

**THE FEDERAL BUREAU OF INVESTIGATION'S
STRATEGIC PLAN AND PROGRESS ON REFORM**

HEARING
BEFORE THE
SELECT COMMITTEE ON INTELLIGENCE
OF THE
UNITED STATES SENATE
ONE HUNDRED TENTH CONGRESS
FIRST SESSION

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TUESDAY, OCTOBER 23, 2007
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CONTENTS

Hearing held in Washington, DC, October 23, 2007:

Statement of:

	Page
Rockefeller, Hon. John D., Chairman, a U.S. Senator from West Virginia	1
Bond, Hon. Christopher S., Vice Chairman, a U.S. Senator from Missouri	4
Kean, Hon. Thomas H., former Chair, 9/11 Commission	5
Hamilton, Hon. Lee H., former Vice Chair, 9/11 Commission	7
Prepared statement of Thomas H. Kean and Lee H. Hamilton	9
Hulon, Willie T., Executive Assistant Director, National Security Branch, Federal Bureau of Investigation, accompanied by Philip Mudd, Associate Executive Assistant Director, National Security Branch, Federal Bureau of Investigation	26
Prepared statement	28
Supplemental material:	
Los Angeles times article, "FBI working to bolster Al Qaeda cases," by Josh Meyer	41

**HEARING ON THE FEDERAL BUREAU OF INVESTIGATION'S STRATEGIC PLAN AND
PROGRESS ON REFORM**

TUESDAY, OCTOBER 23, 2007

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Committee met, pursuant to notice, at 2:40 p.m., in room SD-106, Dirksen Senate Office Building, the Honorable Jay Rockefeller (Chairman of the Committee) presiding.

Present: Senators Rockefeller, Feinstein, Wyden, Mikulski, Whitehouse, Bond, Hagel, Snowe, and Burr.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER, IV,
CHAIRMAN, A U.S. SENATOR FROM WEST VIRGINIA**

Chairman ROCKEFELLER. The hearing will come to order. I think all of us on the Committee are extremely honored that you two gentlemen form our first panel, just like the old days, and you bring with you this incredible aura of the originators of so much of our thinking of what we've tried to do since that point. You will be our first panel. Our second panel will be Mr. Willie Hulon—I hope I got that right, and if I didn't, I'll apologize to him personally—and Mr. Philip Mudd, the leaders of the FBI National Security Branch.

This branch was established in September 2005 and includes the FBI's Counterterrorism and Counterintelligence Divisions, as well as the FBI's Director of the Intelligence and Weapons of Mass Destruction Directorate.

Let me begin again by expressing my gratitude to Governor Kean and Congressman Hamilton for sharing their thoughts on FBI reform with us. Much of the reform that's taken place within the intelligence community, in fact, and specifically the FBI, can be traced directly to the work of the 9/11 Commission. You both deserve an enormous amount of credit for leading that effort. This country is indebted to both of you and obviously, we look forward to anything you have to say. And that's all the praise you get.

As the 9/11 Commission noted, protecting the U.S. homeland from the next terrorist attack involves many agencies and many institutions that have not necessarily worked together before. And amongst the most important is the Federal Bureau of Investigation. The FBI was officially created in 1935, but its origins can be traced back to 1908 when, as the Bureau of Intelligence, it was authorized to collect foreign intelligence, counterintelligence, and

criminal intelligence in the United States. I recount this fact to reiterate that, while the FBI is known as the best crime fighting organization in the world, it is always had, in a sense, an intelligence function as part of its overall mission.

We are here today to assess that part of the FBI's mission. This hearing will examine whether or not the FBI has the necessary vision and planning capability to truly transform the FBI into the intelligence-driven organization our country needs to prevent the next attack on our soil, if there is to be one. To be blunt, from this person's perspective, I'm concerned about the FBI's capacity for internal reform.

In an opening hearing in January of this year, I stated that I was troubled that, more than 5 years after 9/11, the FBI was only just advancing a few key reforms. Nine months later, I still have serious reservations. The FBI's track record on the pace of reform is not good.

In 1993, after the World Trade bombing, FBI Director Louis Freeh stated solving terrorist problems was not enough. It is equally important, he said, that the FBI thwart terrorism before such acts occur. According to the 9/11 Commission report, Director Freeh's statement was not accompanied by any significant shift of resources to counterterrorism or greater focus on intelligence matters—talking, doing—instead of FBI field offices often reprogramming counterterrorism funds for others—that's what they did; they'd shift that money and it went to other places. Five years later, in 1998, and then again in 1999, the FBI launched new reforms to enhance its intelligence programs.

After the U.S. embassy bombings in West Africa in 1998, the FBI developed a 5-year strategic plan and designated counterterrorism as its number one priority. The plan "mandated a stronger intelligence collection effort, called for a nationwide automated system to facilitate information collection, analysis and dissemination, and envisioned the creation of a professional intelligence cadre of experienced and trained agents and analysts."

In 1999, the FBI launched a second round of reforms. According to the WMD Commission, both 1999 and 1998, those attempts failed. In 2000, after the United States thwarted the potential plot on the Los Angeles airport, the FBI engaged in its third intelligence reform in 3 years, this one called MAXCAP 05, and was supposed to maximize the FBI's counter-terrorism capability by the year 2005. One year later, a formal assessment of that effort found that little progress had been made.

It has been nearly 10 years since the FBI designated counterterrorism as its number one priority, yet the most significant changes at the FBI in the last 5 years—the establishment of a dedicated intelligence service and the establishment of the National Security Branch—have not come internally from the FBI but from the recommendations of outside commissions.

To be fair, other less dramatic changes do show promise. The expansion of the FBI joint terrorism task forces from less than 35, before 9/11 to more than 100 today, shows that the FBI takes seriously its role in expanding access to information and leveraging state and local resources in the fight against terrorism. Two, the establishment of field intelligence groups in FBI field offices is a

definite sign the FBI recognizes the need to collect and analyze intelligence at the field office level. Three, the FBI's domain management initiative, which encourages FBI field offices to proactively identify threats and information gaps in their region, has great potential to focus field offices on intelligence collection and the identification of unknown threats.

Nonetheless, these programs remain works in progress. Furthermore, from my vantage point, these changes have been very incremental and not the revolutionary type of change required to address the terrorist threat that we face today. So, there are big questions for us to address this afternoon.

Does the DNI have enough authority over FBI intelligence programs? Is the FBI developing the analytical capacity it needs to understand and address threats? Has the FBI acquired or developed information technology tools appropriate for their mission? And how is the FBI engaging in long-range strategic planning and using change management techniques to ensure the reforms planned at FBI headquarters extend throughout the entire organization.

So, we look forward to our distinguished witnesses providing us with these insights.

Mr. Vice Chairman, I apologize, but just before I turn to you for your thoughts on this important issue, this Committee—I want this said loudly and clearly—takes oversight very seriously. We have been massively frustrated recently, less so with us, the two of us and our Committee working together. Our Members share the burden and the privilege of ensuring our Intelligence Committee is operating legally, effectively, and efficiently, and we're really the only ones who can do it. Are we doing a good enough job? Probably not. I've been disappointed with the cooperation of the Committee receiving information from the FBI in preparing for this hearing.

In June, our Committee requested—and this is a long time ago—our Committee requested several unclassified FBI reports relating to today's hearing. Three weeks ago, I discussed the matter directly with Director Mueller. The Committee finally received the reports last Friday, which is called two business days before this hearing. Now, you can make too much or too little of that, but this lack of cooperation in acquiring information for this hearing is representative to this Senator of an overall poor record of FBI cooperation on Committee requests for information.

This is not exclusive to the FBI, but it stands out with them. The FBI regularly fails to fully brief the Committee on intelligence related to terrorism in the United States, citing Department of Justice prohibitions.

Without this information, Committee Members and staff are unable to carry out effective oversight and properly assess the terrorist threat within the U.S. homeland. And without such briefings, the Committee is unable to assess what sensitive intelligence tools the Committee authorizes are most useful and whether or not domestic intelligence and counterterrorism agencies like the FBI are evolving to meet current and future threats and environment.

Cooperation with this Committee must improve. It absolutely must. An agency engaged in true reform, I believe, would welcome oversight, not avoid it. The Committee has a deep respect for the work of the FBI, especially those on the front lines in the fight

against terrorism. Our country is grateful for their work and aware of their sacrifices.

This hearing today is about ensuring that we have the best domestic intelligence possible to meet changing threat environment that we face today, and to do so we must have a free flow of information between the FBI and us.

With that, I turn the microphone over to my esteemed distinguished, as I often say, vice president, Senator Bond.

OPENING STATEMENT OF HON. CHRISTOPHER S. BOND, VICE CHAIRMAN, A U.S. SENATOR FROM MISSOURI

Vice Chairman BOND. My sincere thanks to our estimable Chairman and leader. I join in the welcome of the witnesses and thanks for taking time from your busy schedules to be here. The main issue we're talking about today really is the FBI corporate culture. Has the FBI, in your view, been able to bend its law enforcement culture to do what is necessary successfully to perform an intelligence role? That's our focus, and I'd really like to hear your views and thoughts on that.

Now, obviously we know the end goal shouldn't be the complete transformation of the FBI into an intelligence agency. The Bureau has to continue to provide its unique and unparalleled law enforcement capabilities to the Nation on issues ranging from terrorism to organized crime to kidnapping. The FBI has to remain at its core a law enforcement agency. Now, we in Congress, of course, send mixed messages about what we want the FBI to be. As soon as the Intelligence Committee finishes berating the FBI witnesses for not moving fast enough on intelligence reform, the Judiciary Committee takes over and berates them for not paying enough attention to kidnappings and violent crime—a difficult hand to play.

I must remind our Members, however, on this hearing that since this is an open hearing we'll not be able to get into any particularly sensitive areas concerning the FBI strategic plan, as you don't want to divulge the details to those who might be targeted by the FBI. Nevertheless, there is plenty I think we can cover in an open session concerning the FBI's culture and its need for transformation with respect to the new form of its intelligence mission, and our witnesses, particularly good friends Governor Kean and Congressman Hamilton will have—to me—very interesting testimony on the corporate culture of the FBI, and I look forward to discussing whether intelligence and law enforcement are ultimately compatible at the FBI.

Corporate culture's not always a bad thing. Excellent FBI record over decades, serving our Nation, enforcing our nation's laws against organized crime and bank robberies, and the decades of experience and procedures that the FBI has developed make it successful, and they are built into the DNA. It seems that whatever successes we achieve in bending the FBI to an intelligence role might regrettably come at the cost in moving the FBI away from its ability to address the law enforcement issues, unless we can find an appropriate organizational response. Therefore, I'm particularly interested in the thoughts of our witnesses.

Terrorism is, of course, a significant threat to our Nation and we count on the FBI to do everything it can to detect, deter, and pre-

vent attacks. Intelligence operations at the FBI and in many other corners of our Government play a critical role in fighting terrorism, but there's an important law enforcement component as well. Our Nation depends on the FBI's law enforcement activities here at home. Again, we must carefully avoid unnecessarily diminishing that capability. I've heard Director Mueller say that at times there can be a disconnect regarding appropriations to the FBI insofar as the funding that comes, or should come through the National Intelligence Program, or the NIP, and what congressional Committees address that. This disconnect with appropriations is another area our witnesses have experience and have some good thoughts for.

Both Congressman Hamilton and Governor Kean, in their lead roles on the 9/11 Commission made strong recommendations as to congressional oversight which is, frankly, an area that Congress has done far too little in, and I'm especially concerned about trying to assure that the Intelligence Committee, with the specialized staff, the extraordinary amount of time that Members spend on this Committee working on intelligence issues have some input and participation in the appropriations process.

As Governor, Tom and I used to produce State of the Union messages, and if you were smart, you wouldn't listen to the State of the Union messages. You'd listen to the budget messages because the budget messages tell you what's going to happen. That's where you make things happen.

I understand that Congressman Hamilton is going to be back for an open hearing in a few weeks on this topic. Governor Kean, I understand you won't be able to attend, so I hope you'll share with us today your thoughts on that. This is too important an area to leave alone, and my fellow Members of the Appropriations Committee, Senators Mikulski and Feinstein, I believe we can say we believe it's very important, and we look forward to hearing your comments.

So with that, Mr. Chairman, I think it's probably time that we actually listen to the witnesses.

Chairman ROCKEFELLER. Good suggestion, and we will start as we properly should with Chairman Kean.

**STATEMENT OF HON. THOMAS H. KEAN, FORMER CHAIR, 9/11
COMMISSION, ACCOMPANIED BY HON. LEE H. HAMILTON,
FORMER VICE CHAIR, 9/11 COMMISSION**

Governor KEAN. Mr. Chairman, Mr. Vice Chairman, distinguished Members of the Select Committee on Intelligence, it's an honor to appear before you today on the subject of FBI reform. Now, we want to be as helpful as we can as you carry out your important oversight work in the weeks and the months ahead. We want to make just a few points this afternoon and then turn to your questions.

First, successful reform of institutions of Government requires the strongest oversight on behalf of Congress. Reform is a long, hard road. Crises distract, attention wavers, senior officials are pulled in a hundred different directions. The executive branch cannot carry out difficult reforms on its own. It has to have the interest and the support of this Committee. When the Congress is watching, when it cares deeply about the success of reform, the ex-

ecutive branch then stays focused. When oversight is robust, then the laws are faithfully executed.

All of us understand that the FBI is going through a period of significant change. All of us have seen block-and-line charts of the new organizations at the FBI. But do these charts mean anything? Are the new offices being staffed? Are the reforms really being implemented? And these questions can only be answered by the most careful possible oversight by the U.S. Congress. There have been FBI abuses in the collection of data. These include improper demands for records for Administrative subpoenas and inaccurate data for surveillance warrants. These abuses have been acknowledged by the FBI, but they've gone on for a long time. Who watches the FBI? It's up to the Congress to ensure that these abuses are corrected. Congress must provide the oversight.

Second, if fighting terrorism is now the highest priority of the FBI, then the role of analysis at the FBI must change dramatically. Change is happening, but very, very slowly. Since 9/11, the number of intelligence analysts has doubled, yet we find them still answering the phones. They're still seen as support, and they're still treated as second class citizens within the FBI. That's the reason for so much turnover.

Why does this matter? If the FBI is going to become a terrorism prevention agency, intelligence analysis must become the very core of its mission. Analysis determines the nature of the threat. The nature of the threat determines the allocation then of resources. You can't defeat terrorism by police work alone. Those efforts must be guided and targeted by our very best assessment of the domestic threat. That's why analysis and individual analysts matter.

Third, we continue to be impressed with the importance of human capital development. You can't transform the FBI into a terrorism prevention agency unless you create the workforce to carry out that mission. There's a world of difference between snooping for intelligence and chasing criminals, and the training must reflect that difference.

There is still not a good training program in place for FBI analysts. There is still not a good career path. There are still too few analysts who are role models, are put out there in positions of responsibility. Counterterrorism work at the FBI requires not only analysts, but also a wide range of talents—surveillance teams, translators and agents who can speak Arabic and other critical languages. The FBI does not devote enough resources to these surveillance teams. The FBI still has a deficit of translators. There's a deficit of special agents who speak Arabic. Last I saw, only 33 out of 12,000 agents speak Arabic, and some of them not very well.

