 2001. But all events may not unfold in that fashion.

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

Nexus of Law Enforcement and Intelligence

Mr. Chairman and Members, from the very beginning of its deliberations, the Advisory Panel has recognized the importance of intelligence collection, analysis, and appropriate dissemination in the fight against terrorism. And while intelligence is very important to effective law enforcement, especially for interdiction purposes, it is also important to recognize that there are other response entities at the Federal, State, and local levels, and now-as is becoming increasingly clear-with certain entities in the private sector that may require access to intelligence products.

Related First Report Recommendations

In its first report, issued in December of 1999- after being in existence for only about six months-the Advisory Panel said: State and local officials express the need for more 'intelligence,' and for better information sharing among entities at all levels on potential terrorist threats. While the Panel is acutely aware of the need to protect classified national security information, and the sources and methods by which it may have been obtained, the Panel believes that more can and must be done to provide timely information-up, down, and laterally, at all levels of government-to those who need the information to provide effective deterrence, interdiction, protection, or response to potential threats. This may entail granting security clearances to additional officials at the state and local level.

Related Second Report Recommendations

In its second report to the President and the Congress-issued in December 2000- the Advisory Panel began to make specific recommendations in connection with the need to improve intelligence and information sharing processes.

Noting the connection between terrorism

originating outside the United States and terrorist acts perpetrated inside the United States, the Advisory Panel stressed the need for lawful, timely collection and analysis of intelligence on foreign terrorist plots, outside and inside our borders. Acknowledging that some improvements had been made, the Advisory Panel made several comprehensive recommendations.

Improve Human Intelligence (HUMINT)

In that 2000 report, the panel noted that reliance on sophisticated "National Technical Means" or other high-technology systems is not always sufficient to provide the necessary and timely "indication and warning" to forestall or to defend against a terrorist attack. It said that certain procedures, well intentioned when implemented, were hampering the nation's ability to collect the most useful intelligence and recommended

the rescission of that portion of the 1995 guidelines, promulgated by the Director of Central Intelligence, which prohibits the engagement of certain foreign intelligence informants who may have previously been involved in human rights violations.

The panel argued, at that time, for a return to the restrictions in place prior to the 1995 guidelines, which afforded sufficient protections, oversight, and an approval mechanism that will prevent abuse.

Improve Measurement and Signature Intelligence (MASINT)

Noting that, as the potential grows for terrorists to use more unconventional and sophisticated weapons, our capability to detect such agents urgently requires new technology to provide needed capability the Advisory Panel recommended:

An expansion and improvement in research, development, test, and evaluation (RDT&E) of reliable sensors and rapid readout capability, and the subsequent fielding of a new generation of MASINT technology based on enhanced RDT&E efforts.

Our goal for sensors and rapid readout technology for chemical and biological agents should be no less than our current capability for nuclear and radiological agents.

Review Statutory and Regulatory Authorities

Noting the importance of protecting civil liberties, the Advisory Panel recommend in 2000 a thorough review, by a panel of Department of Justice (DOJ) officials and knowledgeable citizens outside the Federal government, of the terrorism portion of the U.S. Attorney General's "Domestic Guidelines." The panel concluded that the guidelines were "adequate in scope but have been rendered confusing and ambiguous by successive redrafting over the years, leading to misunderstanding and uneven application among law enforcement agents." The panel did not suggest that the guidelines be rescinded or that the underlying requirement for them is not sound. It said:

We recommend that the panel review the domestic guidelines for clarity, in the interests of strengthening them, while providing for the protection of civil rights and liberties. We also recommend that the guidelines provide examples of permissible and impermissible activity as further information for agents' decisions.

The Advisory Panel went on to note that the procedures of the Office of Intelligence Policy and Review (OIPR) in the Department of Justice, required as a prerequisite to presenting a matter to the special Foreign Intelligence

Surveillance Court established under the Foreign Intelligence Surveillance Act, require far more justification than the Act does. As a result, the panel recommended that the Attorney General direct OIPR to modify its procedures to conform to the FISA statutory requirements.

Improve Forensics Capabilities to Identify Terrorist Unconventional Weapons

In that same 2000 report, the panel also called for improved forensic capabilities to detect and identify conventional weapons, including high-explosive devices and associated mechanisms, as well as sophisticated techniques for identifying perpetrators, by recommending "enhanced research and development in forensics technology and analysis and the implementation of a national Indications and Warning System for the rapid dissemination of information developed by enhanced forensics."

