



**Overview of the Forty-One Recommendations from
the Final Report of the National Commission on
Terrorist Attacks upon the United States**

by Col. Daniel Smith, USA (Ret.)

September 2004

Chapters 12 (“What To Do? A Global Strategy”) and 13 (“How To Do It? A Different Way of Organizing the Government”) of the Final Report of the National Commission on Terrorist Attacks upon the United States (the 9/11 Commission) contained 41 recommendations. Twenty-eight were in Chapter 12 and thirteen in Chapter 13.

Press, radio, and television reporting on the Final Report concentrated on the “how to” recommendations. And for good reason: in Washington, DC, the “how to” involves people, money, jurisdiction and control – in a word, POWER.

As the ten Commissioners are all experienced “hands” of the political and bureaucratic scene, they anticipated stiff resistance to their recommendations. They also knew the history of past commissions, especially those involving an overhaul of the Pentagon and what is called the “intelligence community.” For this reason, in the weeks following publication of the Final Report, the co-chairs of the Commission appeared frequently before congressional committees to argue for their recommended changes. Their appearances, in turn, initiated a rare sight in Washington in August: a continuous stream of Administration and military officials appearing before Congress to support, oppose, or take an intermediate, cautionary position on the Commission’s ideas.

To focus on “how to” is also to focus on the short term in that the Commission’s co-chairs (and the report itself) clearly believe that much remains to be done to make the public “safe” from future terror attacks. (“America is safer today than before 9/11, but it is still not safe” is a mantra in every statement by any of the Commissioners.) For its part, as reinforced in comments and testimony by Commission members, the report stresses that all 41 recommendations are a package. Omitting any of them weakens the whole – e.g., leaving gaps in agency coordination, both domestic and foreign; leaving old or introducing new impediments to information and intelligence tasking, collection, analysis, and dissemination; infringing on civil liberties; hobbling more effective oversight, complicating lines of authority and responsibility, etc.

On the other hand, because changing both the structure and functioning of Washington’s institutions is so hard and time-consuming, once done it is quite difficult to change again unless a truly egregious error or unintended consequence is detected. This possibility places a premium on full, meaningful, deliberate, considered debate before a bill is presented for a vote. Such due diligence does not carry any guarantees, but without close attention to details, the odds do not favor implementing the right changes in the right way.

Getting policies, priorities, and programs right is just as important as having a full deliberative process – perhaps more so – because these have long-term ramifications. In fact, it can very plausibly be argued that U.S. policy in the Middle East, particularly since the 1967 Six Days War, triggered the attacks of 9/11. A long-term U.S. regional policy that has increasingly accepted uncritically Israel’s interests to the detriment of Palestinian interests, became tied to more recent “affronts” to Arab and Islamic culture. This perceived confluence, which waxed and waned, generated a number of anti-U.S. terrorist events culminating in 9/11, at which point the accumulated shortcomings of U.S. institutions in adapting to changed circumstances became clear.

The attached is an attempt to programmatically group the Commission’s 41 recommendations, concentrating on policy considerations first and then structural ones. The sequence also attempts to introduce a sense of priorities, not so much in temporal terms but qualitatively. For example, the one recommendation dealing directly with weapons of mass destruction is listed first on the premise that the use of one of these weapons – particularly nuclear or biological – would have unpredictable but devastating consequences far beyond those suffered on 9/11. This point is then followed by five entries on what are designated as values and vision, things that add quality to life because they address the human spirit, and three more that address rights and freedoms. Only after grouping the remaining “what” recommendations under other headings are the 13 “how to” recommendations reached.

Commentaries are provided either on selected recommendations or sections. The numbering that appears with each recommendation is the order in which they appear in the Commission’s report. Bold type in the recommendations has been added for emphasis.