The FBI lacks the ability to detect and infiltrate suspected terrorist organizations. More agents who speak Arabic, Pashto, Urdu and other critical languages would strengthen the ability of the FBI to plan and infiltrate extremist groups.

It requires great efforts to recruit, hire, train and retain a quality workforce. Human capital should be the highest priority at the FBI. All FBI employees need to know that they are valued members of the team. Special agents, as talented as they are, just simply can't do it alone. Every part of the FBI workforce is necessary to accomplish the terrorism preventive mission.

And at this point, I'd like to turn to my colleague and friend, Lee Hamilton.

**STATEMENT OF HON. LEE H. HAMILTON, FORMER VICE
CHAIR, 9/11 COMMISSION**

Mr. HAMILTON. Thank you very much, Governor.

Mr. Chairman, Mr. Vice Chairman, Members of the Select Committee on Intelligence, I appreciate, along with Governor Kean, the opportunity to be with you today. And I hope that we can be helpful to you.

As I've looked at the problems of the FBI in the last few years, I am impressed by how many of them are really management problems. Time and again, when the FBI has run into trouble, it seems to me, it has a computer system failing or, on questions like the national security letters, the central problem really has been a failure of management.

I think we usually think of the FBI as a law enforcement agency and prosecuting in a court of law. Tracking down criminals and the like has been its traditional role. But FBI now has become a very big organization—I think about 30,000 employees, \$6 billion or \$7 billion budget, whatever it is. And it has huge management responsibilities that clearly the FBI has struggled with in the last few years. It cannot become the first-class terrorism prevention agency that the country needs unless it has at the top of the agency very good managers.

Everyone acknowledges the skill of the special agent. They're critical to the future of the FBI. But under this day's agency, the skill of the manager is just as important. You cannot expect agents and analysts or anyone else at the FBI to perform at the peak of their abilities unless they are trained and supported and assisted and rewarded according to the principles of good management. The FBI has begun all of this; it needs to continue to bring in management talent from the outside into its current structure.

The next point that Tom and I make is that the FBI simply has to have more resources. I know the budget has increased, I think maybe doubled in the last few years. The number of FBI special agents, the intelligent analysts and the professional support positions, however, have been static. You cannot have terrorism prevention and law enforcement on the cheap.

I was very pleased to hear the Vice Chairman just a moment ago emphasize—I think I quote him correctly—that at its core, the FBI is a “law enforcement” agency. You don't hear that language at the FBI today. They don't talk about that being the core responsibility of the FBI. They see the core responsibility today not as law enforcement, but counterterrorism.

I worry about the future of law enforcement. The Chairman I think said that the FBI is the preeminent law enforcement agency. It surely is, and it is so perceived by State and local police across the country. Since 9/11 the FBI resources devoted to criminal investigations are down some 30 percent, prosecutions are down 30 percent, and this at a time when violent crime in the United States is continuing to surge.

I personally oppose budget cuts in the Nation's premier law enforcement agency. And if you're going to give them two tasks—one

to carry on intelligence and counterterrorism, and add that onto the responsibly of law enforcement and not have any weakening of the law enforcement responsibility—you've got to increase their capabilities and their resources.

I know the Congress' record here has been pretty good. It has consistently voted to increase the President's request for the FBI. The FBI director, I think it's no secret, is very frustrated because many of his budgets are cut back by the Attorney General and by OMB and other actors in the budget process. So I would encourage the Congress to continue its efforts to see that this FBI is fully resourced with regard both to law enforcement and to counterterrorism.

One agent said to me not too long ago—he said, we could not prosecute an Enron case today. I don't know if that agent is correct or not, but it makes me nervous because every day I pick up the paper and in the business section I see a lot of malfeasance in the financial sector. Likewise, I pick up the paper and I see a lot of malfeasance in the public officials section of the economy and that worries me. And I want to see those people prosecuted. And I don't want to see the FBI diminished in its ability to bring those prosecutions because I think they're terribly important to the health of the Nation.

Finally, let me just say that we want to close by talking about the FBI's vision of the future. I think it's very important for us to get a better understanding of where is the FBI going to be 10 years from now? I'm not sure I can answer that question. I don't know if I have heard the FBI people answer the question. But if you don't know where you're going to be 10 years from now, you're not going to be providing very effective leadership to the FBI. And so there has to be a vision here of where this very important agency is headed—a clear and simple vision that has to be spelled out.

What confidence can the American people have that they're going to be safe from attack, that their criminals are going to be prosecuted, their civil rights protected, if you don't have a vision of where the FBI is going? The FBI has a history of reform. I was impressed by the Chairman's recitation of it. Reform efforts haven't always been very successful, I think.

But it has come through the 1960s and the seventies, when we had dark days of surveillance of civil rights leaders. I can remember, Senator, sitting in the cloakroom of the House of Representatives and listening to Members of the House talk about how the FBI was going after some of the most prominent civil rights leaders in this country, and how appalled I was that the FBI was using its skills to investigate civil rights leaders. Some applauded it, I did not. But the FBI came out of that and they rededicated themselves to the rule of law, changing, I think, its reputation and the country for the better. So I would urge you to push forward in getting the leaders of the FBI to spell out their vision of the future of the FBI.

This Committee is hugely important in making the FBI work properly and I was delighted to hear the Chairman emphasize a moment ago that you take oversight seriously because as Governor Kean said a moment ago, I don't know where you oversee the FBI if you don't do it right here. And that is a tremendous public responsibility that you have.

Thank you.
 [The prepared statement of Governor Kean and Mr. Hamilton follows:]

PREPARED STATEMENT OF THOMAS H. KEAN AND LEE H. HAMILTON, FORMER CHAIR
 AND VICE CHAIR OF THE 9/11 COMMISSION

Mr. Chairman, Mr. Vice Chairman, distinguished members of the Select Committee on Intelligence: It is an honor to appear before you today on the topic of FBI reform.

We want to be as helpful as we can, as you carry out your important oversight work in the weeks and months ahead. We want to make just a few points this afternoon before we turn to your questions.

CONGRESSIONAL OVERSIGHT

First, successful reform of the institutions of government requires strong oversight by the Congress. Reform is a long and hard road: Crises distract. Attention wavers. Senior officials are pulled in a hundred different directions. The Executive branch cannot carry out difficult reforms on its own. It needs the interest and support of this Committee.

When the Congress is watching, when it cares deeply about the success of reform, the Executive branch stays focused. When oversight is robust, the laws are faithfully executed.

All of us understand that the FBI is going through a period of significant change. All of us have seen the block and line charts showing the new organization of the FBI.

- Do these charts mean anything?
- Are the new offices being staffed?
- Are reforms being implemented?

These questions can only be answered through careful oversight by the Congress.

There have been FBI abuses in the collection of data. These include improper demands for records through administrative subpoenas, and inaccurate data for surveillance warrants. These abuses have been acknowledged by the FBI, and they have gone on for a long time.

Who watches the FBI? It is up to the Congress to ensure that these abuses are corrected. Congress must provide oversight.

INTELLIGENCE ANALYSIS

Second, if fighting terrorism is the now the highest priority of the FBI, then the role of analysts at the FBI must change dramatically. Change is happening, but so far very slowly.

Since 9/11, the number of intelligence analysts has doubled. Yet intelligence analysts are still answering the phones. They are still seen as support. They are still second-class citizens within the FBI.

Why does this matter? If the FBI is going to become a terrorism prevention agency, intelligence analysis must become the core of its mission. Analysis determines the nature of the threat. The nature of the threat determines the allocation of resources.

You cannot defeat terrorism by police work alone. Those efforts must be guided and targeted by our very best assessment of the domestic threat. That is why analysis—and the analyst—matters.

HUMAN CAPITAL DEVELOPMENT

Third, we continue to be impressed with the importance of human capital development. You cannot transform the FBI into a terrorism prevention agency unless you create the workforce to carry out the mission.

There is a world of difference between snooping for intelligence and chasing criminals—and the training must reflect that difference.

There is still not a good training program in place for FBI analysts.

There is still not a good career path. There are too few analysts who are role models or in positions of responsibility.

Counterterrorism work at the FBI requires not only analysts, but also a wide range of talents: surveillance teams, translators, and agents who can speak Arabic and other critical languages.

- The FBI does not devote enough resources to surveillance teams.

—The FBI still has a deficit of translators. It has a deficit of special agents who speak Arabic. Only 33 out of 12,000 agents speak Arabic—and most of them not very well.

—The FBI lacks the ability to detect and infiltrate suspect terrorist organizations. More agents who speak Arabic, Pashto, Urdu and other critical languages would strengthen the ability of the FBI to plant and infiltrate extremist groups.

It requires great effort to recruit, hire, train, and retain a quality workforce. Human capital should be a very high priority for the FBI.

All FBI employees need to know that they are valued members of the team. Special Agents—as talented as they are—cannot do it alone.

Every part of the FBI workforce is necessary to accomplish the terrorism prevention mission.

MANAGEMENT

Fourth, so many of the questions before the FBI—whether people, hardware, or software—involve questions of management. Time and again, when the FBI has run into trouble—whether it has been with computer systems or with national security letters—the central problem has been a failure of management.

The FBI cannot become the first class terrorism prevention agency the country needs and demands, unless it has top-flight management.

Everyone recognizes that the skills of special agents are critical to the future of the FBI. So are the skills of senior managers. You cannot expect agents, analysts or anyone else at the FBI to perform at their peak unless they are trained, supported, assigned, and rewarded according to the principles of good management. The FBI has begun—and needs to continue—to bring in management talent from outside its current structure.

RESOURCES

Fifth, the FBI must have more resources. For the past 2 years, the number of FBI special agent, intelligence analyst and professional support positions has been static. You cannot have terrorism prevention and law enforcement on the cheap.

We worry especially about the future of law enforcement. Since 9/11, FBI resources devoted to criminal investigations are down some 30 percent. Prosecutions are down 30 percent. At a time when violent crime in the United States continues to surge, we strongly oppose budget cuts in the Nation's premier law enforcement organization.

Congress, to its credit, has consistently voted to increase the President's request for the FBI. We can and simply must provide the resources to protect our citizens against both crime and against terrorist attack.

VISION FOR THE FUTURE

Finally, we want to close by talking about the FBI's vision for the future. The Bureau has been in upheaval and change for the past 6 years. Change has been necessary, but the American public also needs to know at the end of the day what all these changes mean and where they will lead.

The FBI Director or the new Attorney General needs to spell out for the country a clear and simple vision for the future of the FBI. What will the FBI look like, and what will its future activities include, and not include? What confidence can the American people have that they will be safe from attack, and that their civil liberties and rights will be protected?

The FBI has an important history of successful reform. It came out of the 1960s and 1970s—dark days of surveillance of civil rights leaders and anti-war protesters—and built itself anew. The FBI rededicated itself to the rule of law, changing both its reputation and our country for the better.

Now the challenge is before our leaders to spell out their vision for the future of the FBI. We look to the Congress and to this Committee to exercise robust oversight—to ensure that this vision matches the needs, values and aspirations of the American people.

Thank you for your time and attention. We look forward to your questions.

Chairman ROCKEFELLER. Thank you both very much.

And I'll just, Vice Chairman Hamilton, start with your last sentence. We do have oversight of the FBI, but only of the intelligence component of the FBI. So it makes it very awkward for us to put the intelligence component in perspective with what it is that we do not have oversight over, which is the criminal investigation and

all the rest of it. And thus we don't have a perspective. I guess I have to be a little bit personal here, but the FBI has traditionally been run by people of great firmness and great self-certainty. And there's nothing that comes down more quickly through the ranks than that characteristic.

My question to you simply is this. Over the months this Committee has become much more familiar in our oversight responsibilities—but just from other aspects, too—of the DNI coming in, Admiral McConnell and the CIA and the DIA and others. And then they'll come in informally, they'll come in formally. We have a kind of a relationship with them which nourishes candor and mutual trust.

We don't have that with the FBI. You know, there's the annual threat briefing, which is one of the relatively few times that we see the Director of the FBI. That's held in this room—lots of very broad statements made. And so when the Chairman was talking about the lack of languages, in 9 years what kind of improvement, what was also in my statement, you know, your career can depend upon what you do or don't do.

Well, that's true in the CIA and the DIA and other places. But it seems to be truer in the FBI than in most other places. And I think risk aversion, therefore, is more likely to be the result. That does not lead to the kind of aggressiveness with respect to intelligence.

The Chairman referred—or maybe it was the Vice Chairman—referred to only a very few intelligence agents really have been recruited compared to what is necessary, much less their language skills.

So my question to you is, is there anything in your minds that is different about the FBI with a sudden—not going to back to 1908, you know, but let's face it, up until recently—now suddenly a bifurcated responsibility of domestic tranquility and domestic intelligence. Why is it they can't get a handle on that, either technologically or get enough people? People are singing up for the CIA and the DIA and others in greater quantities than ever before in our history, and their quality is the highest ever. Why not the FBI?

Governor KEAN. That's good question, and a difficult one. I'm not sure I know the answer.

It is a very different agency. I mean, it was created basically around the image of one man who was head of that agency for longer than anybody who ever had, in my mind, of any Government agency in history and therefore is very much of a top-down, kick-in-the-door and- bring-people-to-justice kind of an organization. The old FBI people still have that image of themselves I think and their organization. And now, in trying to transform itself in a way that's probably deeper and in a larger way than any other intelligence organizations might have to do it, they're into problems. And it's a problem of culture and problems of history.

And you've seen, in the side of the agency that has to be transformed—the one talking about counterterrorism, basically—a tremendous turnover. I mean, people come there and get frustrated and they leave, and then somebody else comes in. And you can't, I don't think, effectuate the kind of change this Committee wants

and we've all been talking about since the Commission with that kind of turnover.

And the only thing I can suggest is, because I think Mr. Mueller's vision is correct and he talks to us and he talks to you, it seems to me the right direction. But somehow he's got to transform that down through the agency and that's just happening very, very slowly. And I think it frustrates everybody.

Mr. HAMILTON. I think that, along with Governor Kean, that there's just no doubt at all about Director Mueller making an all-out effort to reform the FBI. He is totally committed, as I think you all know, to the task of changing the central function of the FBI and he's a very able Director. And he's put an enormous amount of energy into the task. Having said that, changing a corporate culture, as Senator Bond referred to, is just exceedingly hard to do and particularly when you're trying to change it from law enforcement to intelligence—domestic intelligence. Those are two very, very different tasks. Different skills are needed, different training is needed. And it's not easy to change, so you have at the top of the FBI a genuine desire to change.

To what extent that penetrates down the organization I think is the big question. And the answer is that it's a very mixed situation. You visit some FBI offices and they're totally committed to the change and the direction that Director Mueller is trying to take it, and you visit other FBI offices and other agents and they'll say, "Nothing doing. This is a law enforcement agency." And you can't reasonably expect, I think, to change that culture in several years' time. I think it's going to take much longer than that. I originally was more optimistic about it than I am now.