Expand Information Sharing and Improve Threat Assessments

While noting that several agencies had made strides in enhancing information sharing-notable examples including efforts by the FBI to implement fully its Joint Terrorism Task Force (JTTF) program and to provide information on combating terrorism to response entities through its web-based system, Law Enforcement Online ("LEO")-the panel called for even more comprehensive dissemination systems to provide information through expanded law enforcement channels, and through regional Federal Emergency Management Agency (FEMA) offices into State emergency management channels, for further dissemination to local response entities. It specifically recommended a system for providing some form of security clearance to selected State and local officials nationwide, and methods for disseminating classified information to those officials in near real time.

In noting the need for timely threat assessments, the panel argued for more internal analytic capability at the FBI, by recommending that the FBI consider implementing a "Reports Officer" or similar system, analogous to the process used by the Central Intelligence Agency, for tracking and analyzing terrorism indicators and warnings.

To promote the broadest dissemination of information to the largest audience of response entities, it also recommended the development of a protected, Internet-based, single-source web page system, linking appropriate combating terrorism information and databases across all applicable functional disciplines.

Intelligence Coordination and Analysis

In that December 2000 report, the Advisory Panel recommended the creation in the White House of a National Office for Combating Terrorism, similar to what later became the Office of Homeland Security. In detailing the duties of that Office, the panel said that it should, among other things, provide coordination and advocacy for both foreign and domestic terrorism-related intelligence activities, including the development of national net assessments of terrorist threats.

The panel once again argued that a critical task of that Office would be to develop, in concert with the Intelligence Community, policies and plans for the dissemination of intelligence and other pertinent information on terrorist threats to designated entities at all levels of government-local, State, and Federal.

In that report, the panel recommended that an assistant director for intelligence be established in that White House office to direct the intelligence function for combating terrorism, and that that person be "dual-hatted" as the National Intelligence Officer (NIO) for

Combating Terrorism at the National Intelligence Council.

At that time, the panel reasoned that that person and supporting staff would be responsible for compiling terrorism intelligence products from the various agencies, for providing national-level threat assessments for inclusion in the national strategy, and for producing composite or "fused" products for dissemination to designated Federal, State, and local entities, as appropriate; and that he should be delegated, by Executive Order or in enabling legislation, tasking authority for terrorism-related intelligence collection and analysis. The panel went on to say:

It is, in our view, important to have a senior-level position created for this purpose, and we recommend that the person initially chosen to fill the position be a current or former agent of the Federal Bureau of Investigation. That position can then be filled in rotation by appropriately qualified persons from law enforcement and the Intelligence Community.

To assist in this intelligence function, the panel further recommended the establishment of a "Council to Coordinate Intelligence for Combating Terrorism," to provide strategic direction for intelligence collection and analysis, as well as a clearance mechanism for product dissemination and other related activities.

The panel said that that entity should consist of the heads of the various Intelligence Community entities and State and local representatives who have been granted appropriate security clearance, and that the Director of the Federal Bureau of Investigation and the Director of Central Intelligence should chair it in annual rotation.

Related Third Report Recommendations

In its third report, released December 2001-the recommendations for which were approved two weeks to the day before the September 11th attacks, and which were subsequently reaffirmed in the weeks following-the panel continued to stress the importance of improved intelligence processes.

Sharing Intelligence

As part of its third report, the Advisory Panel commissioned a survey of more than 1000 State and local responders across the country. All State and local organizations surveyed strongly indicated that the Federal government should provide threat and risk assessment information and that the Federal government should provide intelligence about terrorist activities. As part of its continuing emphasis on the subject, the panel again recommended that agencies of the Federal government increase and accelerate the sharing of terrorism-related threat assessments and intelligence with appropriate State and local officials and response organizations.

At that time, the panel noted that recent steps taken by the Attorney General to develop protocols for sharing more information developed at the Federal level with States and localities, provisions in the USA PATRIOT Act of 2001, and related initiatives pending in the Congress, could significantly enhance preparedness and response. It said, however, that the "challenge will be to put protocols effectively into practice." Indeed, that has proven to be the case. The panel also stressed again the critical importance of procedures for sharing appropriate information with non-law enforcement entities. State and local response agencies must be equal and fully informed partners in the national effort to identify potential incidents and to respond effectively when they occur. For example, when a possible

biological threat is identified, sharing information with public health entities will facilitate targeted disease surveillance, resulting in more rapid identification and treatment of potential victims.