**RECOMMENDATIONS FROM CHAPTERS 12 AND 13 OF THE REPORT OF
THE 9/11 COMMISSION
-ARRANGED BY SUBJECT MATTER-**

WEAPONS OF MASS DESTRUCTION AND COUNTER PROLIFERATION

12. *Our report shows that al Qaeda has tried to acquire or make weapons of mass destruction for at least ten years. There is no doubt the United States would be a prime target. Preventing the proliferation of these weapons warrants a maximum effort -- by strengthening counterproliferation efforts, **expanding the Proliferation Security Initiative, and supporting the Cooperative Threat Reduction program.***

Comment. Increasing funding for and expanding the scope of the Cooperative Threat Reduction (CTR) Program is an extremely effective way to increase the level of security for nuclear weapons and material, biological pathogens, chemical agents, and specialized equipment used in producing non-conventional weapons. Requested DoD FY2005 CTR funding decreased by \$40 million from FY2004, but in congressional testimony (March 2004) the Pentagon noted that work in 51 of 62 program areas dealing with Soviet-era nuclear weapons had been completed. Moreover, the increasing emphasis on biological and chemical threat reduction requires less capital investment than nuclear areas.

The Proliferation Security Initiative (PSI), ostensibly aimed at preventing the spread of non-conventional weapons and missile delivery systems, really has North Korea as its object. PSI is a U.S.-led *ad hoc* coalition of 15 “core” countries supplemented by three bilateral agreements with “flag of convenience” countries pledged to prevent “states or non-state actors of proliferation concern” from acquiring, selling, or in any manner transferring technology, equipment, weapons, or related materials used to create non-conventional weapons. Two aspects make PSI suspect. First, there is no independent authority or judge determining which is a state or sub-state actor of “proliferation concern” and thus subject to PSI action. This determination is left to the PSI participants. Second, international statutes and customary law specifying reasons under which a ship may be stopped and boarded on the high seas (or aircraft intercepted) do not extend to weapons of mass destruction or delivery systems. In fact, boarding a ship of another nation on the high seas without permission of the other government traditionally has been considered an act of war.

SHORT VERSUS LONG RANGE VISION

6. *Where Muslim governments, even those who are friends, do not respect these principles, the United States must stand for a better future. One of the **lessons of the long Cold War was that short-term gains in cooperating with the most repressive and brutal governments were too often outweighed by long-term setbacks for America's stature and interests.***

Comment. This caution remains valid today. While 121 of the 192 countries in today's world have the structures characteristic of an elected democracy, only 89 are considered free – i.e., they respect human rights, adhere to the rule of law, and have effective civilian control of the military.

9. *A comprehensive U.S. strategy to counter terrorism should include **economic policies that encourage development, more open societies, and opportunities** for people to improve the lives of their families and to enhance prospects for their children's future.*

Comment. This is a statement of the policies and programs that are the indispensable corollaries to supporting diplomatically the development of truly democratic regimes. People emerging from repression need to experience substantive benefits from democracy; otherwise they may well refuse to embrace it or commit their hopes for a better future to a system that, at first glance, offers uncertain economic “opportunities” in place of guarantees and political “chaos” for police state “security.”

Section Comment. Together, these two principles serve to make the point that democracy cannot be “brought” to a people, let alone imposed. For by its very nature, democracy requires a choice by the people – in the first instance, choosing to accept it.

DEFINING AND PUBLICIZING U.S. VALUES

5. *The U.S. government **must define** what the message is, **what it stands for**. We should offer an example of moral leadership in the world, **committed to treat people humanely, abide by the rule of law, and be generous and caring** to our neighbors. America and Muslim friends can agree on respect for human dignity and opportunity. To Muslim parents, terrorists like Bin Laden have nothing to offer their children but visions of violence and death. America and its friends have a crucial advantage -- we can offer these parents a vision that might give their children a better future. If we heed the views of thoughtful leaders in the Arab and Muslim world, a moderate consensus can be found.*

7. *Just as we did in the Cold War, we need to defend our ideals abroad vigorously. America does stand up for its values. The United States defended, and still defends, Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq. **If the United States does not act aggressively to define itself in the Islamic world, the extremists will gladly do the job for us.** Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them. The United States should **rebuild the scholarship, exchange, and library programs** that reach out to young people and offer them knowledge and hope. Where such assistance is provided, it should be identified as coming from the citizens of the United States.*

8. *The U.S. government should offer to join with other nations in generously supporting a new **International Youth Opportunity Fund**. Funds will be spent directly **for building and operating primary and secondary schools in those Muslim states that commit to sensibly investing their own money in public education.***

Section Comment. These three recommendations all point to a single truth: perceptions count as much as, if not more than, actual actions taken or not taken – especially when the actions are colored by interpreters or information gatekeepers. This is not to say that the latter are responsible for the generally (in some countries, the overwhelming) negative perception of the U.S. (There is always at least a kernel of truth in the best propaganda.) The problem internationally lies in the conjunction of U.S. policies that disregard the legitimate interests of other nations, policies that stress the use of military power and military dominance, policies that perpetuate support of “friendly” authoritarian regimes that control resources (oil) needed by the U.S., policies that seek to undermine “unfriendly” regimes that control needed resources, and policies that abandon or subordinate to military measures the myriad national elements of “soft power” that present a more positive image of the U.S.

