

**Prepared Statement of  
the Hon. Thomas H. Kean and the Hon. Lee H. Hamilton  
Former Chair and Vice Chair,  
National Commission on  
Terrorist Attacks Upon the United States,  
before the Subcommittee on National Security,  
Emerging Threats and International Relations,  
Committee on Government Reform  
United States House of Representatives  
June 6, 2006**

Chairman Shays, Ranking Member Kucinich, members of this distinguished panel: It is an honor and privilege to appear before you today, to testify about the status of the recommendations of the 9/11 Commission.

It is almost two years since the 9/11 Commission completed the largest investigation of the U.S. government in history. The mandate of the Commission was to “investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.”

We found that our government failed in its duty to protect us on September 11. We found failures of imagination, policy, capabilities and management. We made 41 recommendations to ensure that we were doing everything possible to prevent another attack.

After the Commission ended, we formed a non-profit organization, the 9/11 Public Discourse Project, for the purpose of public education on behalf of our recommendations.

Many of the Commission’s recommendations, including those to reorganize the Intelligence Community, were taken up by the Congress and enacted in the Intelligence Reform and Terrorism Prevention Act of 2004.

## **Changing the Law – only the first step**

We also understood that changing the law is only the first step in changing public policy. No law is self-executing. Implementation is often the more difficult step. The Public Discourse Project tracked both legislation and implementation of the Commission's recommendations and issued a report card in December 2005.

That Report Card contained one "A," twelve "Bs," ten "Cs," twelve "Ds," four "Fs" and two "Incompletes." In other words, we found a very mixed record. We have continued to track those recommendations since we issued the report card. Our perspective six months later is about the same. There still is a great deal we can and should do to protect the American people.

So what do we need to do? We analyzed the 41 recommendations from another standpoint: Where do we need legislation, and where do we need work on implementation?

We found that roughly half of the Commission's were addressed by legislation, primarily in the 2004 Intelligence Reform and Terrorism Prevention Act.

The bigger problem, we have found, is the challenge of implementation. Even when the letter of our recommendations was written into law, implementation has been lagging. In some cases, implementation can be expected to take years. In every case, Congress needs to provide robust oversight to ensure that reforms are carried out.

For this reason, we welcome and strongly support the bill H.R. 5017 introduced by Chairman Shays and Representative Maloney. HR 5017, a bill to ensure implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States, changes the law where necessary to carry out the Commission's recommendations.

Just as importantly, H.R. 5017 shines a bright light on the question of implementation and ensuring that Executive branch agencies stay focused on carrying out what the law already requires.

We believe our time before you today is best spent focusing on a few issues, where the attention of the Congress is most necessary.

## **Homeland Security Funding**

First, scarce homeland security dollars must be allocated wisely. Right now, those funds are spread around more like revenue-sharing projects. Pork barrel politics is a time-honored approach in Washington, but the pork-barrel approach must not prevail

In our report we recommended that homeland security funds be allocated on the basis of the greatest risks and vulnerabilities of attack. Secretary Chertoff has stated many times the position of the Administration in support of funding based on risks and vulnerabilities – a position we strongly support.

Therefore, we are surprised and disappointed that analysis by the Department of Homeland Security has led to proposed cuts in homeland security funding for New York City and Washington, D.C.

The terrorists targeted New York and Washington. So far as we know, they continue to target symbols of American power.

It defies our understanding of the nature of the threat to reduce funding designed to protect New York and Washington. We await further explanation.

Last year, the House of Representatives passed a very good bill – three times – that would focus scarce resources on the greatest risks and vulnerabilities.

On two separate occasions -- including most recently the conference Committee on renewal of the PATRIOT Act earlier this year – the House provision on homeland security funding was in conference with the Senate. In both cases, nothing emerged from the conference. Senate conferees rejected the House position.

The Public Discourse Project gave the Congress an “F” because of its failure to act on a risk-based & vulnerability-based formula for homeland security funding. A letter grade of failure is fully deserved.

Unless and until the Congress sends a bill to the President allocating homeland security funding on the basis of risk, scarce dollars will continue to be squandered.

## **Plans for Emergency Response**

States and localities need to practice their plans for emergency response. Hurricane Katrina taught us again a lesson that we should have learned from 9/11. Every metropolitan area and every locality needs to have a working response plan that embraces the Unified Incident Command System.

A response plan needs to be practiced and exercised regularly. You cannot wait for a disaster to hit and then look for the plan. All first responders need to know from the moment they learn of a disaster who is in charge and what their job will be.

The Department of Homeland Security requires a Unified Incident Command System to be in place or states will be unable to receive homeland security funding after October 1, 2006. That's a good provision – as far as it goes.

During Katrina, Louisiana and New Orleans had a paper plan, but it wasn't executed when it was most needed. DHS needs to make sure that these plans are living documents, that first responders have practiced working together.

If you are a first responder and you are talking to your counterpart for the first time the day a disaster hits, your emergency response plan will fail.

## **Broadcast Spectrum for Public Safety**

First responders still do not have the ability to communicate with each other effectively. The Commission recommended that Congress expedite for public safety purposes the allocation of a slice of the broadcast spectrum ideal for emergency communications.

Those frequencies – able to get messages through concrete and steel high-rises without difficulty – are now held by TV broadcasters. They have been promised for public safety purposes for a decade, and will finally be turned over to first responders in February, 2009.