The second point to make with regard to this difference with the Chairman's question is just the sheer difficulty of the task. If you look at what the FBI is doing now, as your staff reports have indicated, they are trying to make many, many changes—changes in the relationship with the DNI, changes with regard to the integration of the analyst into the system, changes with regard to the Field Intelligence Groups and the Joint Terrorism Task Forces, changes with regard to technology, changes with regard to strategic planning, changes with regard to the management structure, changes with regard to how you deal with human resources in the FBI.

And you put all of that out in front of you as the agenda—and that is the agenda of the FBI today—and you just see that the task is very hard to achieve. We have to have an appreciation of that and a certain sympathy for the difficulty of the task.

Having said all of that, I think we come down on the side that all of this effort has moved too slowly and not with the urgency that we would like to see it move forward.

Chairman ROCKEFELLER. Thank you, sir.

The Vice Chairman.

Vice Chairman BOND. Thank you, Mr. Chairman.

Congressman Hamilton, following up on your point, looking back on the 9/11 Commission recommendations, it's clear from the Commission's report that you struggled with the issue of whether to create a domestic intelligence agency along the lines of the British Secret Security Service known as MI-5, where my distant relative

got so much good publicity for the family. Reflecting on what you have seen since your recommendation's come out, do you feel that the intelligence and law enforcement cultures can ultimately be compatible at the FBI, or will they always be in conflict? Do you still prefer to see the counterintelligence and the law enforcement agencies kept in a single entity?

Mr. HAMILTON. The answer is yes. My view, at least, is fundamentally unchanged from the time that we wrote the report. It would be of interest for Tom and me to go and check with the other Commissioners and see how they view it at this point. I am frustrated, as I guess you are, with the pace of reform, but that does not mean that we are at the point of advocacy for the MI-5 approach. With all of the talk about MI-5, I don't think we've examined it very carefully. I don't think we, including myself, really understand what an MI-5 would be like in the United States. We have a kind of romanticized idea of how it operates over in England and think, therefore, we can shift it over here. I don't think it's that simple.

One of the things that impresses me, Senator, is I don't think we really have delved deeply into what an MI-5 is. I am at the point—I know some academics have supported the MI-5 and some other people—but I'm not at a place where I would advocate that. I'm still on the track of saying to the Director "you're going in the right direction; we need to help you." We need to do all we can to encourage that change that you're talking about.

I also think that you are at a time when the FBI is going through such enormous change, now, as I recited a moment ago, that if you come along and say at the same time, "OK, we're going to abolish the FBI; we're going to create two institutions, law enforcement and counterterrorism," that's going to take a lot of statutory work. It's going to take all kinds of change in the bureaucracy and you'd be 10, 15, 20 years working at it.

Vice Chairman BOND. That's not an encouraging prospect.

Mr. HAMILTON. No, it's not. But look how long it takes to make a department work well. We created the Department of Energy back in the 1970s—I'm not here to testify on that—but that's still a big problem. We created DHS, whenever it was, a few years back—horrendous problems.

Vice Chairman BOND. That still isn't—

Mr. HAMILTON. Still not working well. OK, you're going to come along and create a lot more change in your FBI—I'm not ready to go that route yet.

Vice Chairman BOND. Tom, in addition to commenting on that, since you won't be here, I would be interested if you would want to share any views on the problem that I mentioned, appropriations coordination with the intelligence community, and simply your suggestions maybe for what do we do now? What would you urge Congress to do in all these areas we've touched on?

Governor KEAN. Well, I'd just briefly say I agree with Lee totally on the MI-5 question. We talked about it at long length in the Commission, even to the extent of having the head of MI-5 come and testify before us, and we basically came to the conclusion that the kind of effort and the kind of cost and the time would be incredible—with no guarantee that we'd be better off afterwards, and

that therefore trying to reform an existing organization is probably a better way to go.

As far as your other question, it was one, again, that concerned us deeply on the Commission. We felt the success of the new DNI, of the FBI reforms, of the whole intelligence apparatus was very dependent on this Committee, frankly, and on the success of your oversight. And we still believe that very strongly. But we also know what you mentioned in your opening remarks and what you and I both knew as Governors and you know also here—that it's the money they pay attention to and who has the appropriating power that really brings change. And so we felt very, very strongly that members of this Committee had to have a say in that appropriating process, and that if you didn't, you were never going to be as effective as you could and should be.

And we talked about it a lot because, as you know, the majority of the members of the 9/11 Commission were former Members of the Congress and a lot of them had been former members of either this Committee or the House Committee. So they knew the difficulties and they knew the problems. And we all said afterwards this may be our hardest recommendation to have implemented, but it's also, we believe, our most important, because if Congressional oversight is really as vastly important to the whole structure of the rest of our intelligence apparatus as we believe it is on the Commission, then you've simply got to have a say in the appropriating process if you're going to be fully successful.

Vice Chairman BOND. Anything further on that Lee?

Mr. HAMILTON. I obviously agree with the Commission's report and the comments that Tom made. No effective oversight, unless you can affect the budget. Believe you me, they've got this figured out at the CIA and at the FBI. And they know where the money comes from. And they know the process is so screwed up in appropriating, in the budget, in the Congress that they jack you around. That's what they do. They play you because the system is so dysfunctional in the Congress and the budget process today that what it does is permit the bureaucrats to game the system, to go around the authorizing Committees and deal with an Appropriation subcommittee, Defense, which doesn't have time for intelligence because they're running a couple of wars and have all other kinds of responsibilities. So you've got to have the budget power.

And Mr. Chairman, when you said a moment ago—I knew this—that you have oversight over intelligence, but not over law enforcement, I'll give you my reaction to that. It doesn't make any sense at all. Congress has got to get itself in shape so it can do effective oversight. If you're going to oversight at the FBI, you can't pick out a little part of it, or even a major part of its work and exclude a major part of it. There is, after all, a relationship between law enforcement and intelligence and to just have a half oversight doesn't make any sense to me at all.

Chairman ROCKEFELLER. Thank you, sir.

Senator Feinstein.

Senator FEINSTEIN. Thank you very much, Mr. Chairman. And thank you both so much for your leadership, for being here, for your continued public service; it really is appreciated.

I initially believed that the culture conversion that both the Chairman and Vice Chairman spoke about could be accommodated. I now am not so sure. I'm also very, very concerned because violent crime is going up in this country; it has become one of the lowest FBI priorities today. They have a shortage of 1,000 agents in that area and yet we have added, it's a classified number, but let me say it's in the billions of dollars to create this change of culture.

I was just reading in our binders a very interesting staff report and I want to just quickly tick off some of the things the staff has found and asked you to respond to them.

The first is in the area of pace of reform and elevation of analysis and new initiatives that the FBI have proposed. The first thing: Field Intelligence Groups. They were established in 2003 to integrate the intelligence cycle into FBI field operations. Independent audits, SSCI—our staff—visits to field offices in 1907 found that these groups lack clear guidance on their mission, are poorly staffed, are led overwhelmingly by special agents and are often surged to other FBI priorities.

Secondly, although the number of intelligence analysts has doubled from 2002 to 2007, the FBI continues to face difficulties in training, managing and retaining analysts. The DOJ Inspector General found that the professional divide between analysts and special agents remains a problem. In 2004, the FBI was granted the authority to obtain 24 senior intelligence officer positions, portrayed as critical to the FBI's intelligence mission. As of today, the FBI has hired, according to this, only two senior intelligence officers.

In technology we all know about the imposition of the virtual case file, after spending \$170 million. Currently, the FBI has no ability to electronically store and share images and audio files associated with their intelligence investigations. I mean, it's been a long time.

Headquarters staffing: The FBI has struggled to staff key intelligence positions. In March 1907 the Committee learned that only 60 percent of the counterterrorism supervisory special agent positions were filled. In the headquarters section that covers Al-Qa'ida-related cases, more than 23 percent of the supervisory special agent positions were vacant. The FBI has received less than 3 applicants for the 20 special agent desk officer positions, which were posted before April of this year.

Now, the next one is senior and mid-manager turnover rates. The Department of Justice Inspector General stated in 2007 that senior and mid-level management turnover has definitely hurt accountability, effectiveness, and the pace of reform. At the senior level, the top counterterrorism position at the FBI has been held by seven different special agents in the last 5 years.

Well, this is staff work. As you read this—and this isn't the first year we've read it—you begin to come to the conclusion of being a real skeptic as to whether this change in culture, A, can be achieved and B, whether it's desirable to try to achieve it. You know, the FBI is what it is—a great law enforcement agency. It isn't an intelligence agency. So I am coming to question, as we spend more and more and more every year, whether the money is in effect being well spent.

I'd appreciate any comments you'd care to make. I think it's all fair game.

Mr. HAMILTON. My impression, Senator, as you read through that list is I agree with it all. And I think your staff has done a very good job in identifying the problems that the FBI confronts.

The best you can say about the FBI at this point, it seems to me, is it's a—and I think this phrase was used by the Chairman, maybe—it's a work in progress. And you have to acknowledge that it's been a rough, rocky road here and there.

Now, do you at this point say we're going down the wrong path? I indicated a moment ago that I don't think we are. And I would want to redouble our efforts, redouble the oversight to achieve the kind of FBI that the Director has set out. But I have to acknowledge it's an arguable case. You do have to think about the consequences of going the direction you're suggesting, which is to create—I gather—a law enforcement agency separate from a domestic intelligence agency. I think if you were beginning de novo—as the lawyers say—you probably wouldn't go the direction we're going today. They're two very different functions.

But because we have now gone down this road for 5 years, because a lot of progress has been made—even though it's uneven and even though it's slow—I would personally think we ought to continue down that road for a while. And before you go to the conclusion that we ought not to go down that road, I think you've got to look very, very carefully at how you would structure an MI-5 in this country.

Senator FEINSTEIN. Thank you.

Governor Kean, would you respond, please.

Governor KEAN. Thank you, Senator.

First of all, congratulations to your staff. I mean, that's a first class—

Senator FEINSTEIN. It's the Committee staff.

Governor KEAN. Committee staff. That's a first-rate compilation of the problems and the problems are very real. And everything in there, as far as I know, is accurate.

Now, the question we always look at is what is the alternative? And we've come to the conclusion—I think Lee and I and other members of the Commission—that this is probably the best we can do at this point. And what we've really got to do is put the hammer on, in a sense, both from your Committee and the oversight you have, the DNI—I mean, we set the DNI up to have direct oversight. And whether that direct oversight is occurring the way it should I think you probably know better than I do. You can certainly ask the right questions.

But we have the tools, it would seem to me, to really insist that the kind of thing that you all support—the American people, I believe, support—is done by the FBI and these deficiencies are corrected. I think Lee and both believe you have a Director who wants to do that.

The turnover is terrible. The recruiting has not been what it should be. I don't know all the reasons for not being able to get—as the Chairman said—the proper people recruited. But those are the questions. And we believe that continuing down this path, as difficult it may be, is probably the preferable course.

Senator FEINSTEIN. If I could just say one quick thing—and I thank you. The question comes: If the fish is out of water, no matter what you want to do to give the fish wheels to operate on land, it doesn't really work. And after these years, and I've serve on Judiciary, so we've had the FBI oversight meetings, and I've discussed this with Director Mueller. And they're all, you know, they all feel they want to do it. I've been at a convention with him when he spoke to the agents about the change in culture. The question I have is whether it really can be done.

Governor KEAN. It's a tough, tough question after five or 6 years. We believe it's enormously difficult, but they're trying to get it done is a better alternative right now. But it's getting a closer and closer call.

Mr. HAMILTON. I think the time and the cost and the difficulty of the kind of transition that you're suggesting would be, in my judgment at this time, prohibitive, with no guarantee that what you would end up with is any better than what we now have. That's what holds me back in going the route you're thinking about.

And the changes that we, partly the 9/11 Commission, recommended in the Federal Government at large—restructuring intelligence, restructuring homeland security and a lot of other parts of the Government—are just about all this Government can absorb, I believe, at this time. You can overload the reorganizational circuit.

Senator FEINSTEIN. Thank you.

Chairman ROCKEFELLER. Thank you very much.

Senator Mikulski.

Senator MIKULSKI. Thank you, Mr. Chairman, Mr. Vice Chairman.

Before I go into my—

Chairman ROCKEFELLER. Senator, may I just—

Senator MIKULSKI. Yes, sir.

Chairman ROCKEFELLER. I'm sorry. This very rude of me. The Chairman has a 4:00 train to catch. My calculation says that he's already missed it.

Governor KEAN. Yeah, probably. I think I'm going to try to make the 5:00. Thank you for your courtesy.

Chairman ROCKEFELLER. OK. Excuse me.

Senator MIKULSKI. I appreciate it. That's the Amtrak, and that's another topic for reorganization, revitalization, resources. We're talking about the three Rs.

But before I go into the question and the points of the oversight, I want to, before this Committee and all who are watching, express both a personal and professional expression of gratitude to Congressman Lee Hamilton for something that he did so extraordinarily for a constituent of mine, Dr. Haleh Esfandiari, who is at the Woodrow Wilson Center, who returned to Iran, returned there to visit with her mother and was arrested and placed into an Iranian prison from which she had no access to legal representation and other things.

We all worked very hard, and I know Senator Feinstein was engaged in this, to be able to free her. It was Congressman Hamilton's outreach to the Ayatollah himself that was able to free her.

I'm happy to report to this Committee, as all know from press accounts, she's back home. She's back at work. And we can't say enough to thank Congressman Hamilton for his wonderful work. So I just wanted to say that.

Mr. HAMILTON. Thank you very much.

Senator MIKULSKI. And to both Governor Kean and Congressman Hamilton, we just want to thank you for not only what you did on the 9/11 Commission, but your steadfast oversight of what we're doing on oversight to keep the momentum going that the Nation asked us to be able to do after September 11, 2001.

I just want to make some comments and then get to a question about the oversight. I chair the subcommittee that funds the FBI. I am an unabashed appropriator. It is in that committee called Commerce Justice Science that we have the FBI and all other Federal law enforcement, with the exception of Secret Service—DEA, the Marshals Service, and the Bureau of Alcohol and Firearms.

I want to talk a minute about that. But before I do, I have to say to Rockefeller and Bond, thank you for having this hearing, because for a long time it was only the Appropriations Committee after 9/11 that was looking at the FBI. This Committee, until this past year plus, did not look at it. In fact, I would venture to say, most of Congress did not realize the new and stunning responsibility we gave to the FBI unless they goofed somewhere. And so I thank Senator Rockefeller and Senator Bond for holding this.

And what I'd like to do as part of our congressional oversight hearing, which I'm eager to look at, is to talk about how next year we can actually work together in terms of the appropriations oversight. I intend at that time—because you're exactly right, we hold one hearing with the FBI. It's open. It's public. We can't dig in. I will intend next year, for my Federal law enforcement, to have a public hearing and then also a classified hearing, but that we would work with our team on intel, because I can say this. What we appropriators have done is, first of all, clean up the mess where they boondoggled, like the case management system. One hundred seventy million dollars went down the drain in a mismanaged case management system. We're now back on track, and I know the Committee has looked at it.

Second, we try to stop bad things from happening. The Administration was actually moving agents out of law enforcement—Senator Feinstein has detailed it through her excellent staff—and put them into fighting terrorism. Well violent crime is up, as all of you know, substantially in our communities whether it's Indiana, New Jersey, or Maryland.