INTELLIGENCE

International Intelligence Cooperation Against Terrorists

1. *The U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power. We should reach out, listen to, and work with other countries that can help.*

Comment. What makes this a policy statement is the phrase “using all elements of national power.” Moreover, the call to analyze each potential sanctuary and assign a priority belies the propensity to declare a general “war” and rely on military means as the primary response. A third bite at the policy question is the acknowledgement that the U.S. needs to work with other countries – not least those who have ungoverned areas where extremists and international criminals, left alone, could establish bases.

U.S. Intelligence Collection and Retention Versus Civil Liberties

22. *As the President determines the **guidelines for information sharing among government agencies** and by those agencies with the private sector, he should **safeguard the privacy of individuals** about whom information is shared.*

Comment. This recommendation acknowledges presidential use of executive orders, findings, and other classified notices to affect national policies. But it then goes on to suggest – inadvertently one hopes – that the public should also rely on presidential declarations to safeguard individual liberties. A president may have every intention of protecting human rights and liberties, but as chief executive he has a competing duty to

look after the nation's security. Relying on the rule of man ("he should safeguard") is no substitute for the rule of law when the issue is privacy or any civil liberty.

23. *The **burden of proof for retaining a particular governmental power** should be on the executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be **adequate guidelines and oversight** to properly confine its use.*

24. *At this time of increased and consolidated government authority, there should be a **board within the executive branch to oversee adherence to the guidelines** we recommend and the commitment the government makes **to defend our civil liberties**.*

Comment. This recommendation's failure to distinguish between the roles and habits of branches of government introduces a contraction: consolidating power and authority – what the executive branch does – is the opposite impulse to defending civil liberties – what the judiciary does.

Section Comment. These three recommendations go to the very heart of the U.S. democratic experience. The Framers of the Constitution had the experience of ineffective central government under the Articles of Confederation. They also had the experience of an autocratic central government that had abridged the civil liberties of the colonists, in part prompting the rebellion against British rule. In forming the new government, the Framers chose to create a strong executive, but one whose powers were circumscribed by the people's representatives (with both being checked by an independent judiciary), especially the oversight and appropriations functions.

These two tensions – efficiency (the power to compel) versus liberty and executive-legislative – are the often unspoken contest underlying legislation and administrative regulations. Both become skewed toward centralized authority and the diminution of freedom when Congress acts in ill-considered haste or when the executive, unable to secure congressional assent to its programs, uses its regulatory power in lieu of law. Creating a board of review **within** the executive may be useful as an initial monitor of compliance with guidelines, but it is an insufficient remedy precisely because it IS in the executive. Oversight is Congress' job.

In this regard, the third tension in the Constitution – judicial review – seems destined to expand further as presidents seem to make policy and change programs via administrative declarations and regulations when they cannot induce Congress to pass legislation. Most troublesome are attempts, both through administrative and legislative processes, to declare *a priori* that courts have no review authority on a particular issue.

PROTECTIVE ACTIONS IN THE U.S.

Homeland Security: Borders

Comment. In general, “homeland” too readily suggests the image of a citadel country in which government controls or heavily influences citizens’ thoughts, words, and actions. In particular, it calls up 20th Century images of “the Fatherland” (Nazi Germany) or “the Motherland” (Soviet Union). A less defensive phrase – and thus a less severe image than “war” – should be proposed – e.g., Domestic or Territorial Security.

