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NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

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

Statement of John J. Hamre to the National Commission on Terrorist Attacks Upon The United States December 8, 2003

Security and Liberty: Government Organization And Domestic Intelligence

Chairman Kean, Vice Chairman Hamilton, distinguished members of the National Commission, it is an honor for me to appear before you today to discuss how our government is organized to deal with the important question of domestic surveillance and intelligence.

At the outset, let me thank you as one citizen for your service on this important commission. I understand the great importance of your work. The Nation has entrusted to you the critical task

Current News

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

The Chair and Vice Chair have released a statement regarding the Commission's closing. [\[more\]](#)

The Commission closed August 21, 2004. [\[more\]](#)

Commission Members

Thomas H. Kean
Chair

Lee H. Hamilton
Vice Chair

of determining what lessons we should learn from the tragic events of September 11, 2001 for purposes of preventing catastrophic terrorism in the future. I am grateful that you are willing to take on this critical mission for all of us citizens.

I am hardly an expert in domestic intelligence. I spent 25 years in government service, but almost exclusively in the area of national security as it relates to the Department of Defense. During my last three years as deputy secretary of defense, I had the privilege of working with counterparts in the Department of Justice and the Federal Bureau of Investigation, as well as the intelligence community. In that capacity, I did have several interactions with these organizations while dealing with espionage cases and with some counter-intelligence/counter-espionage efforts of the Federal Government.

Since my departure from government employment, however, I have had the privilege of continuing my association with several of these organizations. I serve on the advisory boards to the National Security Agency, the Federal Bureau of Investigation, and the General Accounting Office. Obviously my testimony and comments today reflect only my own perspective and does not in any way reflect the thinking of these organizations or of my employer, the Center for Strategic and International Studies.

Assessment of the Effectiveness of our Current Organization Structure

I believe our current approach to domestic intelligence and surveillance is insufficient. We have too little actionable intelligence upon which law enforcement and other agencies can act to stop terrorist activities. Three factors limit our effectiveness. First, we continue to honor a "line at the border" in the collection and use of

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intelligence that is irrelevant to the terrorist threat. Today goods, people, money and ideas cross the border with ease, but our law enforcement and intelligence agencies continue to strain to distinguish between foreign and domestic information. It makes them less agile, and the spies and terrorists know this. Second, we have a historic bias in favor of collection at the expense of analysis. The intelligence we collect on the terrorist threat - unlike in the cold war - is usually in small bits and pieces. Analysis of this information is critical, but we continue to collect far more information than we analyze. We end up with a lot of information and too little intelligence. Third, domestic intelligence and surveillance has been exclusively the job of the FBI, but that agency has adopted a series of explicit and informal rules during the past two decades which practically limit its effectiveness as an intelligence entity. Some of these rules are guidelines adopted for the laudable purpose of protecting against abuse. Even more often, however, cultural mores and perceptions by law enforcement agencies limit their imagination on how intelligence activities might be undertaken.

Taken together, these three factors constrain our capacity to conduct adequate domestic intelligence and surveillance. I don't believe the current approach is acceptable, but there are no easy solutions to this problem. Our foreign intelligence organizations have great analytic capabilities, but in general the public does not trust them to undertake domestic intelligence. The FBI had a strong history countering hostile intelligence sources in the past. Having said that, I believe that a law enforcement culture dominates the thinking of FBI agents today. That culture places priority on bringing cases to trial and avoiding losing cases on procedural technicalities. Director Mueller is attempting to change this culture, but it is a very long-term process and is years away in my view. The new Department of Homeland Security lacks the organizational competence to do anything meaningful in the near term.

This past year the President established the Terrorist Threat Integration Center (TTIC). The purpose of the TTIC is to bridge across the great divide separating domestic intelligence from foreign intelligence and to integrate and analyze all terrorist threat intelligence, domestic or foreign. By all reports, the efforts are sincere, but the results are quite limited. I support the creation of the TTIC, but frankly it reflects a limited engineering solution to a serious structural problem.

Before I outline my specific recommendation, let me outline a few fundamental premises that guide my thinking.

First, we lack sufficient actionable intelligence today to protect our society against catastrophic terrorism. Gathering lots of information is not the same as collecting actionable intelligence. Since September 11, 2001 the Federal Government has undertaken a great number of steps to increase the quantity of information, but I believe those steps contribute little to real situational awareness. Using the metaphor "finding the needle in the haystack," since September 11 government agencies have been basically adding more hay to the pile, not finding needles. Finding the needles requires that we undertake more focused, rigorous and thoughtful domestic intelligence collection and analysis not collect mountains of information on innocent civilians.