Improving Intelligence Collection and Analysis for Border Enforcement

In that 2001 report, in a chapter on enhancing border controls and enforcement, the panel emphasized that relevant, timely intelligence is crucial in the campaign to combat terrorism, especially for immigration control and border security. It recommended that the Office of Homeland Security ensure that all agencies with border responsibilities are included as full partners in the intelligence collection, analysis, and dissemination process, as related to border issues.

Hopefully, the creation of the Department of Homeland Security will now go a long way toward accomplishing that purpose.

Related Fourth Report Recommendations

Mr. Chairman and Members, please let me now address, in some detail the conclusions and recommendations, directly related to the issues addressed today, contained in the Advisory Panel's most recent report, submitted to the President and the Congress this past December 15.

Dealing with the Terrorists Among Us

In that report, the panel concluded that it is clear from contemporaneous reports and recent arrests that potential terrorists, perhaps in large numbers, are inside the United States. Many of them may have received training in foreign camps. Indeed, some arrested in recent months have acknowledged going through such training. Others may seek to carry out more attacks

against U.S. citizens and property.

The panel determined that this new aspect of the terrorist threat requires a new approach in two key areas:

- The need for a focused and comprehensive analysis of threats of potential attacks inside the United States; and
- The need to address the gaps in collecting intelligence on foreign terrorists threats inside this country

The panel argued that the U.S. government's organization last December "reflects an artificial distinction between 'foreign' and 'domestic' terrorist threats." The new threat environment, where those distinctions are increasingly blurred, requires a more robust and focused approach to all aspects of intelligence-collection, analysis, and dissemination-whether it is collected at home or abroad.

The CIA, FBI, other members of the Intelligence Community, and the proposed Department of Homeland Security (DHS) will all have roles for intelligence-related functions. DHS will have responsibility only for vulnerability assessments for critical infrastructure protection, as well as for providing nationwide alerts. As things now stand, the FBI and CIA will each continue to have its own domain for terrorism intelligence with only marginal direct coordination between those entities, and no direct, formal relationship with the proposed DHS. Yet, such large, multi-mission agencies as the FBI and the CIA are incapable of changing direction quickly enough, and should not be tasked further, to respond to current dangers. There is a risk of duplication, overlap, and bureaucratic "stovepiping" in this vital area. For those reasons, the panel concluded that a consolidation of certain activities is required. It recommended that the President direct the establishment of a National Counter Terrorism Center (NCTC).

The panel argued that the entity should be a "stand-alone" organization outside of the FBI, CIA, or the DHS; that its objective is to consolidate in one entity the analysis of foreign-collected and domestically-collected intelligence and information on international terrorists and terrorist organizations threatening attacks against the United States. The panel said that this could be accomplished by permanently transferring (not "detailing") analysts currently performing those functions within the CIA (i.e., the core analytic capability within the CIA's Counter Terrorism Center), the FBI (the newly-expanded analytical section), other appropriate members of the Intelligence Community, representation from DHS (when formed), and supplementing with new hires as necessary.

Mr. Chairman, let me stress at this point that the panel's deliberations on intelligence functions were extensive and frequently pointed. It is for that reason that I ask the Commission's indulgence in allowing me to include significant detail on the panel's conclusions and justifications for its recommendations.

The panel said that NCTC should be an Independent Agency of the Federal Executive Branch, similar to the standing of the Environmental Protection Agency, FEMA, or the General Services Administration; that the new entity should be a full member of the U.S. Intelligence Community; and that the agency head should be appointed by the President with the advice and consent of the U.S. Senate.

The panel recommended that the NCTC be responsible for the fusion of intelligence-from all sources, foreign and domestic-on potential terrorist attacks inside the United States. It would be responsible for the production and dissemination of analytical products to all appropriate "customers," including the Departments of Justice, Homeland Security,

State, Health and Human Services, Agriculture, and Defense, and in coordination with those agencies, to designated and cleared officials in States, localities, and the private sector. It would have the authority to levy direct intelligence requirements on the Intelligence Community for the collection of intelligence on potential threats inside the United States. (See further discussion on collection below.)