15. *The U.S. **border security system** should be integrated into a larger network of screening points that includes our transportation system and access to vital facilities, such as nuclear reactors. The President should direct the **Department of Homeland Security** to lead the effort to design a comprehensive screening system, addressing common problems and setting common standards with system wide goals in mind. Extending those standards among other governments could dramatically strengthen America and the world's collective ability to intercept individuals who pose catastrophic threats.*

16. *The **Department of Homeland Security**, properly supported by the Congress, should complete, as quickly as possible, a **biometric entry-exit screening system**, including a single system for speeding qualified travelers. It should be integrated with the system that provides benefits to foreigners seeking to stay in the United States. Linking biometric-based passports to good data systems and decision making is a fundamental goal. No one can hide his or her debt by acquiring a credit card with a slightly different name. Yet today, a terrorist can defeat the link to electronic records by tossing away an old passport and slightly altering the name in the new.*

17. *The U.S. government cannot meet its own obligations to the American people to prevent the entry of terrorists without a major effort to collaborate with other governments. We should do more to exchange terrorist information with trusted allies, and **raise U.S. and global border security standards** for travel and border crossing over the medium and long term through extensive international cooperation.*

18. *Secure identification should begin in the United States. The federal government should set standards for the issuance of birth certificates and sources of identification, such as driver’s licenses. **Fraud in identification documents** is no longer just a problem of theft. At many entry points to **vulnerable facilities**, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.*

Section Comment. In general, these four recommendations point to a long-standing deficiency: knowing the identities of foreigners who enter the U.S. for any reason and knowing who has left and when. This is a legitimate function of government, even in a democratic setting, related to blocking the entry of criminals as much as blocking individuals identified as terrorists based on their actions or association with groups that advocate violence against the U.S. The recommendation for improved “global security standards for travel and border crossing,” done correctly as an international effort, would serve to counteract any propensity toward stereotypes or racial profiling as well as possibly reducing the use of false documents. Conversely, Congress should resist any suggestion that U.S. citizens carry a federal government identity card. Border security is a question of looking outward to determine who wants in and who has left; it is not about who goes where within the country. (As it is, the government keeps track of citizens who travel abroad.)

Homeland Security: Internal Defense of Transportation

19. *Hard choices must be made in allocating limited resources. The U.S. government should identify and evaluate the **transportation assets that need to be protected**, set risk-based priorities for defending them, select the most practical and cost-effective ways of doing so, and then **develop a plan, budget, and funding to implement the effort**. The plan should assign roles and missions to the relevant authorities (federal, state, regional, and local) and to private stakeholders. In measuring effectiveness, perfection is unattainable. But terrorists should perceive that potential targets are defended. They may be deterred by a significant chance of failure.*

20. *Improved use of "no-fly" and "automatic selectee" lists should not be delayed while the argument about a successor to CAPPS [Computer Assisted Personal Profile System] continues. This **screening function** should be **performed by the TSA** [Transportation Security Agency], and it should utilize the larger set of watchlists maintained by the federal government. Air carriers should be required to supply the information needed to test and implement this new system.*

21. *The TSA and the Congress must give **priority attention to improving the ability of screening checkpoints** to detect explosives on passengers. As a start, each individual selected for special screening should be screened for explosives. Further, the TSA should conduct a human factors study, a method often used in the private sector, to understand problems in screener performance and set attainable objectives for individual screeners and for the checkpoints where screening takes place.*

Comment. While the Commission calls for establishing priorities for transportation protective measures using a risk-based assessment (#19), it then focuses entirely on the aviation sector (#20 and #21). As a matter of policy, internal transportation modes other than aviation need attention: railroad lines, because they carry the bulk of U.S. freight movements, and highways, because they carry the most passengers. For example, in July

2003, the Federal Highway Administration announced that 28 percent of all U.S. bridges need repair, can't adequately handle the volume of traffic trying to use them, or do not meet standards for safety. That's a little over 163,000 bridges (*Washington Times*, July 23, 2003). The TSA is supposed to be a TRANSPORTATION, not an aviation only, safety administration. And while its focus may be on precluding acts of terror, its mandate must not be reduced to one form of transport or one challenge.

(To illustrate the point that a single focus on aviation is not prudent, a non-aviation scenario that springs to mind applicable to any urban area with a "ring road" and major rail line convergence is a combination of explosive devices on the rails and explosive-laden automobiles and trucks at strategic locations (river bridges and tunnels or major junctions) or randomly left on the ring road timed to go off at peak usage times.)