So we stopped that. We appropriators stopped that again, working on a bipartisan basis with Senator Shelby, saying, "Leave the FBI, who's fighting violent crime there, but we need to have new people there." So that's all we've been able to do through the appropriations process.

The second thing is MI-5. I traveled to England to see how we were working there with this faithful ally and met with Dame Eliza. You know how in those James Bond movies—that's the cousin Senator Bond talks about—but Bond is Kit Bond, he's a shaker and a stirrer, if I might add. But it was Dame Eliza who headed up MI-5 and brought 30 years to the intelligence experiences.

Don't create a new agency. Don't worry about new boxes and new charts and so on. You have to do what you need to do. And what she was concerned about is that America gets too involved with agencies and bureaucracy, and she cautioned us on that. And what she said was that MI-5 built up over a 50-year period after the end of World War II, as it moved into the cold war and other challenges that they faced.

So I would welcome that when we discuss this, Senator Bond, in more detail, that perhaps Dame Eliza would come across the pond and actually have maybe a roundtable visit with us and share her knowledge.

So those are my comments. But the last—if I could go to the issue of cultural transformation. Do you believe that one of the areas we, both through oversight, as well as appropriations, should do is focus on the analyst area? Because I'm concerned not so much about the number, but as you indicated in your testimony, that they are stepchildren, that they're answering phones. They're doing administrative work.

They're not analyzing, which was the dots, connect the dots, so that the agents could do what they need to do, and it could go up the chain to other policymakers at the DNI, and that that is one of the areas where we could make substantial inroads if we said let the analysts be analysts, have the translators we need, but that that particular area could be one of the great and also a real career path for them.

Would this be one of the key—we can't focus on it all. Would this be an area that you would recommend, or would you have others?

Governor KEAN. That's an enormously important area. I mean, it's been said that some of the analysts feel they're being treated as glorified secretaries. These are professionals. And if you get them, train them and retain them—

Senator MIKULSKI. And there are 2,300 of them.

Governor KEAN. Yes, absolutely right. The FBI cannot become a terrorism prevention organization unless analysis and analysts are at the core of their counterterrorism mission. There are just too many threats out there from too many organizations. There are too many potential targets, too many different methods of attack.

You can't address the threats unless you can analyze them. And analysis determines the nature of the threat. The nature of the threat then determines the allocation of how you do your resources. If you're going to be successful in a counterterrorism prevention organization, the most important function is probably that of the analysts.

And so far, I don't think the FBI really understands or agrees with the statement I just made. Just look at the training program, the career path for analysts, and just look how many senior management positions they hold. Take a look at that. That's where I think the FBI has got to make a very fundamental change.

Senator MIKULSKI. Mr. Chairman, I know the clock is ticking and my time has expired. Those other questions that I have will be saved for the FBI themselves. Thank you.

Chairman ROCKEFELLER. Thank you, Senator Mikulski.

And I now call on Sheldon Whitehouse.

Senator WHITEHOUSE. Thank you, Mr. Chairman.

Chairman ROCKEFELLER. Senator Whitehouse.

Senator WHITEHOUSE. Gentlemen, to both of you, thank you very much for your service. As Senator Mikulski has said, it's very impressive to me not only that you have done the report—lots of people in Government are asked to do reports and do very good jobs, and then they hand off the report and they go on. You have not gone on, and I appreciate your continuing attention to this problem.

In the final report on 9/11 Commission recommendations dated December 5, 2005—which is about a little over 4 years of experience after the 9/11 incident—you all evaluated the creation of the FBI National Security Workforce and graded it at that point at a C. How would you grade it today?

Governor KEAN. I think I'd keep it about there, but I don't—you may disagree.

Mr. HAMILTON. Tom and I have steered away from grades since that time.

I think it's fair to say progress has been made, but the general comment here has been it's been too slow. In one area that we have had a very special interest in—and that's weapons of mass destruction—it just seems to me that the FBI has not understood the consequences of that threat sufficiently, and they've handled it on a kind of business-as-usual basis when we think that it ought to be a very urgent priority.

I would not give them very good grades. I wouldn't even give them a C at this point on weapons of mass destruction. They do have a National Security Branch. That's also a work in progress. There is a lot more attention to this surely, than there was several years back.

I guess my feeling is that this is an area where I shift the responsibility back to you. Very diligent oversight is necessary to see how effective that really is.

I'll tell you what bothers me, Senator. If you talk, as I'm sure you have, to the FBI, they'll show you a lot of charts and a lot of boxes, and they'll tell you about the budgeting and all the rest of it. And I don't have any doubt about their good intentions. A lot of good conceptual work has taken place.

But what really hangs in my mind is whether it'll work. And will it be implemented effectively? And that's a very tough thing to make a judgment about, I believe. The only way I really know to test the effectiveness of all of these fancy charts is through what the military calls exercises, practice.

Senator WHITEHOUSE. War gaming.

Mr. HAMILTON. Absolutely. And I think the FBI needs to do a lot more of that in order to persuade me, at least, that those charts mean something.

Senator WHITEHOUSE. On the question of congressional oversight, you know, we can sort of peek over people's shoulders and be an eternal scold. But unless we're focusing in on where the problem really lies, it's not as helpful as it could be.

And I look at the situation—you know you said in your report, unless there's improvement in a reasonable period of time, Congress will have to look at alternatives. And the threat of having

this taken away is a fairly serious administrative and bureaucratic threat.

The whole question of terrorism and weapons of mass destruction is a critical issue facing our country. These are issues that, within the executive branch, you could probably say they transfix the President and the Vice President. There is no lack of White House attention to them. Significant resources have been shifted. And yet, you know, what gives?

We can talk about the analyst track not being a successful track. We can talk about all the turnover at the very top and why there should be seven people in 5 or 6 years. But those strike me as symptoms of something else, and it's trying to put my finger on what that something else is that is bedeviling me here as I listen to this.

Mr. HAMILTON. Well, let me just mention one thing that puzzles me. Why can't we detect nuclear materials? That was a problem long before 9/11. That's been a problem for decades. And we have not yet developed in this country the ability to detect nuclear materials in containers and all the other ways it can get into the country.

A lot of research has gone into it, and I understand some progress has been made. But we're a long, long way from being able to give ourselves a high percentage of assurance that all of the things in containers that come into this country are free of nuclear materials. And of course, what's worrisome here is that the Usama bin Ladin/al-Qa'ida group has made it very clear this is one of their high priorities, to get nuclear bombs into this country.

So I'm puzzled, with all of this genius we have in the country, that we haven't been able to solve that problem easily in the last decade.

Senator WHITEHOUSE. My time has expired. I thank you both.

Mr. Chairman.

Chairman ROCKEFELLER. Thank you, Senator Whitehouse.

And now, I believe, Senator Snowe—

Senator SNOWE. Thank you, Mr. Chairman.

Chairman ROCKEFELLER. The ever patient Senator Snowe—

Senator SNOWE. Thank you.

Chairman ROCKEFELLER. [continuing.] All by herself—

Senator SNOWE. You have to have patience around here—

Chairman ROCKEFELLER [continuing.] Over there on the left.

[Laughter.]

Senator SNOWE. As these two gentlemen know.

But I want to welcome you both, Governor Kean and Congressman Hamilton. It's great to see you and not only welcome you to this Committee, but more importantly, we thank you for your continuing ongoing leadership and stewardship and being the conscience of the Nation to make sure that we continue to do what we need to do regarding the 9/11 recommendations and much more. So I really want to express my gratitude as well to both of you.

This clearly is a very frustrating issue because I know I'm familiar and have served on the Foreign Affairs Committee with you, Congressman Hamilton, for many years and worked on information-sharing, so I've certainly encountered the issues within the FBI in resisting just sharing of information.

And, you know, we're in a transformational period, even more so today, and we're encountering the continuing ongoing preeminent threat, al-Qa'ida, as well as being in a war in Iraq. So I think there is a sense of urgency. I'm concerned that that sense of urgency isn't permeating the culture within the FBI.

And beyond constraining the budget—which I think you're right; I think that certainly would get their attention—what else could we be doing to reverse the culture and establishing a certain pace of reform for the number of issues that have been identified here today—elevating the status of intelligence analysts, for example, and a number of issues that were highlighted by the Inspector General in his recent report?

You know, maybe we should establish the hiring goals and doing all the things they've failed to do to implement the 9/11 recommendations where they have certainly demonstrated very little progress on many of those issues.

If we think it's that important, then I think that we should take it a step further and do what we can within the authorization capabilities of our Committees to address these issues and to force the change, because it is urgent. I mean, frankly, we don't know where we are in time in terms of experiencing another event.

So the sooner we can get this done—and I just don't see anything across the board, to be honest with you, that would suggest that we have turned the corner within the FBI, because we're not elevating the status of these intelligence analysts. And as you mentioned, Governor Kean, they're viewed as glorified secretaries. They're not giving them the amount of counterterrorism training, from what I can understand.

So what can we do to elevate this entire intelligence function within the FBI? And should we take statutory steps? Should we enact legislation to mandate specific changes in the pace of that reform in conjunction with the vision? You have to have the leadership. You have to have the vision. But also you have to have a sense of urgency in establishing the deadlines and the time lines by which it is accomplished as well.

Governor KEAN. Well, I think that's a good question.

I think under the leadership of this Committee, I think you have to make it very clear that what's going on up to this point is unacceptable—just plain unacceptable. And perhaps you establish goals, perhaps you establish mandates, perhaps you say, "We expect this to be done" as a Committee, because nothing in that staff report is things that shouldn't be done. You know, 6 years after 9/11, a lot of them should have been done a long time ago.

Again, Congressman Hamilton is right. It's not that they haven't done some things. I mean, Director Mueller has been kind enough to brief Lee Hamilton and me a number of times and there's been progress, but these things that we've brought up today aren't acceptable. A lot of them are the kinds of things that if not addressed could lead to another terrorist attack.

And Lee, I think, is totally right when he talks about a nuclear threat. Whether or not they're taking that—the President of the United States on down have said that's our biggest danger—not maybe our biggest probability—but our biggest danger. If so, are they treating it as the biggest danger? I mean, all those kind of

questions, I think, are very important for this Committee to ask. And maybe, as I said, some goals, some standards, some expectations of the Committee—by a certain date this should be done—maybe that would have an impact.

Mr. HAMILTON. As you were asking your question, Senator, I was thinking of several areas that I would focus on if I were sitting where you are. You began your comments with the phrase “sharing of intelligence.” And of course you’ll remember, in our 9/11 Commission report that was the heart of what we said was wrong. We didn’t share intelligence, and there are all kinds of examples of that.

The key point in sharing of intelligence is how this relationship between the FBI and the Director of National Intelligence works. That’s where the sharing has to take place. If it doesn’t take place there, it doesn’t take place. And that becomes a crucial relationship. And I would want to know a lot more about how that relationship works. That relationship is not going to work unless the two principals—the DNI and the Director of the FBI—work and lead on the sharing of information.

It has no chance of working unless those two principals are very heavily involved. They are both essential actors in seeing that information is shared among the 16 intelligence agencies in this Government. And they have to build that effective relationship. And if they don’t have the right relationship there, it isn’t going to work. So I would really focus on this business of sharing information.

Number two, I would focus on the role of the analyst, because when we’re talking about a cultural change, this is it. The special agent occupies a position of preeminence in the FBI. It’s like a four-star general. The special agent in charge, that is a big deal in the FBI. It always has been and probably always should be. They’re very able people and they have enormous responsibilities.

But if your focus, as Tom was saying a moment ago, is going to be counterterrorism, that shifts the demands of the FBI—quite bluntly—the things that would drive the FBI from the special agent to the analyst, because the analyst has to tell you where the threat is and what the nature of the threat is. And if that’s your job—intelligence on threats, domestic threats, then the analyst becomes the key player.

What that means is that the analyst cannot be secondary to the special agent. The analyst must be at least elevated to the special agent in money, in incentives, in retention and training and all the rest of it. So I would focus very heavily on that.

I would focus heavily on the IT system. Senator Mikulski mentioned this a moment ago, 100 and whatever it was, \$70 million down the tubes, we all know about that. And now they have the Sentinel system. How is that working? Do they really have the capabilities in the FBI to match the commercial private sector? And if they don’t have, why don’t they have it, and how quick are they going to get it? I’m very impatient about that system because I think it really is key to better counterintelligence work. So those are some of the things I’d focus on.

I mentioned in my opening statement the whole question of management. I think Director Mueller’s made quite an effort to reach out beyond the confines of the FBI to bring good managers in. My

recollection is they have a couple management studies going on right now. I'd want to know what those studies show and how they're going to be implemented. Those are some of the things I'd really focus on.

Senator SNOWE. Well, I appreciate that. And again, I appreciate your efforts. Maybe it's beyond the reach of one person. Maybe it does require more intervention on our part to put the intelligence analysts on the same level, on an equal level. Maybe we have to go further and start to address some of those critical issues. And I thank you both very, very much.

Chairman ROCKEFELLER. Thank you, Senator Snowe.

We have an additional panel, but I want to end with this thought.

I'm going to start with something that you all said in your report: "Our recommendations"—and Senator Whitehouse mentioned this in different language—"Our recommendation to leave counter-intelligence collection in the United States with the FBI still"—underlined—"depends on an assessment that the FBI, if it makes an all-out effort to institutionalize change, can do the job."

My overwhelming impression of the sort of bifurcation of wants from this hearing is that we want the FBI to do the job, that we have a sense that it's not doing the job, that we're nervous about bifurcating it, MI-5-style, and in essence that we've brought ourselves to a halt so that our reports are negative, which shows that we're doing a kind of a negative oversight. It doesn't occur to me that a negative oversight's very helpful.

So I'm going to introduce in this—as we close this first panel—a thought, and that is that we on the Intelligence Committee have to take responsibility, which we evidently have not, that if others are not going to be more aggressive about this, if we're going to wait for Director Mueller to come and tell us what's going on, the Vice Chairman and I have all kinds of meetings separately, but that's not necessarily for the whole Committee—that's a whole other subject—I think we have to take a special view toward the FBI, that we have to be much more aggressive; we have to be more inventive, we have to be more insistent.

We don't have any time, but so what? Maybe neither the country has any time. We've got the two greatest threats, to me, to our security in this country, are lassitude—that is, what I call the home-stead mentality, that we've all got our white picket fences and everything will work out in the end because in America it always does; and second, because the two agencies that are most responsible for the immediate lives of Missourians and West Virginians are the Department of Homeland Security and the FBI, and those are the two departments with which we have the greatest frustration, that have the greatest budget problems, and are the most, in a sense, one because of its complexity and the other because of its culture and history, are impenetrable.

Well, it becomes, I think, our job on this Committee to change that, to break that. We have to become more aggressive. And I think that may be the way out of this very uncomfortable bifurcation of views. Wishing them well, saying they're doing some things good, reports that aren't very helpful or hopeful, and I think now

I'm just going to shift part of that to the Vice Chairman and myself and we're going to do a better job. You just watch us.

In the meantime, we thank you enormously for taking your time. Senator Whitehouse has volunteered to pay your train ticket—

[Laughter.]

Chairman ROCKEFELLER. Which is important.