Second, as we contemplate a program of smart domestic intelligence collection, we should start with the relatively small population of suspicious individuals, not the vast majority of innocent Americans. I think Federal government programs that would try to collect masses of data about ordinary citizens are off on the wrong foot. I agree that we need to harness the great potential of information and information technology in the domestic intelligence mission to fight terrorism, but we should start with what

we know. We should begin with likely "bad guys" - people about whom we have some information that causes us to suspect them. A terrorist watch list is a logical place to find these "bad guys," but two years after September 11 and nearly a year after creating the Department of Homeland Security, we are only now starting to consolidate watch lists. Realistically, at the current pace, it is going to take years to get a fully integrated watch list and to make that list available to all of the relevant employees in the Department of Homeland Security as well as law enforcement personnel. We should nail down the things that we can accomplish before we spend too much time on ambitious but vague projects to collect vast quantities of information on largely innocent citizens and innocent transactions.

Taking the approach of starting with a known "bad guy" and looking for links and associations is infinitely more likely to produce useful information than collecting routine information on innocent travelers and giving them a color coded "score" before we let them board aircraft. Once we have established a core domestic intelligence collection agenda-built around integrated watch lists-we might investigate the links and associations of the core list of suspects. In addition to being a more practical and immediately useful approach to information collection, this approach fits more easily into our established system of legal oversight, which requires some "probable cause"-type showing for authorization of more intrusive activities such as covert surveillance.

Finally, even with this more tailored intelligence collection, many people on whom we collect information will be innocent. We need to be vigilant about protections for personal privacy and civil liberties. I strongly believe that one of these protections must be that any domestic intelligence activities must fall under the control of a constitutional officer of the government that has the responsibility for protecting individual

liberties, and that means the Attorney General. Clearly the Department of Homeland Security will have a critical role in domestic intelligence. After all, the intelligence generated by the border agencies now comes under this new Department. But I do not believe that the Department of Homeland Security should have police powers or the capacity to conduct covert surveillance. I believe that must be conducted under the supervision of the Attorney General, and that individual must be held accountable for the legitimate and lawful exercise of these activities

Recommendation

Several months back, John McGaffin and I, along with five other colleagues, outlined our recommendation in an editorial that appeared in *The Economist*. (See "America needs more spies - Intelligence and security", July 12, 2003). We argued that a special element of the FBI be empowered to undertake this domestic intelligence operation, but that this element be managed on a day to day basis by the Director of Central Intelligence, subject to the approval and direction of the Attorney General.

We believe that public acceptance demands that direction and oversight of this activity must be assigned to the Attorney General. We felt, however, that it was unlikely the FBI could generate a sufficiently positive culture to support this new domestic surveillance activity unless a highly autonomous division within the FBI is empowered to undertake the work. This unit should be headed by an individual with strong analytic capabilities, typical of that which you would find in the CIA.

Our group was divided on the question of whether or not we felt the FBI could make this transition. We know that Director Mueller has initiated substantial reform efforts, but that this is still a very preliminary effort and his initiatives buck very strong cultural headwinds

within the Bureau. Half of the group felt that the FBI could not make the transition. The other half felt that it might not make the transition, but that this would be a starting point for a separate entity that could be split away from the FBI if it becomes clear that it lacks the capacity to invest in a successful counter-intelligence/ counter-terrorism division within the Bureau. We judged that if the FBI cannot make the transition, this path at least shortens the time it would take to develop competence, either within the new Department of Homeland Security or in a new free-standing agency. In any event, the new entity would have to be subject to supervision and control by the Attorney General.

Conclusion

Distinguished commissioners, let me conclude by saying that there is no easy solution to this difficult problem. We have to overcome the constraints of organization and the limitations of operational practice. The collective failure of organization and practice, along with a limited policy consciousness of catastrophic terrorism, contributed to the lapses that made possible the terrorist attack we suffered on September 11, 2001. We must correct this situation. Magic solutions are not available. We must instead adopt practical engineering solutions, based on the reality of the government we currently have.

Thank you for inviting me to appear before the Commission. I am pleased to answer any questions you may have.

Dr. Hamre was elected CSIS president and CEO in January 2000. Before joining CSIS, he served as U.S. deputy secretary of defense (1997-1999) and under secretary of defense (comptroller) (1993-1997). As comptroller, Dr. Hamre was the principal assistant to the secretary of defense for the preparation, presentation, and execution of the defense budget and management improvement

programs.

Before serving in the Department of Defense, Dr. Hamre worked for ten years as a professional staff member of the Senate Armed Services Committee. During that time he was primarily responsible for the oversight and evaluation of procurement, research, and development programs; defense budget issues; and relations with the Senate Appropriations Committee.

From 1978 to 1984, Dr. Hamre served in the Congressional Budget Office, where he became its deputy assistant director for national security and international affairs. In that position, he oversaw analysis and other support for committees in both the House of Representatives and the Senate.

Dr. Hamre received his Ph.D., with distinction, in 1978 from the School of Advanced International Studies, Johns Hopkins University. His studies focused on international politics and economics and U.S. foreign policy. He received a B.A., with high distinction, from Augustana College in Sioux Falls, South Dakota, in 1972, emphasizing political science and economics. He also studied as a Rockefeller Fellow at the Harvard Divinity School.

Dr. Hamre is married to the former Julia Pfanstiehl, and they reside in Bethesda, Maryland.

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