The panel said that the NCTC should be the entity that manages the "Collaborative Classified Enterprise" outlined in the National Strategy for Homeland Security, which links Federal, State, and local efforts in analyzing the activities of persons who have links to foreign states or to foreign terrorist organizations; and that the intelligence and information sharing functions currently being developed through the U.S. Attorney Antiterrorism Task Forces and slated to move to the proposed DHS should instead be imbedded in the NCTC.

The panel noted that it is clear that the Federal government is far from perfecting a system of sharing national security intelligence and other information, developed at the Federal level, with States, localities, and certain segments of the private sector. While important progress has been made, the flow of intelligence and information is still not completely a "two-way street." The prevailing view continues to be that the "Feds" like to receive information but are reluctant to share completely. Not all officials at every level of government need to be cleared for classified information. But the panel once again argued that the Federal government must do a better job of designating "trusted agents" at the State and local level and in the private sector and move forward with clearing those trusted agents-at Federal expense. This should not be a case of the Federal government allowing those agents access and then giving them the "privilege" of paying for it. This is a national requirement-not Federal on the one hand, and States, localities and the private

sector on the other.

The announcement by the President in his State of the Union Address in January of the establishment of the Terrorist Threat Integration Center (TTIC), under the direction of the Director of Central Intelligence, is at least a step in the right direction of fulfilling many of these goals. Nevertheless, there are many unanswered questions about how the TTIC will be structured and how its processes will be implemented, including among others "tasking authority" to the TTIC; its relationships with the Department of Homeland Security; the "products" that it will produce and the plans for dissemination of those products; and the role of States and localities, as well as the private sector, in TTIC activities. State and local entities, as well as key segments of the private sector, currently develop important intelligence and related information on potential terrorist threats to the homeland. No comprehensive system currently exists for consolidating all of that information into coherent threat analyses. To accomplish these functions and to establish other important coordination with States, localities, and the private sector, the panel said that the NCTC staff should include significant representation from each of those segments. The panel envisions the NCTC hiring personnel with related experience at the State and local level and in the private sector, either on a permanent or rotational basis or a combination of the two. In addition, functions for developing guidance and for improving procedures should be informed by an advisory council consisting of senior officials from States (governors, State emergency managers, State police, State public health) localities (mayors, city managers, law enforcement, emergency managers, fire services, emergency medical technicians, and other local responders), and appropriate private sector entities (especially representatives from critical infrastructures). Moreover, formal operational relationships should be established with States and localities that have created

structures and processes with similar missions that can be used as models for other areas of the country. Examples include the California Terrorism Information Center (CATIC), the Los Angeles Operational Area Terrorism Early Warning Group, and similar efforts in New York City.

In the final analysis, the Advisory Panel was unanimous in its recommendations for the creation of the NCTC and the delineation of its fusion functions.

Improving the Collection Function

In perhaps its most controversial proposal to date, the panel recommended last December that the collection of intelligence and other information on international terrorist activities inside the United States, including the authorities, responsibilities and safeguards under the Foreign Intelligence Surveillance Act (FISA), which are currently in the FBI, be transferred to the NCTC.

It proposed that this collection function would be functionally separate from, but physically co-located with, the analytical fusion component. The panel made this recommendation for two reasons. First, while the FBI remains the world's preeminent law enforcement agency, there is a big difference between dealing with a terrorist act as a crime to be punished and dealing with it as an attack to be prevented. The panel commended the FBI leadership for its efforts to make these changes. But it said that, given the Bureau's long standing tradition and organizational culture persuade us that, even with the best of intentions, the FBI cannot soon be made over into an organization dedicated to detecting and preventing attacks rather than one dedicated to punishing them.

Second, the panel concluded that, even if the FBI could be remade, it believes that it is

important to separate the intelligence collection function from the law enforcement function to avoid the impression that the U.S. is establishing a kind of "secret police."

The panel suggested that the collection component of the NCTC should be based on the concept of the Foreign Terrorist Tracking Task Force created by the Attorney General in the fall of 2002-multiple agency representation and robust technological capabilities-but with authority to collect intelligence and information within the United States. It would be authorized to collect intelligence only on international terrorism threats. It could not lawfully collect any other intelligence. Counter terrorism intelligence collection outside the United States would continue to be accomplished by the CIA, NSA, and other foreign IC components.