Homeland Security: Preparedness and Response

25. *Homeland security **assistance should be based strictly on an assessment of risks and vulnerabilities.** Now, in 2004, Washington, D.C., and New York City are certainly at the top of any such list. We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But federal homeland security assistance should **not remain a program for general revenue sharing.** It should supplement state and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel.*

26. *Emergency response agencies nationwide should **adopt the Incident Command System (ICS).** When multiple agencies or multiple jurisdictions are involved, they should adopt a unified command. Both are proven frameworks **for emergency response.** We strongly support the decision that federal homeland security funding will be contingent, as of October 1, 2004, upon the adoption and regular use of ICS and unified command procedures. In the future, the Department of Homeland Security should consider making funding contingent on aggressive and realistic training in accordance with ICS and unified command procedures.*

27. *Congress should support **pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes.** Furthermore, high-risk urban areas such as New York City and Washington, D.C., should establish **signal corps units to ensure communications connectivity** between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress.*

28. *We endorse the American National Standards Institute's **recommended standard for private preparedness.** We were encouraged by Secretary Tom Ridge's praise of the standard, and urge the Department of Homeland Security to promote its adoption. We also encourage the insurance and credit-rating industries to look closely at a company's compliance with the ANSI standard in assessing its insurability and creditworthiness. We believe that compliance with the standard should define the standard of care owed by a*

Friends Committee on National Legislation
245 Second Street NE, Washington, DC 20002-5795
(202)547-6000 * Toll-free (800)630-1330
fcnl@fcnl.org * www.fcnl.org

company to its employees and the public for legal purposes. Private-sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security.

Section Comment. These four (#25-28) recommendations begin with a policy matter – on what basis to allocate federal assistance – and then transition toward the mechanisms for policy implementation. The existing response programs and standards mentioned and endorsed by the Commission provide the framework for organizing flexible yet nationwide procedures on which planning for deterrence of as well as response to terrorist action aimed at critical public and private infrastructure.

INTERNATIONAL ORGANIZATIONS AND ACTIONS

Ad Hoc Counterterror Coalitions: Non-Military Actions

10. The United States should engage other nations in developing a comprehensive coalition strategy against Islamist terrorism. There are several multilateral institutions in which such issues should be addressed. But the most important policies should be discussed and coordinated in a flexible contact group of leading coalition governments. This is a good place, for example, to develop joint strategies for targeting terrorist travel, or for hammering out a common strategy for the places where terrorists may be finding sanctuary.

Comment. *Ad hoc* “contact groups,” coalitions, and bilateral fora are all suitable for discussions on strategy, but program decisions that implement a strategy ought to be made in more permanent international organizations – and generally the more inclusive the better. Furthermore, while recognizing the Commission’s charge drove its findings toward “Islamist terrorism,” the U.S. must not lose sight of the reality that non-Muslims are as capable of terrorist acts, including suicidal attacks, as Islamists. (Similarly, care must be taken not to link religion per se to terrorist acts.) Capabilities in other geographical contexts that take time to develop – language skills, cultural understanding – must be maintained.

14. Targeting travel is at least as powerful a weapon against terrorists as targeting their money. The United States should combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility.

13. Vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts. The government has recognized that information about terrorist money helps us to understand their networks, search them out, and disrupt their operations. Intelligence and law enforcement have targeted the relatively small number of financial facilitators -- individuals al Qaeda relied on for their ability to raise and deliver money -- at the core of al Qaeda's revenue stream. These efforts have worked. The death or capture of several important facilitators has decreased the amount of money

available to al Qaeda and has increased its costs and difficulty in raising and moving that money. Captures have additionally provided a windfall of intelligence that can be used to continue the cycle of disruption.

Comment: Efforts to constrain freedom of movement by terrorists and to disrupt the financial dealings of terror networks are premier examples of the effective use of “soft power” methodologies to prevent acts of terror. If terrorists can’t reach their targets easily or are unable to finance their activities reliably, they are more likely to make errors that expose them to national and international law enforcement.