And we really thank you very, very much. We're enormously proud of you. I don't know any two Americans who've done more for this country post-9/11 than you two have. And as Senator Whitehouse said, people make incredible reports; you two never leave us. You prick our conscience; you drive us; you question us just by the mere fact that you're still around. And thus you elicit this response from me: Thank you, gentlemen.

Mr. HAMILTON. Thank you very much.

Governor KEAN. Thank you, Mr. Chairman.

Vice Chairman BOND. Gentlemen, I wholeheartedly concur. You put out a magnificent report. You come back with very thoughtful analysis. And you've got to catch a train, so I'll only say very briefly we would be happy to brief you on some technologies for detecting nuclear materials that you may not have been briefed upon.

And second, it sounds to me, Congressman Hamilton, that you are suggesting that Congress mandate that the two top positions in the National Security Branch might rotate between agent/analyst and analyst/agent. Is that the kind of thing you're saying?

Mr. HAMILTON. I just say that, as it is today, I think the analyst has to be elevated greatly within the structure of the FBI.

Vice Chairman BOND. Thank you.

Mr. HAMILTON. At least equal to the special agent in charge.

Senator MIKULSKI. Mr. Chairman—not for a question, just for a point that I'd like to say to you and the Vice Chairman as our dear friends and colleagues leave.

This goes to cooperation with the appropriators to do the oversight necessary. I know that the 9/11 Commission recommended that there be a separate Committee made up of authorizers and appropriators on intelligence. As the Chairman knows, there was institutional hesitation on that.

Well, we can do that among ourselves. My Ranking Member, Senator Shelby, was a former chair and vice chair of this Committee. And I say before our friends from 9/11 Commission and to you—and of course, Senator Bond is an appropriator—that we want to work with you so that we can have this seamless oversight between the authorizers and the appropriators, and we can begin that in a matter of weeks.

Mr. HAMILTON. Senator Bond, I welcome the briefing on the nuclear detection, but I'm not satisfied until I see them in place checking containers effectively. I've heard for a long, long time about the research and development, and I am all for it. But I don't see them in place working effectively yet. Ten years at least—10 years at least we've been working on this problem. I welcome the briefing.

Chairman ROCKEFELLER. I thank the gentleman.

Vice Chairman BOND. We will make you an honorary show-me Missourian even though you're a couple of States east, a good policy.

Chairman ROCKEFELLER. Thank you very much.

Governor KEAN. Thank you.

Chairman ROCKEFELLER. Both of you, thank you.

Could I call, please, the second panel, Mr. William Hulon and Philip Mudd of the FBI's National Security Branch to come forward. Mr. Hulon, would you care to give the opening statement please.

STATEMENT OF WILLIE T. HULON, EXECUTIVE ASSISTANT DIRECTOR, NATIONAL SECURITY BRANCH, FEDERAL BUREAU OF INVESTIGATION, ACCOMPANIED BY PHILIP MUDD, ASSOCIATE EXECUTIVE ASSISTANT DIRECTOR, NATIONAL SECURITY BRANCH, FEDERAL BUREAU OF INVESTIGATION

Mr. HULON. Yes, sir. Thank you.

Chairman ROCKEFELLER. And thank you very much both of you for your security and for your presence and for your patience.

Mr. HULON. Sure. Good afternoon, Mr. Chairman, Vice Chairman Bond, and Members of the Committee. I am pleased to be here today to discuss the FBI's progress in strengthening its intelligence capabilities to protect our Nation.

Joining me are National Security Branch Associate Executive Assistant Director Philip Mudd and Directorate of Intelligence Assistant Director Wayne Murphy. Mr. Mudd, a career CIA analyst, and Mr. Murphy, a career NSA analyst, are key players on the National Security Branch management team. They both have extensive intelligence community experience.

Since 9/11 the FBI has set about transforming itself into a national security organization. Over the past 6 years, we have made steady progress toward this goal. During a time of unprecedented and revolutionary change for the FBI, we have expanded our mission, overhauled our intelligence programs and capabilities, improved our information sharing, and enhanced training opportunities for our employees.

Our intelligence capabilities have evolved significantly since early 2002, when we began developing a more robust intelligence program. As part of these efforts, and in response to the recommendation of the 9/11 and WMD Commissions and others, we created a National Security Branch which integrates the FBI's counterterrorism, counterintelligence, intelligence, and weapons of mass destruction programs. The mission of the National Security Branch is to lead and coordinate intelligence efforts that drive actions to protect the United States.

In addition, over the past year the FBI has developed a strategic plan to enhance the performance of our national security mission. This plan has been developed using the balanced scorecard strategic management system, a tool employed by a number of private sector corporations, to align budget, plans and strategy across the organization. At the same time, we continue to receive input from a number of bodies who are interested in the FBI's transformation efforts, including the President's Foreign Intelligence Advisory Board, which has also examined our efforts to enhance our intelligence program and recommended ways to accelerate our efforts.

In conjunction with their recommendation, we began working with the consulting firm of McKinsey and Company. As a result of

initiatives identified in our strategic planning efforts and through our work with McKinsey, we have identified a number of areas where we are able to accelerate our progress as an organization. In order to drive future progress, the Director has assembled a strategic execution team of field and headquarters personnel. The team will focus on accelerating the progress on many of the changes already under way, including the implementation of the intelligence program at FBI headquarters and in the field, and enhancing our recruiting, training, and career development across the FBI.

The FBI's Counterterrorism Division within the National Security Branch was at the forefront of the FBI's strategic planning efforts. We continue to implement a program to translate the FBI's mission of deterring, detecting, and disrupting national security threats and criminal activity into action. Nearly 2 years ago the Counterterrorism Division began using balanced scorecard. It has proven to be a helpful management tool and, as I mentioned, has now been expanded to use Bureau-wide. Like many private and public sector organizations, we use this scorecard to align day-to-day operations with broader strategies, to get feedback, and to measure our progress as we continue to implement our counterterrorism strategy.

In a major shift since 9/11, our counterterrorism strategy now weighs the benefits of gathering intelligence to dismantle terrorist networks against the value of prosecuting individual terrorists, and our revised counterintelligence strategy calls for a higher level of performance by focusing not simply on identifying foreign intelligence collection networks but on reducing foreign intelligence collection opportunities, and doing so nationwide.

In keeping with the strategic planning focus across the organization we are currently adopting a balanced scorecard approach to link strategy with operations across the National Security Branch. As a result of this approach, we will further enhance our intelligence capabilities. A key part of our success is understanding our threat environment. To ensure that we are collecting intelligence that responds to national priorities, our field intelligence groups are looking beyond cases and using intelligence to develop greater awareness of threats in their domain.

To enhance our knowledge of our domain, the FBI is also implementing a desk officer program. This program will provide an integrated collaborative network that maintains the FBI's understanding of current threats as they evolve. We are also enhancing our confidential human source program by updating guidelines on human source policy and human source validation. Through these efforts we are able to direct our valuable resources to combat the critical threats and vulnerabilities we face.

Among the key post-9/11 changes, we have enhanced our information sharing capabilities to ensure the intelligence we collect is shared with our law enforcement and intelligence partners. This is crucial to fulfilling the FBI's mission. We have expanded our participation in State and local intelligence fusion centers nationwide, and recognize these centers as being fundamental in facilitating the sharing of homeland security and criminal-related information and intelligence.

We are also enhancing our training initiatives. For example, we refined our basic analytical training course with a focus on critical thinking, writing and briefing. Working with our intelligence community partners we also developed an 8-week course that offers agents a variety of techniques for identifying, developing, and recruiting human sources. We have also modified new agents training to provide more than 100 additional hours of national security-related training.

In addition, we have begun the first iteration of a specialized counterterrorism course known as the Counterterrorism Stage Two Academy, which is mandatory training for agents who are designated to the counterterrorism career path. This course, which supplements the counterterrorism curriculum provided in new agents training, focuses on laws, policies, and competencies specific to the counterterrorism program.

In conclusion, Mr. Chairman, although we recognize that we have much work ahead as we continue to adapt to ever changing threats, we look back on the past 6 years as a time of remarkable accomplishment for the FBI. We have implemented revolutionary changes post-9/11 while accelerating the tempo of our counterterrorism operations. Today the FBI is a stronger organization, combining greater capabilities with our longstanding commitment to the security of the United States while upholding the Constitution and protecting civil liberties.

Thank you for your continued support of the FBI's national security programs. I'll be happy to answer any questions.

[The prepared statement of Mr. Hulon follows:]

PREPARED STATEMENT OF WILLIE T. HULON, EXECUTIVE ASSISTANT DIRECTOR,
NATIONAL SECURITY BRANCH, FEDERAL BUREAU OF INVESTIGATION

Good afternoon Mr. Chairman, Vice Chairman Bond, and Members of the Committee. I am pleased to be here today to discuss the FBI's progress in strengthening its intelligence capabilities to protect our homeland.

After the attacks of September 11, 2001, the FBI's priorities shifted as we charted a new course, with national security at the forefront of our mission to protect America. The intervening 6 years have seen significant changes at the FBI. Although we recognize that there is much more work to be done, we have made remarkable progress. The FBI has been engaged in a continuous effort to build its intelligence program. We must continue to evolve as the threat evolves. Today, the FBI is a stronger organization, combining greater capabilities with the longstanding commitment to the security of the United States, while upholding the Constitution and protecting civil liberties.

Chief among the changes has been the enhancement of an intelligence program, which we began implementing in early 2002. In 2003, we created an Office of Intelligence, which was charged with creating a single program to manage all FBI intelligence production activities. We also expanded our analytic, reporting, and intelligence capabilities.

Since that time, the 9/11 Commission, the WMD Commission, and the President's Foreign Intelligence Advisory Board (PFIAB) have offered additional recommendations and guidance on how to further strengthen the FBI's intelligence program. In response, in February 2005 the FBI officially established the Directorate of Intelligence as a dedicated and integrated intelligence service within the FBI. In September 2005, we implemented a Presidential directive based on the WMD Commission's recommendation to establish a "National Security Service" that integrates the FBI's national security programs under the leadership of an Executive Assistant Director. The National Security Branch (NSB) comprises the FBI's Counterterrorism Division (CTD), Counterintelligence Division (CD), the Directorate of Intelligence (DI), and—as of July 2006—the Weapons of Mass Destruction (WMD) Directorate. More recently, we have been working with the PFIAB to further our efforts to build our intelligence program. In a relatively short period of time, the FBI has made sig-

nificant progress in implementing the recommendations of the 9/11 Commission, the Weapons of Mass Destruction Commission, and the PFIAB while continuing to meet the numerous other expectations placed upon the Bureau.

With these structures in place, we are working to implement a Balanced Scorecard, a management system that enables organizations to clarify their vision and strategy and translate them into actions. We began using this strategy management system in the Counterterrorism Division approximately 2 years ago and it has proven to be a helpful management tool. The Director has implemented the approach Bureau wide. Like many others in the private and public sectors, we will use the Balanced Scorecard to align day-to-day operations with broader strategies, to get feedback, and to measure our progress as we move forward in our evolution as a national security organization.

STRENGTHENING OUR INTELLIGENCE CAPABILITIES

The NSB is currently adopting this approach to link strategy with operations and further enhance our intelligence capabilities. The NSB's mission is to lead and coordinate intelligence efforts that drive actions to protect the United States. Our goals are to develop a comprehensive understanding of the threats and penetrate national and transnational networks that have a desire and capability to harm us. Such networks include terrorist organizations, foreign intelligence services, those that seek to proliferate weapons of mass destruction, and criminal enterprises.

In order to be successful, we must understand the threat, continue to integrate our intelligence and law enforcement capabilities in every FBI operational program, and continue to expand our contribution to the intelligence community knowledge base.

A key development in the evolution of the FBI's intelligence program was the establishment of Field Intelligence Groups (FIGs) in each of the FBI's 56 field offices. The FIGs manage and coordinate the FBI's intelligence collection and reporting efforts in the field. From an information-sharing perspective, the FIGs are the FBI's primary component for receiving and disseminating information. They complement the Joint Terrorism Task Forces (JTTFs) and other squads and task forces. The FIGs play a major role in ensuring that we share what we know with others in the intelligence community and our Federal, state, local, and tribal law enforcement partners.

DESK OFFICERS

As part of the FBI's efforts to enhance our understanding of the national threat picture, we are implementing a Desk Officer Program. This program will consist of an integrated network of Special Agent and Intelligence Analyst teams assigned to national, division, regional, and field desks. The FBI's Desk Officers will assess and adjust collection efforts; identify collection gaps; target collection and source development against these gaps so they are consistent with priority national intelligence requirements; satisfy internal requirements; collaborate with partners; and convert and broadly disseminate the consolidated results, leading to enhanced knowledge of the threat environment.

The FBI's desk structure is based on country and topical priorities, as set forth in the National Intelligence Priorities Framework and internal priorities. The Desk Officer Program will focus not only on the management and advancement of existing cases but also on maintaining a networked and coordinated national collection effort. Over time, this program will enhance our confidence that we understand and have penetrated terrorist, criminal, cyber, and foreign intelligence threats.

HUMAN INTELLIGENCE

Another critical element of our enhanced intelligence capability is our Confidential Human Source Program. The FBI, in collaboration with the Department of Justice, is completing a Confidential Human Source Re-engineering Project to enhance and improve the administration and operation of the FBI's Human Source Program.

As part of the Re-Engineering Project, the FBI and DOJ have worked to update guidelines on human source policy and human source validation. The ultimate goals of the Re-engineering Project are to streamline, consolidate, and update all human source guidelines; develop a "one source" concept; and strengthen the validation of human sources.

The release of the new Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources signed on December 13, 2006, marked a pivotal milestone to accomplish the one-source concept. Complementing these guidelines are two manuals: the Confidential Human Source Policy Manual (Policy Manual) and the Confidential Human Source Validation Standards Manual (Validation Manual). The

Policy Manual governs source administration including compliance with the AG Guidelines, while the Validation Manual standardizes the FBI's source validation review process. These manuals, along with the new AG Guidelines, took effect on June 13, 2007.

INFORMATION SHARING AND COLLABORATION

Among the fundamental post-9/11 changes, the FBI has enhanced its information sharing capabilities to ensure the intelligence we collect is disseminated to our law enforcement and intelligence community partners. Consistent with the Intelligence Reform and Terrorism Prevention Act (IRTPA), the FBI actively participates in the Information Sharing Environment (ISE). We have a senior-level manager detailed to the Office of the ISE Program Manager in the Office of the DNI, have assigned FBI personnel to numerous ISE working groups, and have designated the Assistant Director for the FBI Intelligence Directorate as the FBI member of the Presidentially established Information Sharing Council (ISC) and the White House's Information Sharing Policy Coordination Committee.

DISSEMINATION OF INTELLIGENCE PRODUCTS

The FBI also has undertaken a number of activities focused on enhancing our intelligence production and dissemination. These initiatives include new policy, procedures, standards, training, and oversight to optimize our contribution to the information needs of policymakers, the intelligence community and our state, local, tribal, and private sector partners. We issued policy to standardize and streamline the processing of raw and finished intelligence reports, gain more timely and consistent reporting, and allow for the direct release of certain categories of reporting without FBI Headquarters' review; established new reporting vehicles to meet niche customer markets; and began instituting metrics to allow us to measure performance across a range of issues relating to the dissemination of intelligence.