The panel said that the NCTC should have no "sanction" authority. It would not have arrest powers-that authority will continue to rest with the FBI, other Federal law enforcement agencies, and State and local law enforcement. The NCTC would have no authority to engage in deportations or other actions with respect to immigration issues, to seize the assets of foreign terrorists or their supporters, or to conduct any other punitive activities against persons suspected of being terrorists or supporters of terrorism. The NCTC will provide information that can be "actionable" to those agencies that do have the authority to take action. A challenge will arise on those occasions when the NCTC will need to pass intelligence "cueing" to law enforcement agencies for the purpose of constituting an arrest. But the challenge will be fundamentally no greater than it is today when existing U.S. intelligence agencies "cue" Federal law enforcements agencies for such purposes.

In the panel's view, this new collection component of the NCTC would operate under significant judicial, policy, and administrative

restraints. It would be subject to the requirements of FISA and the Attorney General's Guidelines for terrorism investigations. This component would be required to seek legal authority from the Foreign Intelligence Surveillance Court (FISC) for intrusive (surveillance or search) activities. Moreover, the NCTC would not require any expansion of the authority under FISA or the conditions and strictures that apply thereto, or additional authority beyond that contained in the USA PATRIOT Act. The FBI would continue to have responsibility for purely domestic terrorist organizations and for non-terrorism related organized crime. Title III wiretap responsibilities would remain with the FBI for criminal activities.

To ensure that the NCTC remained within these guidelines, the panel recommended the creation of a Policy and Program Steering Committee for the new office in the White House, consisting of the new agency's director, the Director of Central Intelligence, the Attorney General, and the new Secretary of DHS (when appointed and confirmed). To facilitate oversight of the collection activities, the functions of the Office of Intelligence and Policy Review currently in the DOJ would move to the new NCTC to staff this steering committee, to assist in ensuring that the entity adheres to all relevant constitutional, statutory, regulatory, and policy requirements, and to assist in coordinating the activities of the new entity with the FBI, and other law enforcement agencies.

In addition, the panel argued that, through this mechanism, there could be more focused and effective Congressional oversight of the domestic collection and analysis functions. Currently, the oversight of the FBI's FISA and other domestic intelligence activities is split between the Judiciary and Intelligence committees in each House of Congress. Creation of the NCTC would clearly place the primary responsibility for oversight of that agency under the Senate Select Committee on Intelligence

and the House Permanent Select Committee on Intelligence. Such a structure and improved oversight would likely provide an even better mechanism for protecting civil liberties than do current structure and processes.

The panel also recognized that other agencies might continue to require some limited analytical capability. It said that the NCTC should be responsible for strategic level intelligence analysis and for creating intelligence products that will inform operational decisions. Individual agencies, such as the FBI and the new DHS when formed, may need some internal analytical capability to take NCTC product and convert it from the operational level into tactical, actionable intelligence. It will be necessary, however, to ensure that other agencies do not seek to duplicate the NCTC intelligence analytical fusion function, as has been the case in certain other historical contexts within the Intelligence Community. The President must ensure that the NCTC is the primary fusion center for all domestic intelligence. It must not be allowed to become a "coordinator of coordinators."

The panel is was aware of proposals similar to its recommendation for the NCTC that are being made by U.S. Senators John Edwards (NC) and Bob Graham (FL). The major distinction is that those proposals, while creating a separate collection entity, would leave that entity in the Department of Justice. For reasons stated above, however, the Advisory Panel believes that the new entity must stand alone and clearly separated from law enforcement.

Let me note at this point that this recommendation of the panel on the domestic intelligence functions was adopted with the dissent of only one panel member.

Many of the conclusions and recommendations, contained in this report and prior reports of the Advisory Panel, dealing with intelligence matters

are echoed in the recent report of the Joint Inquiry into the Attacks of September 11, 2001, conducted by the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence. While stopping short of specifically recommending a new intelligence collection agency, the Joint Inquiry did recommend that the Congress require a report on:

- the FBI's progress since September 11, 2001 in implementing the reforms required to conduct an effective domestic intelligence program, including the measures recommended above;
- the experience of other democratic nations in organizing the conduct of domestic intelligence;
- the specific manner in which a new domestic intelligence service could be established in the United States, recognizing the need to enhance national security while fully protecting civil liberties; and
- their recommendations on how to best fulfill the nation's need for an effective domestic intelligence capability, including necessary legislation.