Military Support to Allies

*2. If [President Pervez] Musharraf stands for enlightened moderation in a fight for his life and for the life of his country, the United States should be willing to make hard choices too, and make the difficult long-term commitment to the future of **Pakistan**. Sustaining the current scale of aid to Pakistan, the United States should support Pakistan's government in its struggle against extremists with a comprehensive effort that extends from military aid to support for better education, so long as Pakistan's leaders remain willing to make difficult choices of their own.*

*3. The President and the Congress deserve praise for their efforts in **Afghanistan** so far. Now the United States and the international community should make a long-term commitment to a secure and stable Afghanistan, in order to give the government a reasonable opportunity to improve the life of the Afghan people. Afghanistan must not again become a sanctuary for international crime and terrorism. The United States and the international community should help the Afghan government extend its authority over the country, with a strategy and nation-by-nation commitments to achieve their objectives.*

*4. The problems in the U.S.-Saudi relationship must be confronted, openly. The United States and **Saudi Arabia** must determine if they can build a relationship that political leaders on both sides are prepared to publicly defend – a relationship about more than oil. It should include a shared commitment to political and economic reform, as Saudis make common cause with the outside world. It should include a shared interest in greater tolerance and cultural respect, translating into a commitment to fight the violent extremists who foment hatred.*

Section Comment. Undoubtedly, U.S. national interests would be well served by political, social, and economic stability in these countries. Currently, this stability does not exist. Pakistan, although it has democratic forms, is essentially an authoritarian state in which the military is the real power – and not necessarily always in accord even with a national leader from its ranks, such as President Musharraf. Pakistan’s nuclear weapons, its dispute with India over Kashmir (and support of Kashmiri insurgents), its religiously-oriented, “publicly” educational structure (madras), and its widespread poverty, risk

coalescing into an explosive mix that could not only turn Pakistan into a totally failed state but also exacerbate chaos in neighboring Afghanistan.

As it is, Afghanistan, with the continuing ability of regional warlords to defy Kabul, remains on the edge of state failure. While the “successful” registration of 9.5 million voters in preparation for presidential elections in October and parliamentary election next March is encouraging, the true test will be how many of those who are registered actually vote – and how many women are “allowed” to vote.

Saudi Arabia, in a sense, is both a terrorist and a U.S. target. It is a terrorist target because al Qaeda sees the royal family as not Islamic enough and, in contaminating the land of Mecca and Medina by allowing western (U.S.) military forces to maintain a permanent presence, as forfeiting its right to rule. The U.S. sees Saudi support of a “fundamentalist” Islamic sect as a major cause of anti-U.S. fervor throughout the Islamic world and the resulting terrorist attacks on the U.S., its citizens, and its facilities and installations. At the same time, the U.S. relies on Saudi Arabia to regulate the oil markets and maintain price stability.

Each of these countries need sustained encouragement to create the foundations of true democratic governance – civic society, transparency in the legal system, accountability in financial matters, a sense of ownership of their nation’s future – and its exercise through internationally monitored elections. Pakistan, and to a larger extent, Afghanistan, are hobbled by the necessity to be on a partial war footing at the same time they struggle with security concerns, try to improve living conditions, broaden education and educational opportunities, create jobs, and provide health care.

But Pakistan, as already noted, is heavily militarized. It does not need more encouragement in this direction.

With the assistance of NATO and European Union countries and others who form the UN-mandated International Security Assistance Force operating in the Kabul area, Afghanistan is molding a defensive national military structure. This will succeed, however, only to the extent that militias loyal to regional warlords are disbanded, disarmed, and reintegrated into Afghan society – and the central government is able, with outside help, to defeat the Taliban and non-Afghan insurgents.

Although the large-scale U.S. presence in Saudi Arabia is gone, the continued presence of U.S. military and civilian personnel connected with the Saudi Arabian National Guard (SANG) program leaves open the charge that the royal family has lost its mandate to rule. The fact that the Saudi National Guard is essentially a praetorian guard suggests the great unease within the royal family itself about its legitimacy and its base within Saudi society. Military aid is of little use with respect to these concerns.

Treatment of Prisoners and Detainees

11. *The United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists. **New principles might draw upon Article 3 of the Geneva Conventions** on the law of armed conflict. That article was specifically designed for those cases in which the usual laws of war did not apply. Its minimum standards are generally accepted throughout the world as customary international law.*

Comment. The Commission, as some observers suggest, may have been influenced by the revelations of the physical and psychological abuses of detainees at Abu Ghraib prison in Iraq and Guantanamo Bay, Cuba. But the wording of the recommendation suggests Commissioners recognized the damage done by the simple act of imprisoning individuals for lengthy periods without charges, without legal representation, and without notification to or communication with relatives – all “justified” on the basis of a unilateral decree creating a new category of “enemy combatant.” To have individuals willing to die for a cause is not new; to have individuals willing to die and eager to have as many of their enemies as possible, military and civilian, die at the same time also is not new. The ability to kill multiple hundreds and even thousands as part of a suicide is new, and this invites a multinational review of laws of peace and laws of war for detaining, arraigning, prosecuting, and, if guilty, confining those who would commit such acts of indiscriminate killing on non-combatants..