Through these efforts, we have strengthened the FBI's intelligence presence within the intelligence and law enforcement communities by sharing Intelligence Information Reports (IIRs), Intelligence Assessments, Intelligence Bulletins, and related intelligence information on platforms routinely used by our law enforcement and intelligence community partners. These platforms include the Joint Worldwide Intelligence Communications System (JWICS), Secure Internet Router Protocol Network (SIPRNet) and Law Enforcement Online (LEO), as well as on the FBI Intranet.

FUSION CENTERS

Information sharing with state, local, and tribal law enforcement is crucial to fulfilling the FBI's intelligence mission. The vast jurisdiction of state, local, and tribal officers brings invaluable access to millions of people and resources, which can help protect the Nation and its citizens. The FBI has expanded its efforts to share raw intelligence reporting and analysis with state, local, and tribal entities on LEO and RISS. The FBI also produces joint bulletins with the Department of Homeland Security (DHS) for our law enforcement partners on threat issues.

State Fusion Centers and other multi-agency intelligence centers have become a focal point of information exchange and relationship building linked to many key issues important to the FBI mission. The FBI recognizes that fusion centers are fundamental in facilitating the sharing of homeland security and criminal-related information and intelligence and considers our participation in fusion centers an extension of our traditionally strong working relationship with our state, local, tribal, and private sector partners. In June 2006, we directed all field offices to assign personnel to the leading fusion center in each state or field division territory and to participate in other centers as resources permit.

SECURE WORK ENVIRONMENT

The FBI's expanded role in intelligence operations has significantly increased the requirement to build Secure Work Environment (SWE) facilities. The goal is to provide the physical infrastructure and IT connectivity to enable FBI personnel to execute their mission of protecting national security. We also are working to provide Sensitive Compartmented Information Operational Network (SCION) access as quickly as possible to our prioritized locations so we have a baseline level of connectivity in the field offices and resident agencies most involved in national security investigations.

TRAINING AND DEVELOPMENT

To prepare our national security workforce to work collaboratively against national security threats to the United States, we continue to strengthen our training. As part of these efforts, New Agent Training has been modified to provide more than 100 additional hours of training in all national security-related areas. This includes approximately 45 hours in counterterrorism training, and additional instruction in counterintelligence, counterproliferation, and weapons of mass destruction. The additional training hours are designed to add to the flexibility and adaptability of all Special Agents to enable them to work the varied programs required of them.

We have undertaken a comprehensive restructuring of our approach to intelligence training. In addition to augmenting New Agents training, in the past 8 months we have developed and are delivering a course targeting FBI Reports Officers (ROs) who play a central role in the intelligence cycle. We are on an aggressive schedule that will train every RO by the end of this calendar year. We piloted and have run multiple iterations of a course for managers of Intelligence Analysts that is designed to give supervisors, many of whom are Special Agents, the skills and awareness to optimize their role in the intelligence cycle.

Working with the DNI and the Kent School at CIA, we developed and taught the first iteration of a 10-week Intelligence Basic Course (IBC) that provided 24 analysts foundational skills in critical thinking, writing, and speaking—core competencies of the analytic art. This month, we launched the second iteration of IBC. In addition to an intermediate version of this course, we are developing a shorter field version that we plan to deploy in early 2008. This field version is designed as a “refresher course” for analysts to maintain their critical skills.

National training seminars reaching every field office were held to address Field Intelligence Operations, Foreign Intelligence Collection, and Human Source Management and Validation. Beginning last summer, the NSB leadership began a series of small group workshops for Assistant Directors-in-Charge (ADICs) and Special Agents-in-Charge (SACs) focused exclusively on decisionmaking and managing field intelligence operations. We continue our successful partnership with the Kellogg School at Northwestern University to train senior and mid-level managers in leading the change that comes with our intelligence responsibilities.

In September 2006, we launched a new Human Source Targeting and Development course, which introduces agents to a systematic approach to identifying, developing, and recruiting human sources. The course incorporates relevant elements from tradecraft used by other intelligence community agencies into a framework for a curriculum that is tailored to the FBI’s unique jurisdictional authorities and mission.

CONCLUSION

The FBI has a mandate from the President, Congress, the Attorney General, and the DNI to protect national security by producing intelligence in support of our investigative mission, national intelligence priorities, and the needs of other customers.

The FBI has always used intelligence to solve cases; however, today, we count on our agents and analysts working hand-in-hand with colleagues around the country and around the world to collectively piece together information about multiple, interrelated issues. With the authority and guidance provided by the IRTPA and other directives and recommendations, the FBI has implemented significant changes to enhance our ability to counter today’s most critical threats. We look forward to continuing to work with the committee to strengthen our capabilities.

Thank you for your continued support and interest in the FBI’s national security program. I would be happy to answer any questions you may have.

Chairman ROCKEFELLER. Thank you, sir.

Phil Mudd, did you have a statement you wanted to make?

Mr. MUDD. No, thank you.

Chairman ROCKEFELLER. No thank you? I was looking forward to it.

Mr. MUDD. Yes, sir, but I wasn’t.

[Laughter.]

Chairman ROCKEFELLER. All right. One down for Rockefeller, one up for Mudd.

[Laughter.]

Chairman ROCKEFELLER. You heard, I believe, the last panel. You were inside or outside?

Mr. HULON. We were outside, sir.

Chairman ROCKEFELLER. Why?

Mr. HULON. That's where we were.

Mr. MUDD. We did have a TV access to the panel.

Chairman ROCKEFELLER. Uh-huh. OK.

I've got to say, Mr. Hulon, I have every reason to respect you and no reason not to respect you. But quite honestly, in listening to your testimony, I had the feeling that came out of OMB. In other words, I had the feeling that everything was on the uprise and there may be problems and yes, there is much work to do. What's going on in my head is yes, there's much work to do, but most of what was going on in the last panel was what it is that is not happening, and I really feel that I, at least from my point of view, I need to make you deal with that.

You know, this has been repeated from before, but the Committee learned that in 2007 only 60 percent of the counterterrorism special supervisory agent positions were filled. In the headquarters section that covers al-Qa'ida-related cases, more than 23 percent of the supervisory agent positions were vacant. Stunning to me. That's stunning to me.

On the one hand, Peace Corps, Vista, all of those things shooting through the sky in quality and applications. On the other hand, CIA, DIA, et cetera, shooting up in numbers of applications and quality of applications.

I don't know where FBI stands. When you say a position is vacant, I'm dumbfounded. This is protection of the nation. I just I can't understand it. I can't assimilate it. It may be because I don't understand Washington well enough. On the other hand, I've been here a long time.

So you've attempted, you said, to address headquarters vacancies by offering these TDYs—temporary duty assignments—\$27,000 bonuses—but they have failed. Well, look, \$27,000 is more than the total average income of the average West Virginia family. So we got a whole lot of folks who would take that in a shot. They might not be, you know, yes or no—some of them qualified, some of them not.

But what is it that the FBI has conducted, looked at, to understand why the organization has such difficulty in recruiting special agents to headquarters? And what new initiatives are not only under way but heading toward fruition now some 7 years later? I'm puzzled by your testimony.

Mr. HULON. Sir, let me respond to that please. I totally agree with you in regards to the vacancies at FBI headquarters. They need to be filled. When we talk about the 23-percent vacancy rate, that is for headquarters supervisors within the FBI in the counterterrorism division at headquarters. The problem that we're facing is the attraction of agents to come to the Washington, DC area. Part of that is in due to the cost of living here, and that's why we added those incentives that were mentioned in my written testimony.

But what we are doing in the FBI now is looking at a long-term solution that is going to bring about more long-term cultural

change in the FBI, because what we are contemplating doing—and it's already in process—is that we're going to make duty assignments at headquarters similar to assignments at our larger field office where agents, as a part of their career development, would rotate into nonsupervisory operation divisions in positions at headquarters, which is where we have some of the vacancies in the counterterrorism division.

So we do have a long-term solution. I don't want to make excuses for our inability to fill those spots. We have tried various short-term solutions that were not successful, so we're going to have to take a more aggressive approach to fill those positions and that is one of the strategy positions that we have ongoing with Director Mueller today.

Chairman ROCKEFELLER. OK. Vice Chairman Christopher Bond.

Vice Chairman BOND. Thank you, Mr. Chairman. Reflecting on the Department of Defense where the Chairman and the Vice Chairman of the Joint Chiefs of Staff come from different military services, one might view agents and analysts in a similar fashion.

What would be the impact if Congress required that the number one and two positions within the National Security Branch rotate between agents and analysts? Would that give analysts a greater impact or do you feel they don't need it?

Mr. HULON. I think right now we are addressing that in the FBI and it's not a quick overnight change. As you can see now, even with the National Security Branch, I'm an FBI special agent with 24 years of service. The associate EAD, the number two position in the National Security Branch, is actually held right now by an analyst, my colleague, Philip Mudd, who has over 20 years of service to the CIA as an analyst. So we are actually moving toward that and—

Vice Chairman BOND. So you're there where we would—

Mr. HULON. We're actually there now at the National Security Branch executive level. We also have analysts in management positions in the FBI. One of our deputy assistant directors who's in charge of counterterrorism analysis is an analyst. Actually we recruited him from the CIA shortly after 9/11. So we are moving in that direction, and we also have analysts in supervisory positions in both the FBI headquarters and also the field.

Vice Chairman BOND. Well, Mr. Mudd, I might turn to you and see maybe you can offer a different view than the previous panel about the lack of recognition, award, rewards for analysts. Do you feel that you're getting the kind of analysts, talent, and opportunities and career path that are needed to make the special National Security Branch effective?

Mr. MUDD. I managed analysts and operators at the CIA for years. I think if you asked analysts at the Bureau who've been there, let's say, 3 or 4 years, they would say we progressed over that time not only in terms of their professional development, but also in terms of the FBI culture and acceptance of analysis.

At the same time, I'm not here to snow you. If you asked analysts—myself as an analyst—whether FBI analysts have the same training opportunities and a 50-year history that, say, CIA has in analysis, I can't tell you that's true. So we've progressed from where we were a few years ago, but we have a ways to go in terms

of understanding the interaction between operations and analysis and ensuring that we offer long-term careers to the new people we're bringing in. They're very talented.

Vice Chairman BOND. I've heard some different views expressed on this question and we've had some concerns about it. I would—well, first of all, can you assure me that your testimony was not written by OMB or significantly changed by OMB?

Mr. HULON. Yes, sir, I can.

Vice Chairman BOND. OK. Now, number two, giving us your best unvarnished view, what is the current relationship, and how productive is it, between the FBI and the DNI?

Mr. HULON. Actually, in looking at the relationship between the FBI and the DNI, I think it's one that's still maturing. We've had a turnover at the DNI with the leadership of the DNI. But as far as on a day-to-day operational basis, we have a lot of interaction but we have not been as plugged in as I think we could be. It's a matter of the DNI and the rest of the intelligence community having a better understanding of the FBI, our operations and the guidelines we operate under, as well as us having a better understanding of the DNI and where they're going with the strategy there. But it's one—

Vice Chairman BOND. As you describe it, then, that's not something that you need legislation to fix. Mr. Mudd has come over from the CIA and there used to be, unfortunately, a total gulf between the two. Is this something that you can fix and without our getting messed up in it, and how long is it going to take you to finish doing the job?

Mr. HULON. You know, that's a good question, sir, and I can't really give you a definitive answer on that. I do think that with everyone focused on the mission, and of course the mission is critical, we will be working to a point to where it's actually working much better and we have better connectivity and support of from the DNI and also supporting the DNI's initiatives and goals and so forth to support the mission.

I'm not sure that additional legislation will help. I think it's just going to be a matter of us maturing the relationship to get to where we need to get.

Vice Chairman BOND. Any final thoughts, Mr. Mudd, on that?

Mr. MUDD. Just a quick one. There is a substantial difference, I think it's worth understanding, between CIA's relationship with the DNI and FBI. The CIA has decades of tradition building these kinds of intelligence programs. We have an advantage, I think, in terms of growing a relationship and a partnership with the DNI's office over the next decade. As we think about how we grow analytic training or how we do reporting of intelligence information and the DNI grows in the same areas, we're asking questions like, are we meeting your standards for training? Are we meeting your standards for reporting? And, by contrast, CIA is coming at this with, say, 50 or 60 years of doing this and they might not need the same, I think, help that we need, and we still need a lot of help.

Vice Chairman BOND. Thank you very much, gentlemen.

Chairman ROCKEFELLER. Senator Mikulski.

Senator MIKULSKI. Mr. Chairman.

Mr. Hulon, Mr. Mudd, good to see you again. I'm here now in my hat as a authorizer, not an appropriator, but I too want to join the Chairman for thanking you for your extensive service and sacrifice and to all who are working at the FBI so that we have a safer country, whether it's in the streets and neighborhoods, or around the world.

Mr. Chairman, one of the things that I believe is that we, Congress, does not fully understand what we have created with the National Security Bureau, and, therefore, don't appreciate what's been done. This is why this hearing is so good.

And I would encourage the Committee to go out to the National Counterterrorism Center—the NCTC—and see how the FBI is integrated there, which picks up—I know the Vice Chairman's interested in the DNI, but we're interested in the operation. The other is to also, when traveling, to visit our embassies. I've been particularly impressed at the way the FBI's been integrating—the London example is a very good answer—and then also in the field offices. Again, pledging the support between the appropriators and authorizers, if we maybe wanted to do a joint visit to the NCTC it might be an interesting phenomena.

But, having said that, let me go on though to something that's been of great interest to me which is the analyst program and is the subject of so much focus. I'd like to refer in my questions to the IG report on workforce hiring, training, and retention of analysts that was issued in April 2007. And they give you a lot of credit—you, the FBI and the NSB—for improvements in hiring, training, and utilization of them, but they raise some very important flashing yellow lights, and I'd like to go over them.

Number one, it said you didn't meet your hiring goals. I know the Ranking Member has raised it. But what was troubling to me is that also they point out that the time to hire an analyst has gone, from 2004 to 2006, from 19 weeks to 31 weeks. I'd like to know why that's so, rather than, with more experience in doing this, it's not less time.

Number two, that there is concern about the professional divide between special agents and analysts that can be potholes or speed bumps into collaboration. And number four, the importance of training—that there does not seem to be a satisfactory training program for the analyst. And last, but not at all least, their utilization—that in some instances, they're still feeling like they're Orphan Annies in some offices doing—I don't mean to say clerical work, but more administrative functions.

So one, shortening the hiring time; number two, the integration with special agents; number three, utilizing them in the field offices so once we get them we do that, and then what do you want to do to hold onto them once you get them, because they say after 5 years out of there, going to the private sector, big bucks, less stress.

Mr. HULON. OK. Thank you, Senator. Let me start off first. If it's OK with you, I'll take a couple of them out of order.

Senator MIKULSKI. Whatever way. That's why I went through them. This is really to hear from you on how we can help you be you.

