

**Testimony of Congressman Lee Hamilton
Co-Chair of the National Security Preparedness Group
at the Bipartisan Policy Center**

**Hearing before the U.S. House Committee on Homeland Security
“The Attacks of September 11th: Where We Are Today”
September 8, 2011**

Mr. Chairman, Ranking Member Thompson, and members of the Committee: Thank you for the opportunity to appear before you today. This Committee has been at the center of defending the country from the terrorist threat we face. You have provided sustained support for the implementation of the 9/11 Commission’s recommendations. By doing so, you have done a great deal to ensure we are taking the difficult steps necessary to confront this determined enemy and protect Americans, our allies, and people throughout the world.

Today, I am appearing in my capacity as a Co-Chair of the Bipartisan Policy Center’s National Security Preparedness Group (NSPG), a successor to the 9/11 Commission. Drawing on a strong roster of national security professionals, the NSPG works as an independent, bipartisan group to monitor the implementation of the 9/11 Commission’s recommendations and address emerging national security issues. The NSPG has the following members:

Governor Tom Kean, Former Governor of New Jersey, Chairman of the 9/11 Commission, and Co-Chair of the National Security Preparedness Group;

The Honorable E. Spencer Abraham, Former U.S. Secretary of Energy and U.S. Senator from Michigan, The Abraham Group;

Peter Bergen, Director, National Securities Program at the New America Foundation;

Dr. Stephen Flynn, President, Center for National Policy;

Dr. John Gannon, BAE Systems, former CIA Deputy Director for Intelligence, Chairman of the National Intelligence Council, and U.S. House Homeland Security Staff Director;

The Honorable Dan Glickman, former Secretary of Agriculture and U.S. Congressman;

Dr. Bruce Hoffman, Georgetown University terrorism specialist;

The Honorable Dave McCurdy, Former Congressman from Oklahoma and Chairman of the U.S. House Intelligence Committee, President of the American Gas Association;

The Honorable Edwin Meese III, Former U.S. Attorney General, Ronald Reagan Distinguished Fellow in Public Policy and Chairman of the Center for Legal and Judicial Studies at the Heritage Foundation;

The Honorable Tom Ridge, Former Governor of Pennsylvania and U.S. Secretary of Homeland Security, Senior Advisor at Deloitte Global LLP, Ridge Global;

The Honorable Richard L. Thornburgh, former U.S. Attorney General, Of Counsel at K&L Gates;

The Honorable Frances Townsend, Former Homeland Security Advisor and Deputy National Security Advisor for Combating Terrorism; and

The Honorable Jim Turner, Former Congressman from Texas and Ranking Member of the U.S. House Homeland Security Committee, Arnold and Porter, LLP.

Last week, we released a report assessing the 9/11 Commission's recommendations, which I will discuss today.

I. Response to 9/11 and the Evolving Terrorist Threat

On September 11, 2001, violent Islamist extremists hijacked four commercial airplanes and turned them into weapons, killing nearly 3,000 people, and altering our society forever. These attacks exacted a devastating toll on so many families. Our government, the private sector, and daily lives have been profoundly transformed in the decade since the attacks.

Indeed, it is difficult to comprehend all the ways that our nation has changed. The most visible reminders of these changes are the airport screening protocols and being asked to report suspicious activity in public places. Drone strikes that kill terrorist operatives are front page news.

The less notorious changes that have occurred within the federal government are even more dramatic. We have seen the largest reorganization of the intelligence community since 1947. The intelligence budget itself has doubled since 2001. The creation of the Department of Homeland Security (DHS) was also a massive reconfiguration of government, combining 22 agencies into a new department, with a workforce of 230,000 people and an annual budget of more than \$50 billion. In total, some 263 organizations have been established or redesigned.

The terrorist threat has changed as well. Today, unlike 2001, we must be concerned about Americans, such as Anwar al-Awlaki, playing prominent roles in al Qaeda's global network. For example, in Minneapolis, Minnesota, Muslim-American youth are being recruited in Somali communities to fight for an al Qaeda affiliate in Somalia.

We also have seen Americans recruited by Islamist extremists through Internet forums. Major Nidal Hasan, who killed 13 fellow soldiers at Fort Hood in Texas, was radicalized online. This self-radicalization is very difficult, if not impossible, for law enforcement to detect.