GOVERNMENT STRUCTURAL REFORM

U.S. Intelligence Structure: Reform and Reorganization

29. *We recommend the **establishment of a National Counterterrorism Center (NCTC)**, built on the foundation of the existing Terrorist Threat Integration Center (TTIC). Breaking the older mold of national government organization, this NCTC should be a center **for joint operational planning and joint intelligence**, staffed by personnel from the various agencies. The head of the NCTC should have authority to evaluate the performance of the people assigned to the Center.*

Comment. Structurally hierarchical systems like the military are able to create and enforce “jointness” much more easily than non-military systems. A prime reason for this is the narrower focus of military activity – killing people and destroying things. Non-military functions of government are more diverse because they address a much wider set of concerns spread over a wider (and thus more diverse) population. Within the context that sees the counterterrorist effort as a “war,” aiming for jointness in intelligence and operational planning follows the military model. However, while intelligence production can benefit from integrated all-source collection and multi-agency analysis that resembles at the top levels of government a military model, operational planning must be much broader in outlook so as to incorporate realistic non-military actions.

Friends Committee on National Legislation
245 Second Street NE, Washington, DC 20002-5795
(202)547-6000 * Toll-free (800)630-1330
fctl@fctl.org * www.fctl.org

30. *The current position of **Director of Central Intelligence** should be replaced by a **National Intelligence Director** with two main areas of responsibility: (1) **to oversee national intelligence centers on specific subjects of interest across the U.S. government** and (2) **to manage the national intelligence program and oversee the agencies that contribute to it.***

Comment. Combining in one person the position of Director of Central Intelligence and Director of the Central Intelligence Agency (CIA) invites problems from excessive span of control (trying to coordinate 15 intelligence agencies budgets and requirements) and unconscious parochialism (as head of the CIA). The positions should be severed.

31. *The CIA Director should emphasize (a) **rebuilding the CIA's analytic capabilities**; (b) **transforming the clandestine service by building its human intelligence capabilities**; (c) **developing a stronger language program, with high standards and sufficient financial incentives**; (d) **renewing emphasis on recruiting diversity among operations officers so they can blend more easily in foreign cities**; (e) **ensuring a seamless relationship between human source collection and signals collection at the operational level**; and (f) **stressing a better balance between unilateral and liaison operations.***

Comment. This recommendation goes to the basics of the intelligence cycle – knowing what to task for collection efforts, being able to examine, interpret, and place into context – including intentions of adversaries – the information gathered, integrating all available data from multiple sources for the finished product.

32. ***Lead responsibility for directing and executing paramilitary operations, whether clandestine or covert, should shift to the Defense Department.** There it should be consolidated with the capabilities for training, direction, and execution of such operations already being developed in the **Special Operations Command.***

Comment. Recognizing that the U.S. government is unlikely to forswear in the foreseeable future covert paramilitary operations as a foreign policy tool, as FCNL advocates, it is far preferable to try and structure this activity in a way that emphasizes control and accountability. This suggests that planning for paramilitary operations should be centralized in one agency, but which agency “leads” in the actual conduct of such operations should be determined according to which agency is best situated in terms of people and equipment for a particular mission. In general, missions with a strong military element (e.g., hostage rescue) should go to Special Operations Command (and within that command to the Army, Navy, Marine, or Air Force element) with other missions (e.g., extracting an agent, funding an opposition movement in another country, mounting a propaganda campaign) being assigned to non-military assets. Regardless of which agency might “lead,” the normally high risk involved in covert paramilitary operations suggests this type of action be carefully weighed and used sparingly.

(In Executive Order 12333 (1981), signed by President Reagan, covert action is defined as “special activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly... [They] do not include diplomatic activities or the collection and production of intelligence or related support functions.” Covert action is considered when “foreign policy objectives may not be fully realized by normal diplomatic means and when military action is deemed to be too extreme” (*CIA Fact Book*). In contrast, a clandestine action is one intended to be secret through achievement of certain goals – sometimes up to mission completion – after which U.S. involvement may even be publicized.)

