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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 Zoë Baird to the National Commission on Terrorist Attacks Upon the United States April 1, 2003

Good Morning, Mr. Chairman, Mr. Vice Chairman, members of the Commission, and your Executive Director. I appreciate the opportunity to testify today.

We each, in our small way, hope we can contribute something to honor the memories of the victims of the September 11 attacks. My heart goes out to their families. The most important thing the Commission can do in their memory is to conduct an informed, not polemic, discussion of the issues before you and to make recommendations that will empower our public officials to take the necessary steps to safeguard Americans against future attacks.

Current News

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

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The September 11 attacks exposed the need for changes to the intelligence structures and methods we use to protect our nation. While we knew of the threats terrorists posed, we did not fully comprehend their ability to carry out such attacks on American soil. In fact, we possessed the information that could have indicated the terrorists' plan prior to September 11. What we lacked was the system for processing and analyzing the information in a way that would have revealed their plot.

I would like to talk about how we might improve this. My remarks are based on the report of the Markle Foundation's Task Force on National Security in the Information Age, of which I was co-chairman with James Barksdale (and a copy of which I submit for the record). The Task Force was created to address the question of how best to mobilize information and intelligence to improve domestic security while protecting established liberties. To carry out our mission, we had the privilege of assembling on the Task Force a diverse and bipartisan group of experienced policymakers, CEOs from the information technology industry, and experts in privacy, intelligence, and national security.

It is well established that United States' intelligence gathering capabilities are severely hampered by the lack of information sharing between agencies and further weakened by the absence of an adequate system to analyze the intelligence they collect. There have been a number of reforms enacted since September 11 which are designed to bolster domestic security. While some of these reforms have produced promising results, most fail to overcome the underlying problems preventing data sharing and adequate analysis. A focus on connecting the stovepipes between agencies will not adequately improve our capabilities.

The solution will be one that uses the power of a disbursed national network, locating information with those who need it and governed by

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guidelines for access and use of information. We cannot rely on an out of date federal government-based mainframe approach. The federal government must build an operating system that can harness the distributed power of local, state and federal officials and analysts across the nation, as well as information obtained through our foreign intelligence capabilities. And we must adequately fund our states and target cities to build and tie into the system.

The vast majority of information regarding domestic security is found at the local level. After all, there are only 11,500 FBI agents nationwide, while there are more than 50 times as many state and local law enforcers - some 39,000 in New York City alone. In order for us to "connect the dots," real information sharing is needed between the national government and the ends of the system. That is why the information management challenge the country faces is organizational as much as technical.

Presidential leadership is needed to set the guidelines for the national information network to provide security while protecting essential liberties. Both security and privacy interests need to be pursued in a cohesive system. Plans for information sharing or designs of technology architecture cannot be developed without complete integration of guidelines on how privacy will be protected. These interests form one integrated system, and must be designed together and audited and overseen as one cohesive system. Instead of matching unguided power with unfocused oversight, there is a better approach that borrows from best practices in public and private management: tell officials what they can do, as well as setting limits on their power

Our report recommends that the Department of Homeland Security (DHS) should be the central hub for decisions about what domestic information needs to be collected and stored,

and about where and how the information should be analyzed. The DHS can also help develop guidelines for protecting the well-established liberties of our citizens when information is collected and used..

One of the most important organizational challenges for the President and Congress may be to sort out the respective roles of the DHS on the one hand, and the Department of Justice - specifically the FBI - on the other. Our Task Force's basic conception is that the Department of Justice and the FBI should continue to focus on their role as lead agencies for law enforcement, exercising the power to investigate crimes, charge people with crimes, and prepare cases for trial. The DHS, we believe, should be the lead agency for shaping domestic intelligence to inform policymakers. The orientation of a law enforcement agency is primarily reactive. Its purpose is to capture and prosecute criminals. Intelligence has much broader purposes than criminal investigation. Intelligence should be developed to inform policy makers, who can determine whether prosecution or other approaches are more appropriate, including further intelligence collection, diplomacy or other actions. The operational objectives are different. The training is different. And the rules about how to collect, retain and share information should be considered independently.

As I emphasized today, our country cannot afford to search for technical means to solve the security challenges we face without considering the policy and civil liberties implications of those systems. However, our Task Force found that contrary to conventional wisdom, enhancing security does not require the curtailing of civil liberties. In fact we found that enhancing security with privacy is an essential and achievable goal of America's domestic security efforts.

I urge you to examine the networked, national

strategy that is built around organizations that bring together people, not just their data and their computers. The technology exists to create a national infrastructure that is aware, robust and resilient to the many challenges we now face. It would be able to "learn" from itself, steer participants to non-obvious conclusions, and integrate information to reveal unanticipated threats.

Information will be the key to our future security. We cannot possibly harden all the targets. This Commission will make a substantial contribution to America's future security if you encourage the design, funding and adoption of a national network that empowers people at the ends of the system within a framework of guidelines that protect our liberties.

Thank you.

Zoë Baird is president of the Markle Foundation, a private philanthropy that focuses on using information and communications technologies to address critical public needs.

Under Ms. Baird, Markle operates projects developed to use information technologies to: improve health care; include developing countries in the benefits of the networked world; address key policy issues such as those that preserve innovation on the Internet, and improve national security. Markle's current partners include AOL-Time Warner, Sun Microsystems, Hewlett-Packard, Cisco Systems, Voxiva LLC, the Center for Strategic and International Studies, the Brookings Institution, Council on Foreign Relations, Brigham & Women's Hospital, Children's Hospital Boston, and the governments of the G-8 countries and several developing countries.

Ms. Baird's career spans business, government and academia. She has been, senior vice president and general counsel of Aetna, Inc., a

senior visiting scholar at Yale Law School, counselor and staff executive at General Electric, and a partner in the law firm of O'Melveny & Myers. She was also associate counsel to President Jimmy Carter and attorney in the Office of Legal Counsel of the U.S. Department of Justice. Ms. Baird serves on the Technology Policy Advisory Committee to Secretary of Defense Rumsfeld and has been an advisor to the Department of Defense defense transformation effort in the Bush Administration. She served on the President's Foreign Intelligence Advisory Board and on the International Competition Policy Advisory Committee to the Attorney General during the Clinton Administration. Ms. Baird was President Clinton's initial nominee for Attorney General of the United States.

Ms. Baird founded and chairs Lawyers for Children America, which is concerned with the impact of violence on children. She is a member of the Council on Foreign Relations, the American Law Institute, and serves on the boards of the Chubb Corporation, Save the Children, the James A. Baker III Institute for Public Policy, the Mexican American Legal Defense and Education Fund, The Brookings Institution, the New York Stock Exchange legal advisory committee on corporate governance, and the Institute for State Studies at Western Governors University, among others. Previously, Ms. Baird served on the boards of Southern New England Telecommunications Company and Zurn Industries.

Ms. Baird holds a law degree from the University of California at Berkeley's Boalt School of Law, and an undergraduate degree from Berkeley with majors in communications and public policy, and political science. She is married and has two sons.

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