Our terrorist adversaries and the tactics and techniques they employ are evolving rapidly. We will see new attempts, and likely successful attacks. One of our major deficiencies before the 9/11 attacks was a failure by national security agencies to change at the accelerated rate required by a new and different kind of enemy. We must not make that mistake again.

The terrorist threat will be with us far into the future, demanding that we be ever vigilant. Changing circumstances require that we regularly reassess our priorities and expenditures to determine what is needed to defend our country and people.

II. Unfinished 9/11 Commission Recommendations

After a 20 month investigation, in July 2004, the 9/11 Commission made 41 recommendations for improving the nation's security. The vast majority of these were endorsed by both presidential candidates at the time and almost every member of Congress. On the tenth anniversary of the attacks, it is appropriate to reflect and take stock of where we are in national security reform – and what we have yet to achieve.

The good news is that substantial progress has been made in fulfilling many of the Commission's recommendations. Among these is the transformation of the intelligence community and breaking down barriers in information sharing.

Legal, policy, and cultural barriers between agencies created serious impediments to information sharing that prevented disruption of the 9/11 attacks. Therefore, the 9/11 Commission made a number of specific recommendations to improve information sharing across our government. Information sharing within the federal government, and among federal, state, and local authorities, and with allies, while not perfect, has considerably improved since 9/11. Those changes facilitated the successful capture of Osama bin Laden.

In our report last week, we highlighted nine unfinished 9/11 Commission recommendations. They demonstrate that we are not as secure as we could or should be. We urge immediate action to complete their implementation.

Unity of Effort: Unity of effort for the many actors at a disaster scene is critical because a well-coordinated response can save many lives. Our nation was not fully prepared for the size and complexity of the 9/11 attacks or for Hurricane Katrina.

While training under a uniform command structure has taken place, many metropolitan areas where multiple agencies respond to a disaster still have not solved the problem of who is in charge. Our concern is that the failure to resolve the basic building blocks of establishing roles and responsibilities, conducting catastrophic disaster planning, and exercising those plans would likely result in confusion at the scene of a major disaster.

Radio Interoperability: A prerequisite to establishing unity of effort is providing first responders the ability to communicate with each other directly, on demand, during an emergency. Incompatible and inadequate communications led to needless loss of life on 9/11.

To remedy this failure, the Commission recommended additional assignment of radio spectrum to improve radio interoperability for first responders. Despite the lives at stake, this recommendation has stalled in part because of a political fight over allocating 10 MHz of radio spectrum – the D-block – directly to public safety for a nationwide interoperable network. I want to recognize the leadership that Chairman King and Ranking Member Thompson and many

members of this Committee have shown in supporting a bill that would allocate the D-block to public safety.

Efforts to achieve unity of effort and interoperable emergency communications must be dramatically accelerated. Congress needs to allocate the radio spectrum by passing legislation, and DHS and state and local governments must work together to address gaps in unity of effort and interoperability planning.

Congressional Reform: Congressional oversight of the government's homeland security and intelligence functions remains as dysfunctional as it was when we released our 2004 report. At that time, we said that strengthening congressional oversight may be among the most difficult and important recommendations. It still is.

Congress should immediately consolidate jurisdiction over the Department of Homeland Security within the House and Senate homeland security committees. This would avoid the duplication of having DHS respond to more than 100 congressional committees and subcommittees that have overlapping jurisdiction over the Department. In 2009 and 2010, DHS provided more than 3,900 briefings and DHS witnesses testified more than 285 times. This amounted to many thousands of hours of work, often duplicating efforts, and cost taxpayers tens of millions of dollars.

To improve intelligence oversight, the 9/11 Commission recommended a joint, bicameral Intelligence Committee or Intelligence Committees in each body with combined authorizing and appropriating authority. The basic issue is that agencies listen to the people who control their purse.

Currently, the House and Senate appropriations committees fund the intelligence agencies through their defense subcommittees and the DoD budget. At a minimum, separate intelligence subcommittees should be established to fund the intelligence community.

The House Permanent Select Committee on Intelligence announced a decision this year to include three members of the House Appropriations Committee to participate in Intelligence Committee hearings and briefings. This is a positive step, but there is more to do here.

Civil Liberties and Executive Power: We recommended in 2004 that a Privacy and Civil Liberties Oversight Board should be established to address and monitor privacy and liberty concerns across government. All five democrats and five republicans on the Commission felt strongly about this recommendation.