Mr. HULON. OK. Actually, when you talk about the utilization of the analysts in the field offices, we have really focused on making sure that we have the analysts focused on their analytical duties. As a matter of fact, just last summer we went out with another mandate to ensure that analysts did not receive collateral duties that would take them away from their critical analytical work. So we sent that out to the field.

We directed the special agents in charge to make sure that they adhered to that. We have gotten pretty good responses back from the field as far as that being done. However, we do keep in mind that there will be situations where there will be a need for crises or critical situations to divert resources and we do understand that that could in fact happen. But we have addressed a lot of the stories that you might hear about analysts taking out the trash or answering the phone or doing complaint duty or sitting in the reception area. So we have addressed that so we are really focusing those valuable resources on what they were hired to do.

In regards to the agent/analyst divide, we hear a lot about that, and I think some of that is anecdotal. Some of it's historical discussions going back to the old stories about the agent/analyst or support divide. What we have done recently, within the last few years, and we've accelerated that, is that we're integrating the analytical workforce more with the agent workforce. We have agents and analysts working together on the FIGs—the field intelligence groups—in the field offices. We also have analysts embedded on the squads—the operational squads in the field offices—who are doing the same thing at headquarters in the Counterterrorism and Counterintelligence divisions where we have teams of analysts and agents working together. So, of course, the job—

Senator MIKULSKI. Can I jump in here with this?

Mr. HULON. Yes, ma'am.

Senator MIKULSKI. As people go through Quantico and then their, I'll call it continuing ed—

Mr. HULON. Right.

Senator MIKULSKI. For the agents, do you provide training to all special agents on the role and capabilities of analysts so that they get it when they're starting and they're reminded of it as they get their courses to upgrade their skills?

Mr. HULON. Yes, ma'am. That has not been something that has been historically done. That's something that we're integrating into our new training strategy.

Senator MIKULSKI. So you do that now?

Mr. HULON. We're starting to do that now with—

Senator MIKULSKI. When did you start?

Mr. HULON. Actually, last summer we enhanced our new agents training program to add 100 hours of national security training. In that we enhanced our intelligence training that actually talks about some of the assets that the analysts bring to the table.

We also have recently implemented a new training program for supervisors of analysts to make sure that there are supervisors because we have some situations where special agents are supervising analysts and have the analysts working with them. So we actually have a training course to make sure that the agents start to understand and appreciate what the analysts are doing. So that

is something that we're integrating into the numerous projects and priorities that we have.

Senator MIKULSKI. Can you talk about why it took so long to do that? That's number one. And number two, hiring goals is one, but to move them through the process? If it takes 30 weeks to hire an analyst, this is a new generation. They could be moving, going to the private sector, to academia. You know, you're in a war for talent. You want to talk about why it takes 30 weeks, and do you intend to shorten that? Why does it take 30 weeks?

Mr. HULON. I'm not sure where the IG—what they used when they came up with their numbers. Some of it could have been the environment when they were doing their review. We've had some situations where we've had to slow down our hiring because of budget constraints, so we've gone through, experienced some of that. So I'm not sure if that's actually factored into their assessment.

And actually, I can ask Wayne Murphy, the Assistant Director for the Directorate of Intelligence, if he might be able to shed a little light on that, because I know he's been focusing on that.

Senator MIKULSKI. Does it take 30 weeks to hire an analyst?

Mr. MUDD. If I could make one quick point on that, and that is, in the intelligence community, when you're hiring people at the top secret level or the highest security clearance you can get, I'm not sure about the 31-week number. My experience at CIA is that it takes substantially longer than that because of the process, which is labor-intensive, of getting a security clearance. So it's not the hiring process; it's the security process.

One more point on this. You talk about a war for talent with the private sector, which is true. We have the beauty of offering, frankly, a better mission than the private sector offers, which is why we get such good applicants. But when you look at an application process for an analyst, if you start in the fall of the senior year of a student, you have time to work through that year. In other words, you're not asking that student, oftentimes, to forgo another job opportunity. That person is going through his academic year as you do the security clearance process.

Senator MIKULSKI. Mr. Chairman, I note that my time has expired. I'd like to just comment on one item that Mr. Hulon said when I pressed him on the 30 weeks and he said budget constraints.

Do you remember when we did the CR going from 2006 to 2007, right after the election? I'll tell you what happened. They did a CR and they left out the FBI. And we had to fight on that. And this had—because it was both the special agents—it was a variety of personnel.

But it goes to what my point is, which is the Congress itself does not embrace the idea that we've created a national security branch and that when we press for the passage of a budget that says, no matter what, we're going to fund defense approps, we're going to fund homeland security approps, the FBI has been left out of that.

Now, fortunately, in discussions with Senator Reed, they got it, which is why our appropriations were able to move so expeditiously this year. But they've been left out of the picture, and as a result have had to keep the pace while the hiring and uncertainty was in

the air. So they've got a case to make about us while we're quizzing them.

Mr. HULON. I'm sorry. Senator, we do really appreciate your support in that regard, because that is part of some of what we have to deal with. And, as we talked about and as it was in my opening comments, at the same time that we're taking on a lot of this transformation, this revolutionary change in the FBI to shift from being focused on law enforcement to be more focused on intelligence and national security, we're doing that, and we're keeping that ops tempo up at the same time that we're doing the transformation with the limited number of resources that we have available.

Senator MIKULSKI. I'm done for now.

Chairman ROCKEFELLER. Thank you, Senator Mikulski.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Mr. Chairman.

Gentlemen, you indicated that you were not here when Governor Kean and Congressman Hamilton were testifying. Did you listen to and watch what they were saying?

Mr. HULON. We heard some of it. I heard some of it on the television.

Senator WHITEHOUSE. OK. It kind of amazes me that when the Chairmen of the 9/11 Commission, who've worked so hard on this issue, are here testifying about your agency before Congress, you missed any of that. But I guess that's neither here nor there.

Mr. HULON. Sir, we were here, but we were told to wait in a certain area.

Senator WHITEHOUSE. OK.

Well, I went back to the 2005 report where they gave grades, and although they indicated they weren't all that comfortable with grades, the C that the FBI earned in developing the national security personnel piece, they said they wouldn't improve on it; and indeed, Congressman Hamilton said that with respect to WMD issues, not even a C.

And, you know, I'm new to this. I'm looking at a report that says if they don't get it right, we should take this away from them. I'm looking at what is one of the top issues our country faces. I think everybody agrees with that. I'm looking at an issue that has, you know, enormous—I said earlier, it kind of transfixes the President and the Vice President. So there's clear White House emphasis on this issue, and yet we keep hearing about the analyst track issue. There's senior turnover. There's this, that and the other.

What is it? I mean, help me put my finger on what is wrong that prevents this from being an A program when, to the best I can tell, every bureaucratic force that can be brought to bear is ineffectual in getting you to that point? What am I missing? What is the hold-up? What is the problem? Where are we stuck?

Mr. HULON. Let me try to respond to that. Actually, you know, I couldn't agree with you more that we would like to move faster. And when you go back and you start looking at the timetable from 2001 up until now, you're talking about a pretty large chunk of time.

We did make some progress during that time period. And, of course, right after 9/11 we were responding to a tremendous

amount of threats, so we had a pretty high-paced ops tempo. At the same time, we were moving forward, making some of the transition.

I think within the last year and a half we have made substantial progress with a lot of the initiatives that we put in place, a lot of priorities that we have that people have talked about, about the numerous priorities that we have with the training, the recruitment and bringing the intelligence capabilities up to a certain level.

I think, at the same time, though, in order to make the dramatic change that we're expected to make and that we are making, it's just something that takes a lot of time to do. It was interesting; just yesterday we were talking to the Deputy Director from the Canadian Security Intelligence Service, and we were talking about the transition, because we're actually talking to others and looking to see how we can accelerate our pace. And he talked about the establishment of CSIS in 1984 and how it's a long-term project to get to where you need to get. And they, of course, were split off from the RCMP.

And he talked about the transformation and the time and the change that it takes to get it done. And I think that's what we're experiencing now in what we are doing and what we have done. As I mentioned in my statement for the record, we have taken it to another level and we've brought contractors on to help us prioritize and move forward with the transformation.

And I think that's where we're going to go, and we're actually accelerating that. And when you're talking about the grade average, you know, C or B or whatever, I think you have to also look at the operations that we're carrying out each day. We have men and women of the FBI, to include agents and analysts, that are working from sun up to sundown to make sure that we're safeguarding this country. And we're doing that in coordination with our partners in the intelligence community as well as the law enforcement community.

And I think if you look at what we're doing in the field with the JTTFs, the joint terrorism task forces, and even some of the comments and feedback that you get from our partners in the law enforcement community, you will see that we are making that change, that transformation. And you talk about intelligence-sharing. We're making great strides there, but we're not where we need to be yet.

Senator WHITEHOUSE. Let me ask you real quick about those JTTFs. I was the U.S. attorney in Rhode Island. I worked with the Bureau on a lot of issues. We were, at that point, probably one of the most aggressive groups in the country on terrorism protection and so forth. The first operation the FBI ever did in terms of having a sort of field drill with all the locals involved and all that kind of stuff was a bomb going off on a ferry in Providence Harbor. So I'm pretty sensitive to a lot of this stuff.

You know, there are 93 U.S. attorney's offices out there, and a lot of work goes into these JTTFs times 93. And you look; some of them are pretty rural, pretty remote. I don't know that Providence is the real epicenter of terrorist threat. You know, it's hard to know where to locate it, but I'm just wondering, is it really your evalua-

tion that having all that emphasis on JTTFs in every single district is a worthwhile deployment of your resources?

Mr. HULON. It's a very worthwhile deployment of our resources. Number one, I'm not sure that we have one in every district. In some divisions, like in some of the major cities, we have actually more than one JTTF or module of the JTTF. But what you have to look at when you look at the terrorist threat is that it's not always in the centers, the metropolitan centers. The threat, and also the activity, could be in some outlying territory.

So to actually have the JTTFs the way we have them, we have over 100 now. And what we've done is actually brought together the law enforcement agencies throughout the country to focus on the terrorism mission.

And when we have investigations and leads and things that we're following up on with the JTTFs, they're not just in the metropolitan areas. It goes across the country.

So I think our deployment of JTTFs is very appropriate. And from my perspective, I would like to have even more. We get requests continually from our partners in the law enforcement community that they would like to have more involvement, would like to have more JTTFs in other areas. So I think the deployment of the JTTFs now is appropriate.

Senator WHITEHOUSE. Mr. Chairman, I'd like to have a second round if I may, if that's convenient, after everybody else is done.

Chairman ROCKEFELLER. Senator Wyden, would you yield? Please proceed.

Senator WHITEHOUSE. Well, I wanted to change to another topic, which is the Los Angeles Times story from Sunday, which indicated that the FBI is quietly reconstructing the cases against Khalid Shaykh Mohammed and 14 other accused al-Qa'ida leaders, spurred in part by concerns that years of CIA interrogation have yielded evidence that is inadmissible or too controversial to present at their upcoming war crimes tribunals.

Do you know if that is true or not?

Mr. HULON. I would probably feel more comfortable talking to you about that in another setting.

Senator WHITEHOUSE. The article says that the FBI investigations involve as many as 300 agents and analysts. From the point of view of deployment, do you know if that is true?

Mr. HULON. I wouldn't want to get into those discussions in this session, sir. I would be more than happy to talk to you in another setting in regards to that, though, sir.

Senator WHITEHOUSE. It says that according to former Bureau officials, the Director pulled many of the agents back from playing even a supporting role in the interrogations to avoid exposing them to legal jeopardy, in the belief that White House and Justice Department opinions authorizing coercive techniques might be overturned.

Is that something we should comment on in a different—

Mr. HULON. Yes, sir. We shouldn't talk about any of that in this setting.

Senator WHITEHOUSE. Last, it said, "Those guys were using techniques that we didn't even want to be in the room for," ascribing that to one senior Federal law enforcement official. "The CIA deter-

mined that they were going to torture people, and we made the decision not to be involved.”

Same answer?

Mr. HULON. Yes, sir. We'd be more than happy to talk to you in a different setting in regards to any of that.

Senator WHITEHOUSE. Thank you, Mr. Chairman.

I'd like to put the article into the record, if I may have unanimous consent to do that.

Chairman ROCKEFELLER. Absolutely.

[The Los Angeles Times news article referred to follows:]

[From the Los Angeles Times, Oct. 21, 2007]

FBI WORKING TO BOLSTER AL QAEDA CASES

The U.S. is concerned that evidence obtained from CIA interrogations will be inadmissible at war-crimes tribunals.

(By Josh Meyer)

WASHINGTON—The FBI is quietly reconstructing the cases against Khalid Shaikh Mohammed and 14 other accused Al Qaeda leaders being held at Guantanamo Bay, Cuba, spurred in part by U.S. concerns that years of CIA interrogation have yielded evidence that is inadmissible or too controversial to present at their upcoming war crimes tribunals, government officials familiar with the probes said.

The process is an embarrassment for the Bush administration, which for years held the men incommunicado overseas and allowed the CIA to use coercive means to extract information from them that would not be admissible in a U.S. court of law—and might not be allowed in their military commissions, some former officials and legal experts said. Even if the information from the CIA interrogations is allowed, they said, it would probably risk focusing the trials on the actions of the agency and not the accused.

The FBI investigations, involving as many as 300 agents and analysts in a “Guantanamo task force,” have been underway for as long as 2 years. They were requested by the Defense Department shortly after legal rulings indicated that Mohammed—the self-proclaimed mastermind of the Sept. 11 terrorist attacks—and the other Al Qaeda suspects probably would win some form of trial in which evidence would have to be presented, according to senior Federal law enforcement officials.

The task force has reviewed intelligence, interviewed the 15 accused Al Qaeda leaders and traveled to several nations to talk to witnesses and gather evidence for use in the tribunals, the Federal law enforcement officials said. Like most others interviewed for this article, they spoke on the condition of anonymity, citing the sensitivity of the investigations, which are being coordinated with the Pentagon.

A Pakistan-based U.S. official who has participated in the hunt for Al Qaeda leaders since 2001 said he was interviewed by FBI agents 4 months ago in Washington. They were “very aggressively pursuing KSM and all of the things he’s been involved in,” he said, referring to the accused terrorist by his initials.

The FBI is especially interested in Mohammed, who during the more than 3 years he spent in CIA custody boasted that he had killed Wall Street Journal reporter Daniel Pearl and orchestrated more than two dozen other terrorist plots. Several senior counter-terrorism officials said they believed that Mohammed falsely confessed to some things, including the Pearl slaying, under duress or to obscure the roles played by operatives who might still be on the loose.

Mohammed’s prosecution is expected to be the centerpiece of the military commissions, which could occur as early as next year. However, some U.S. officials familiar with them said the tribunals could be delayed for years by legal challenges.

The FBI’s efforts appear in part to be a hedge in case the commissions are ruled unconstitutional or never occur, or the U.S. military detention center at Guantanamo Bay is closed. Under those scenarios, authorities would have to free the detainees, transfer them to military custody elsewhere, send them to another country or have enough evidence gathered by law enforcement officials to charge them with terrorism in U.S. Federal courts, some current and former counter-terrorism officials and legal experts said.