The Importance of Threat and Vulnerability Assessments

In its fourth report, the panel notes that the National Strategy for Homeland Security appropriately recognizes the requirement for both strategic and tactical analysis and vulnerability assessments and designates various lead or co-lead agencies for those functions. The proposed DHS is only responsible for disseminating "real time actionable" information to others. It apparently has sole responsibility only for vulnerability assessments for critical infrastructure protection. There is no indication that strategic assessments of threats inside the U.S. will receive dissemination to State and local agencies. It recommended,

therefore, that the President direct that the NCTC produce continuing, comprehensive "strategic" assessments of threats inside the United States, to be provided to policymakers at all levels, to help ensure appropriate planning and allocation of preparedness and response resources.

The Role of the Department of Homeland Security in Intelligence Functions

It appears that the new DHS will have no authority for intelligence collection, limited capability for intelligence analysis, and significant responsibility for threat warnings. Certain capabilities will be important not only for the DHS specified missions but also for the DHS role in any interagency mechanism for intelligence processes, including the new Terrorist Threat Integration Center. As a result, the panel recommended that the Congress and the President ensure that the DHS has the authority to levy direct intelligence requirements on the Intelligence Community for the collection or additional analysis of intelligence of potential threats inside the United States to aid in the execution of its specific responsibilities in the area of critical infrastructure protection vulnerability assessments; and that the Congress and the President ensure that the DHS has robust capability for combining threat information generated by the Intelligence Community [including now the TTIC] with vulnerability information the Department generates in cooperation with the private sector to provide comprehensive and continuing assessments on potential risks to U.S. critical infrastructure.

Conclusion

Mr. Chairman, Mr. Vice Chair, distinguished Members, once again thank you for the opportunity to appear before you. You have a challenging task before you, and best wishes to

you in that endeavor. If RAND, in any of its components, or the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction can assist you in any way, please let us know.

Michael Wermuth is Senior Policy Analyst at RAND and Manager of Domestic Counterterrorism Programs in RAND's National Security Research Division. He directs numerous projects dealing with homeland security, including the congressionally-mandated Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (the "Gilmore Commission"); a policy study for using Department of Defense medical resources to assist civil authorities; a worldwide terrorism incident database and related analyses; a project for the development of a national research and development agenda for information infrastructure protection; and a project to catalogue and analyze the authorities, roles, missions, and programs of Federal agencies for response to and recovery from terrorist attacks.

Mr. Wermuth has an extensive background in government service. He has served as Deputy Assistant Secretary of Defense for Drug Enforcement Policy and as Principal Deputy Assistant Attorney General for Legislative Affairs. Mr. Wermuth served as Chief Counsel and Legislative Director for United States Senator Jeremiah Denton of Alabama, during the Senator's entire tenure in the U. S. Senate. Mr. Wermuth has also worked in the private sector as a consultant on issues involving various agencies of the U.S. Government, and has been involved in several joint venture enterprises. Before coming to the Nation's Capital, Mr. Wermuth was in the private practice of law in Mobile, Alabama, as a partner of the law firm of Wilkins, Druhan & Wermuth, a general practice firm that specialized in corporate matters.

Mr. Wermuth's military experience, including both active and reserve duty with the U. S. Army, spanned more than 30 years before his retirement as a Colonel in 1999. He commanded at the company, battalion, and group level, and is a graduate of the U.S. Army Command and General Staff College and the U. S. Army War College. His awards and decorations include the Legion of Merit, the Meritorious Service Medal, the Army Commendation Medal, the National Defense Service Medal, the Armed Forces Service Medal, the Army Achievement Medal, the Armed Forces Reserve Medal, the Army Reserve Components Achievement Medal, and the NATO Medal.

Mr. Wermuth is a recipient of the Secretary of Defense Award for Outstanding Public Service from Secretary Dick Cheney. He is listed in Who's Who in America and Who's Who in American Politics. He also serves on the American Bar Association Standing Committee on Law and National Security.

Mr. Wermuth received his Bachelor of Science in Commerce and Business Administration from the University of Alabama, and his Juris Doctor from the University of Alabama School of Law. He is admitted to the practice of law in Alabama and the District of Columbia, and before several U. S. Courts of Appeal and the Supreme Court of the United States.

National Commission on Terrorist Attacks Upon the United States
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