HR 5017 includes the text of the Homeland Emergency Response Act (the HERO Act) to provide this broadcast spectrum to first responders much earlier, by January 1, 2007. We strongly endorse this earlier date.

The reason for an early date is simple: Who can say that no disaster will strike before 2009? Why should public safety have to be put on hold for the next three years in order to accommodate the broadcast industry? It is scandalous, and we call on the Congress to act.

### **Information Sharing**

Progress on information sharing is still lagging. As the Commission's report documented again and again, we missed opportunities to disrupt the 9/11 plot because of the failure to share information.

The federal government is doing a better job sharing terrorist threat information within its own structure, but there are still huge gaps in information-sharing with state and local authorities.

The first presidential-appointed Program Manager for Information Sharing did not receive the support he needed to carry out his task. There is now a new Program Manager, but precious time and momentum was lost.

An important milestone is a report due on June 14 from the Program Manager for Information Sharing and the Director of the National Counterterrorism Center. That report will provide detailed guidance for an Information Sharing Environment, due to be created by December 2006. I urge this Committee to review that report carefully, as it will be the blueprint for future information sharing.

Both of us continue to hear about turf fights about who is in charge of information-sharing with state and local governments. We continue to hear complaints from state and local officials about the quality of the information they receive. The problem of information sharing is far from resolved.

## **The FBI**

FBI reform has been moving in the right direction, but has been far too slow. These problems have been well-documented not only by the Commission, but by the Department of Justice's Inspector General, and the excellent work of the National Academy of Public Administration.

Numerous problems still impede the Bureau: failure to improve the FBI's inadequate information technology; continuing deficiencies in the FBI's analytic capabilities; shortfalls in information sharing; too much turnover in the workforce and bureau leadership, and insufficient investment in human capital and training.

We have great respect for the reform efforts of Director Mueller. There are steps forward, and sometimes -- with computer systems, for example -- steps backward. The Bureau is still struggling.

## **The Privacy and Civil Liberties Oversight Board**

We have taken a special interest in the work of the Privacy and Civil Liberties Board, which we recommended and the Congress created. It is the only office within the Executive branch to look across the government at the actions we are taking to protect ourselves, to ensure that privacy and civil liberties concerns are appropriately considered.

It is our belief that the government needs strong powers in order to protect us. It is also our belief that there needs to be a strong voice within the Executive branch on behalf of the individual, and on behalf of civil liberties.

We commend you for inviting the Chair and Vice Chair of the Board to testify before you. We have had the opportunity to speak with them, and we want to do everything we can to encourage their work.

The Board needs to move forward smartly with its important mission. Stories we read in the newspaper every day point up the importance of a strong voice and a second opinion within the Executive branch before it goes ahead with controversial information-gathering measures.

## **Airline Passenger Screening**

We still do not screen passengers against a comprehensive terrorism watchlist before they get on an airplane. The airlines do the name-checking, and the government wants to protect sensitive information and therefore does not share all names on its watchlist with the airlines. So the airlines screen passengers against an incomplete list.

The solution, recommended by the Commission, is a straightforward one: the government should do the name checking of all passengers against its own comprehensive watchlist. As we approach the fifth anniversary of 9/11, there seems to be little prospect that we will achieve this solution soon.

The problems that stand in the way of this solution are multiple: Poor management at the Transportation Security Administration is one. Attempts to integrate commercial data into the screening process are another, and they have set off a host of civil liberties and privacy issues. There are also many questions about the security of personal data. The proper solution to passenger screening appears to be delayed indefinitely.

## **Congressional Reform**

Congress needs powerful Intelligence and Homeland Security oversight Committees. The Congress has provided powerful authorities to the Executive branch in order to protect us against terrorism -- and now it needs to be an effective check and balance on the Executive.

Because so much information is classified, Congress is the only source of independent oversight on the full breadth of intelligence and homeland security issues before our country. Turf battles have kept the oversight committees weak. They need stronger powers over the budget, and exclusive jurisdiction.

The Congress cannot play its proper role as a check and balance on the actions of the Executive if its oversight committees are weak. To protect our freedoms we need robust oversight.

## **Stopping Terrorists from Gaining Access to Nuclear Materials**

Finally, preventing terrorists from gaining access to nuclear weapons must be elevated above all other problems of national security. Nuclear terrorism would have a devastating impact on our people, economy and way of life. The Commission called for “a maximum effort” against this threat.

Given the potential for catastrophic destruction, our current efforts fall far short of what we need to do.

We see increased efforts by the Administration to improve nuclear detection technology at our ports and borders. These are good steps. But we cannot be safe if we rely only on our last line of defense to protect us.

We need a much stronger, forward leaning policy: to secure nuclear materials at sites outside of the United States. If those sites are secure, the terrorists cannot get nuclear materials. If the terrorists cannot get nuclear materials, they cannot build nuclear bombs.

The President should request the personnel and resources, and provide the domestic and international leadership, to secure all weapons grade nuclear material as soon as possible – in the former Soviet Union and the rest of the world. There is simply no higher priority on the national security agenda.

## **Conclusion**

As we review our recommendations, it is clear that so much more needs to be done and there is little time left to do it. The terrorists will not wait.

If we can make progress on our recommendations, we will make significant progress in providing for the common defense, the first purpose of government. The task before us is urgent.

We thank you for your time and attention, and we look forward to your questions.