“I think there’s no surprise that they have to call in the FBI to clean up the mess left by the CIA secret detention program,” said Jumana Musa, advocacy director for Amnesty International. “They would be smart to use evidence that did not come out of years of secret detentions, interrogations and torture.”

Special Agent Richard Kolko, an FBI spokesman, said the investigations were a natural outgrowth of a long-standing interagency effort. “The FBI will support the prosecution of KSM and other high-value detainees by making its investigative and evidentiary expertise available to the prosecution team,” he said. He referred all other questions to the Defense Department.

Navy Cmdr. Jeffrey D. Gordon, a Pentagon spokesman, said the Defense Department was working closely with its interagency counterparts in “building a case against KSM and scores of other men at Guantanamo alleged to have committed law of war violations—including the attacks of 9/11, USS Cole bombing [in 2000] and East Africa embassy bombings [in 1998].”

Neither those two men nor CIA spokesman George E. Little would comment on whether the FBI investigations were being conducted to bolster shortcomings in the cases against Mohammed and the others that are, at least in part, the result of CIA interrogations.

FBI officials interviewed for this article emphasized that the bureau’s probes should not be viewed as a repudiation of the CIA’s efforts, noting that the spy agency’s primary responsibility has been to gather intelligence to prevent further attacks, not collect evidence for trial.

But some former and current U.S. officials said concerns about the potential inadmissibility of the CIA interrogations, and the controversy surrounding them, were the primary reasons the FBI agents were sent to gather more evidence, in some cases reinterviewing suspects and witnesses.

The FBI and CIA have appeared to be headed for a collision on the issue of detainee interrogations since shortly after the September 2001 attacks.

From the outset, the FBI has played a central role in the hunt for Al Qaeda leaders, helping the CIA, the military and foreign governments track them and process evidence against them. FBI agents initially helped interview some of the suspects, with an eye toward gathering evidence for a criminal trial.

After Mohammed’s March 2003 capture in Pakistan, some FBI agents and Federal prosecutors made clear they wanted him tried before a jury. The Al Qaeda leader had been indicted by a Federal grand jury in New York in 1996 for his role in an alleged Philippines-based plot to blow up U.S. airliners in mid-flight over the Pacific Ocean.

But the CIA moved aggressively to take over the interrogations of Mohammed and other senior Al Qaeda detainees, beginning with suspected training camp coordinator Abu Zubeida, who was captured in Pakistan in 2002. Some current and former FBI officials said the spy agency began using coercive techniques such as waterboarding, or simulated drowning, in an effort to get the detainees to talk immediately about the terrorist network’s plans.

CIA officials told *The Times* that the FBI wasn’t getting crucial information about pending attacks out of Zubeida that they knew he possessed, and that their “enhanced” techniques ultimately worked better and faster. Current and former FBI officials said those CIA techniques resulted in false confessions that were obtained illegally.

By mid-2002, several former agents and senior bureau officials said, they had begun complaining that the CIA-run interrogation program amounted to torture and was going to create significant problems down the road—particularly if the Bush administration was ever forced to allow the Al Qaeda suspects to face their accusers in court.

Some went to FBI Director Robert S. Mueller III, according to the former bureau officials. They said Mueller pulled many of the agents back from playing even a supporting role in the interrogations to avoid exposing them to legal jeopardy, in the belief that White House and Justice Department opinions authorizing the coercive techniques might be overturned.

“Those guys were using techniques that we didn’t even want to be in the room for,” one senior Federal law enforcement official said. “The CIA determined they were going to torture people, and we made the decision not to be involved.”

A senior FBI official who since has retired said he also complained about the lack of usable evidence and admissible statements being gathered. “We knew there were going to be problems back then. But nobody was listening,” he said. “Now they have to live with the policy that they have adopted. I don’t know if anyone thought of the consequences.”

Another retired FBI agent who helped lead the bureau’s Al Qaeda investigations said one fundamental flaw in the tribunal process was that the accused terrorists might be granted the right to confront their accusers in court—even a military one. And the CIA is likely to prohibit its officers from taking the stand to face cross-examination about their interrogation techniques and other highly classified aspects of the spy agency’s detainee program.

“They have put themselves in a very bad situation here,” the former agent said. “They have to redo everything because they have to come up with clean statements from these [detainees], if they can get them, obtained by law enforcement people who can actually testify. The CIA agents are not going to testify, nor should they.”

Pentagon spokesman Gordon and CIA spokesman Little said no decision had been made on how much information gathered by the CIA, including the interrogations, would be allowed into evidence at the commissions. They also said it was too early to tell whether the CIA agents would testify, although the courtrooms for the military commissions, Gordon said, would be designed with partitions to protect the witnesses’ identities and with mute buttons to allow for classified testimony.

“When it comes to the high-value detainees,” Little said, “it was, most of all, the efforts of the CIA—following a lawful, effective and safe process—that led these terrorists to share concrete, actionable intelligence that our government used to identify other terrorist figures and disrupt their activities.”

Some former FBI officials and legal analysts said that even if evidence gathered through the CIA interrogations were admissible, it had lost significant credibility because of the allegations of coercion and torture.

CIA officials have said that they never tortured the detainees and that they operated within the law.

Ultimately, some of the terrorism suspects confessed. But the coercive techniques made even some CIA officials skeptical of whether their confessions were believable, much less sustainable in any court, one former CIA counter-terrorism covert officer said.

The decision to minimize the FBI’s role in interrogating the suspects “was regarded by many as really being in error, in part because [CIA officers] don’t have the expertise as to what is evidentiary and what isn’t,” the official said. “And now there are all of these consequences.”

Musa of Amnesty International said: “People like KSM should be held accountable. And the real tragedy would be that the focus of the commissions won’t be on scrutinizing the conduct of Mohammed and the others, but on the conduct of the CIA.”

Federal law enforcement officials believe they have gathered enough admissible evidence to try the high-value detainees. “We’ve redone everything, and everything is fine,” one official said. “So what’s the harm?”

Chairman ROCKEFELLER. And before I call on Senator Wyden, I want to make it very clear that I know where you two gentlemen were during the previous panel. And I want the record to be very clear on the fact that we invited you to be here in this room during that panel and that it’s reasonably inconceivable to me that you wouldn’t have wanted to have been here.

Mr. HULON. That is—

Chairman ROCKEFELLER. ’Tis a mystery.

Mr. HULON. Sir, if that is—

Chairman ROCKEFELLER. You don’t need to answer. I just wanted that for the record.

Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

I’m going to go into this interrogation issue as well. And I am talking solely about the FBI, and I think this is the matter that we also told your contact folks about.

And let me start it this way. When the public listens to the debate about the Government conducting interrogations, the first thing they want to know is that they’re being protected from those being interrogated who might be ticking time bombs, people who might have knowledge, for example, about an imminent terrorist attack.

Now, FBI techniques do not allow for torture in interrogation. My question to you is—this is for you, Mr. Hulon—do you have confidence that those FBI techniques are adequate to deal with these ticking-time-bomb scenarios?

Mr. HULON. I would have to respond to that, sir, by saying the FBI has techniques that we use, which do not include torture or any type of physical abuse. And we have used those techniques and we continue to use those techniques, and we've been successful with those techniques. But I can't say that in every situation—

Senator WYDEN. I understand that. But the question is, are those techniques adequate to deal with the ticking-time-bomb scenarios that are first and foremost on the mind of the American people?

Mr. HULON. Those, sir, are the techniques that we have to use, and those are the ones that we do use. I can't sit here and tell you which techniques would actually work with an individual. It would depend on the situation.

Senator WYDEN. Do you have confidence that the tools are adequate?

Mr. HULON. I have confidence that we are using the authorities and the processes and tools that we have, to the best of our abilities. And I can't comment about the use of torture or anything else because we don't do that.

Senator WYDEN. I think you're still not answering the question. I want to ask it one more time. I know what was said in closed session. I obviously can't get into it. I still would like you to tell me, yes or no, whether you think the tools that you have do not allow for torture adequate to deal with these matters, imminent terrorist attacks, the threats that people are most concerned about. Do you think those tools are adequate?

Mr. HULON. I can't give you an answer as to the use of torture or whether or not—

Senator WYDEN. That's not the question. Are the tools adequate, sir?

Mr. HULON. The tools that we have as far as our interview techniques?

Senator WYDEN. Yes, the tools you have.

Mr. HULON. Those are the only ones that I know.

Senator WYDEN. I won't try to ask it again.

Let me move on, then, to a question about technology. I think it's been well-discussed that there are technology problems at the agency. And I think the first thing I'd like to know is whether agents and analysts at their desks now have access to the Internet. I've read various things that there isn't universal access. I think it'd be good to have that on the record. Is there universal access for agents and analysts to the Net at their desk?

Mr. HULON. All agents and analysts do not have access at their desktop.

Senator WYDEN. Is it 80 percent, 90 percent? Can you give me a sense of what it is?

Mr. HULON. I'd hate to be quoted at that, but it's not at the 80 or 90 percent rate.

Senator WYDEN. It's less than 80 percent.

Mr. HULON. Yes, sir.

Senator WYDEN. When would you expect that there would be universal access for agents and analysts to the Net at their desks?

Mr. HULON. Actually, right now I think we have about a little over a third of the FBI personnel with access at their—at least machines per employee.

It should be about another third deployed within the next year, but I can't tell you when every agent and analyst would have Internet access at their desktops. But they do have access to the Internet. We have stations within field offices that people can go to to work at, but we don't have access at everyone's desk.

Senator WYDEN. So as of today, though, about a third of the agents and analysts have access to the Net at their desks.

Mr. HULON. I wouldn't say it would be—I can't say that it would be a third of agents and analysts, because it could be other employees that would have it at their desktop, depending on what they do. But we have about—as far as a ratio, it's about a third as far as machines that we have available in relation to personnel on board.

Senator WYDEN. Let me see if I can get one other question in, gentlemen.

I thank you for the indulgence, Mr. Chairman.

In 2004, gentlemen, the Congress gave the FBI the authority to hire 24 senior intelligence analysts. But as of last month, apparently only a handful have been hired. I've even heard reports it's been two. Could you tell us for the record why the agency hasn't used those authorities?

Mr. HULON. We actually have posted for some of those authorities, and we brought some on. We actually have three posted now that we are recruiting for. Some of the delays had been actually the priorities of the ones that we want to bring on board as far as for a specific duty. Some of it we got a little bit delayed with some budget constraints. But we are moving forward to get those positions filled.

Senator WYDEN. Is it two, though, that have actually been hired? Is that correct? Of the authority the Congress gave, of the 24, is it correct that 2 have been hired?

Mr. HULON. We have hired two, yes, sir.

Senator WYDEN. Thank you, Mr. Chairman.

Chairman ROCKEFELLER. Thank you very much, Senator Wyden.

Can I just close this hearing, which I think has been a very, very good hearing, without having sort of the apparent characteristics of being a good hearing, because I think there's enormous frustration on this panel, on the Senate Intelligence Committee, about what may or may not be happening in the FBI.

That has been true, incidentally, for several years. That is in no way a reflection on either of you. I'm actually quite mad at you, Phil Mudd, for not talking more, because you were one of our best witnesses always when you were with the CIA. I don't know what's happened to you.

Mr. MUDD. To my left, he's 6'2" and a lot bigger than I am, sir. [Laughter.]

Chairman ROCKEFELLER. But you can dribble right around him.

And I think it opens up an important dialog. Oversight is not meant to be comfortable. We are meant to be civil and decent to you as good human beings, which you are, in service of your country. But one of the things I, at least, have learned over the last number of years is that if you're not ready to fire the tough ones and drill down deep, you just don't get anywhere.

I'll just give a small example. Kit Bond asked had your testimony been cleared by OMB, or written or cleared, whichever it was. When you said no, that is very much the exception in all agencies of Government—in all agencies of Government. And you may be less of a budgetary matter. But understand—and you can feel—and I wish you had been at the first meeting—the very deep frustration, but it's a constructive frustration.

We opened up a new field here this afternoon, at least to this person. I doubt Senator Whitehouse—I think he knows probably an enormous amount about all of this, but I have yet to learn. And yet I look at the FBI in this bifurcated manner of arresting the bad guys and then being given this new charge, but with an enormous amount of money to carry out the charge, which is to protect this country from terrorists, from another attack. I don't know anything that's more immediate and intimate to my people in West Virginia or Rhode Island, or anywhere else than that.

And so there's a certain discomfort level. Let that be the case. Do not be put off by it. Be invigorated by it. Know that you're not working alone, but that you're working with a group of people who cares very much about what you're doing but want you to get it done, and that the ordinary flow of Government is not satisfactory to us and cannot be, or else we're not doing our job; hence, I think the responsibility on our part to do better oversight, more creative oversight, and create many more opportunities for us to interact, and thus have sort of an intuitive understanding about where you're going, and on your part where we're going, what we want, and what you need to tell us.

So that wasn't exactly Shakespearean, but I hope I got my point across. And as I say, I do consider it a very constructive panel, even though it was not entirely a pleasant one. Let that not disturb you.

Thank you both.

Mr. HULON. Mr. Chairman, if I might say something—

Chairman ROCKEFELLER. Of course.

Mr. HULON. We appreciate the opportunity to be here to speak with you this afternoon, and I look forward to continued dialog because I think we have the same goal in mind, and that's to make sure we safeguard this country. And we do appreciate your support.

Chairman ROCKEFELLER. Thank you.

Mr. MUDD. And if I could add to that, it took me maybe 6 to 12 months to understand the difference between intelligence overseas and security of the United States, and I've been at this for 22 years.

The most, I thought, telling comment today, and we glossed over that, was Senator Mikulski saying, "People don't understand what we've asked you to do." And I think this is correct. We're not about being the CIA or DIA. We're not about collecting intelligence. We're about looking at a problem and using our combined intelligence/law enforcement skills to do something about that problem in a way that provides security for Los Angeles or Chicago or Tuscaloosa.

This is a profound difference, in my judgment, between the other intelligence challenges I've seen over time. And I can't agree more with Senator Mikulski. This is a lot different than what I grew up

with. This is bigger, harder, and it has, in some ways, greater implications for the security of this country.

The only other thing I'd say, Senators, I think you should push us. And in some ways you're too polite. Willie and I are responsible for this. This is on our watch. If we don't get it right, it's our bad. So you should call us down here. You should ask questions. You should ask questions in front of the camera.

We never came here for a job. We never came here for a profession. We came here for a mission. And we will prevail.

Chairman ROCKEFELLER. My mind goes back to the Moussaoui incident, where the question was that his passport, I believe, or driver's license had run out, and the decision was made to arrest him. The decision was not made to surveil him. And I think that encapsulates our worries.

Mr. MUDD. Senator, sorry—I don't agree, but I'll turn it over.

Mr. HULON. I was going to say, if that was your belief or that was what people are thinking when we talk about what the FBI is doing now, when we talk about the transformation of the FBI, when we talk about the new CT strategy, as I alluded to in my statement for the record, we've fundamentally changed the way we do business.

Chairman ROCKEFELLER. And that was a long time ago, and you're quite right about that.

Mr. HULON. Yes, sir.

Chairman ROCKEFELLER. All right, let's end on that. The hearing is adjourned.

[Whereupon, at 5:04 p.m., the Committee adjourned.]