33. *Finally, to combat the secrecy and complexity we have described, the overall amounts of **money being appropriated for national intelligence and to its component agencies should no longer be kept secret.** Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work.*

Comment. For the public to be able to evaluate fairly whether their representatives are carrying out their duties as enumerated by the Constitution and in statute, especially the allocation of tax dollars, the people must know what monies are being allocated for which programs. Currently, this is impossible because the amount for the intelligence community proposed by the President and appropriated by Congress is classified.

34. *Information procedures should provide **incentives for sharing,** to restore a **better balance between security and shared knowledge.***

Comment. Just as secrecy is antithetical to true democracy, which requires shared information, so too does reliable intelligence require a maximum exchange and pooling of information from all sources. Compartmenting information because of an excessive concern for “security” may well end up making the nation less secure because incomplete information led to incorrect conclusions.

39. *A **specialized and integrated national security workforce** should be established **at the FBI** consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, rewarded, and retained to ensure the development of an **institutional culture imbued with a deep expertise in intelligence and national security.***

Comment. This recommendation for the FBI parallels #31 for the CIA.

Congressional Reorganization and Oversight Responsibilities

36. ***Congressional oversight for intelligence -- and counterterrorism -- is now dysfunctional.** Congress should address this problem. We have considered various alternatives: A joint committee on the old model of the Joint Committee on Atomic*

Energy is one. A single committee in each house of Congress, combining authorizing and appropriating authorities, is another.

37. Congress should **create a single, principal point of oversight and review for homeland security**. Congressional leaders are best able to judge what committee should have jurisdiction over this department and its duties. But we believe that Congress does have the obligation to choose one in the House and one in the Senate, and that this committee should be a permanent standing committee with a nonpartisan staff.

40. The **Department of Defense and its oversight committees** should **regularly assess the adequacy of Northern Command's strategies and planning** to defend the United States against military threats to the homeland.

41. The **Department of Homeland Security and its oversight committees** should **regularly assess the types of threats** the country faces to determine (a) the adequacy of the government's plans -- and the progress against those plans -- to protect America's critical infrastructure and (b) the readiness of the government to respond to the threats that the United States might face.

Section Comments. These four recommendations take on the entrenched committee power structures in Congress. What should be remembered in any plan for reforming committee responsibilities is that the U.S. requires intelligence about more than “terrorist” plans and activities. Oversight committees for the Departments of Defense and Homeland Security should remain distinct from each other and from intelligence oversight committees. Departmental oversight committees would focus on structures and processes, with intelligence panels zeroing in on the content of the intelligence elements. Most important, however, is reforming the mind-set of Congress to actually perform oversight instead of being cheerleaders.

Information Technology and Transition/Continuity of Government

35. The president should lead the government-wide effort to **bring the major national security institutions into the information revolution**. He should coordinate the resolution of the legal, policy, and technical issues across agencies to create a “trusted information network.”

38. Since a catastrophic attack could occur with little or no notice, we should **minimize as much as possible the disruption of national security policymaking during the change of administrations** by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow new officials to assume their new responsibilities as quickly as possible.

Section Comments. These recommendations, taken together, present a dichotomy that runs through the entire 9/11 report as well as the classic late 20th Century division in the intelligence world between technology and human sources.

Technology for passing information is the same technology that passes disinformation. Evaluations after every disaster involving the Pentagon always seem to include adverse comments on the multiple, often incompatible, expensive computer and communications systems being used and the high costs of retrofitting interfaces between systems. Joint requirements documents do help standardization efforts, but the problem is huge. The same can be said for other government departments and agencies, all of which affects the speed and accuracy of government workers.

On the other hand, it is important that senators feel confident that those nominated by the President for high positions are professionally qualified and possess absolute integrity. Once confirmed by the Senate, these individuals serve at the pleasure of the president, and unless their conduct is egregious, they cannot be removed by Congress or the courts. This places a premium on “human intelligence” collection and analysis by senators in the form of “eyeball-to-eyeball” encounters with nominees. Rather than trying to speed the evaluative process by the Senate, the new president ought to speed the selection process of his cabinet chiefs who then can proceed to select the second, third, and fourth-level officials for each department or agency.

Dan Smith is a senior fellow on Military Affairs at the Friends Committee on National Legislation.