Since 9/11, the executive branch has received expanded authorities to collect information and to conduct surveillance. Even if these powers are being employed in a careful way respectful of civil liberties, the history of the abuse of such powers should give us pause and make us commit to ensuring that mechanisms are in place to protect our liberty. A robust and visible Board can help reassure Americans that security programs are designed and executed with the preservation of our core values in mind.

Although legislation was enacted to establish this Board, it has, in fact, been dormant for more than three years. To date, only two of the Board's five members have been nominated by the President and neither has been confirmed by Congress. The remaining three should be appointed immediately.

Director of National Intelligence: The establishment of the Director of National Intelligence and the National Counterterrorism Center to coordinate the activities of the intelligence community represented major progress in intelligence reform. In the last six years, the DNI has increased information-sharing, improved coordination among agencies, sharpened collection priorities, brought additional expertise into the analysis of intelligence, and further integrated the FBI into the overall intelligence effort.

But it still is not clear that the DNI is the driving force for intelligence community integration that we had envisioned. There have been four DNIs in six years. There also is ambiguity about the DNI's authorities over budget and personnel. Further clarity about the DNI's role is needed. This could be done through legislation or with repeated declarations from the president that the DNI is the unequivocal leader of the intelligence community.

Biometric Entry-Exit System: In 2004, the 9/11 Commission recommended that the federal government establish a comprehensive biometric system to track foreign nationals that enter and leave the country. DHS has deployed a system that checks all individuals who arrive at U.S. borders, ensures they are who they say they are, and helps prevent known terrorists from entering the country.

But the exit portion of the system has not been completed, so we do not know with any certainty who has left the country or remains here on an expired visa. Such a capability would have assisted law enforcement and intelligence officials in August and September 2001 in conducting a search for two of the 9/11 hijackers that were in the U.S. on expired visas.

Standardized Secure IDs: Eighteen of the nineteen 9/11 hijackers obtained 30 state-issued IDs amongst them that enabled them to more easily board planes on the morning of 9/11. Due to the ease with which fraud was used to obtain legitimate IDs that helped the hijackers embed and assimilate in the United States for the purpose of carrying out a terrorist act, the 9/11 Commission recommended that "the federal government set standards for the issuance of birth certificates and sources of identification, such as driver's licenses."

In 2008, detailed regulations were issued, setting standards and benchmarks for driver's license issuance. However, the states' compliance with DHS regulations for more secure driver's licenses has been delayed to 2013 by DHS. This delay in compliance creates vulnerabilities and makes us less safe. No further delay should be authorized, and instead the deadline should be accelerated.

Transportation Security: With significant federal funding, TSA has deployed large numbers of enhanced screening equipment used in passenger checkpoint explosives detection and checked bag screening. Unfortunately, explosives detection technology lacks reliability and lags in its capability to automatically identify concealed weapons and explosives. The next generation

whole body scanning machines also are not effective at detecting explosives hidden within the body and raise privacy and health concerns that DHS has not fully addressed.

Our conclusion is that despite ten years of working on the problem, the detection system still falls short in critical ways with respect to detection. DHS must improve the way it sets screening technology requirements, works with the private sector to develop this equipment, and tests it in the field.

Standards for Terrorist Detention: Within days of his inauguration, President Obama signed a series of executive orders on the treatment of detainees and barring the CIA from using any interrogation methods not already authorized in the U.S. Army Field Manual. By bringing the U.S. into compliance with the Geneva Conventions and with international and customary law on the treatment of prisoners, the executive orders have substantially fulfilled our recommendation.

However, for too long, our nation's political leadership have delayed resolving the difficult problem of reconciling the rule of law with indefinitely detaining alleged terrorists, some of whom would no doubt attempt to do the nation grievous harm. So Congress and the president must decide on a comprehensive approach of how to handle these detainees that is grounded in the principles of fairness, respect for due process, and protecting the American people.

III. Conclusion

While we have done much since the attacks ten years ago and are safer than we were that day, there is much more to do. Political leadership from both parties and at all levels of government should renew their focus on completing implementation of the 9/11 Commission recommendations.

Our national security departments require strong leadership and attentive management at every level to ensure that all parts are working well together. Their dedicated workforces enacted much change and should be commended for their achievements in protecting the American people. But there is a tendency toward inertia in all bureaucracies. Vigorous congressional oversight is imperative to ensure sustained vigilance and continued reforms.