

TESTIMONY BEFORE THE  
HEARING OF THE  
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

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By

William H. Webster

Chairman Collins, Senator Lieberman and Members of the Committee,

Thank you for the privilege of appearing before you this morning to discuss key aspects of the recommendations of the 9/11 Commission, especially those recommendations regarding the restructuring of the Intelligence Community.

Following an extensively documented and detailed narrative of the events leading up to September 11, 2001, the Commission concluded that the coordination, amalgamation and synthesis of intelligence collected by various components of the Intelligence Community were too loose, and in consequence the “dots” were not connected in a way that the 9/11 plot could have been uncovered and prevented. The Commission addressed a new structure intended to reduce the likelihood of another catastrophic attack against the United States and its citizens.

In my view, some of the omissions and errors in conclusions were attributable to human mistakes and misjudgments. Others were attributable, in part, to constraints, both legislative and administrative, that governed interagency relationships in the period following the Church and Pike Committee Reports to the 2001 Patriot Act revisions on sharing intelligence. Various proposals for managing “need to share” and preserving

“need to know” had to address the almost Byzantine system of intelligence control that evolved during that three decade period.

I liken the current status of the Director of Central Intelligence to that of “den chief” in terms of his ability to control resources and compel effective teamwork throughout 15 agencies. It is remarkable what has been accomplished by consensus building, friendly cajoling and a patriotic effort among so many agencies to make it work. But this is not enough to deal in a timely way with the complexities of the world in which we find ourselves.

There is today a strong consensus that the authority of the Intelligence Community leader must be increased to do the job for which he must be responsible -- to provide timely and useful intelligence upon which the President and policymakers can make sound decisions in the interests of our country.

The Intelligence Community does not need a feckless “czar” with fine surroundings and little authority -- that is the wrong way to go. Whether the Congress elects to create a true Director of National Intelligence, as the 9/11 Commission recommends, or to beef up the real (as distinguished from cosmetic) management authorities of the Director of Central Intelligence, as others have proposed, the designated leader must be clearly and unambiguously empowered to act and to decide on issues of

great importance to the success of the Intelligence Community and the country.

### Enhanced Leadership

There seems to be general agreement that additional authorities should repose in the top leader of the Intelligence Community. These authorities, although widely assumed by the American public to exist already, are in fact imprecise, easily frustrated and not in regular use. They are: (1) management of the intelligence budget; (2) authority to name or at least approve the recommendations for Presidential appointment of the top leaders of the Intelligence Community; and (3) performance review and evaluation of these community leaders. These authorities could be granted to (1) the Director of Central Intelligence, who is also Director of the Central Intelligence Agency; (2) a Director of Central Intelligence who is separate from and senior to the Director of the Central Intelligence Agency; or (3) a newly created National Intelligence Director who would replace the present Director of Central Intelligence. The concept of a National Intelligence Director has the present support of the President, the Democratic candidate for president and the 9/11 Commission. The NID would have authority to oversee national intelligence centers on specific subjects of interest across the U.S. Government and to manage the national

intelligence program and oversee the agencies that contribute to it. It appears that the centers are expanded versions of centers which the DCI has created and operated in the past, but located elsewhere in other Departments and Agencies.

Under the Commission model the NID would manage the national intelligence program and oversee the component agencies of the Intelligence Community. The report envisages management through three deputies, each of whom would hold a key position in one of the component agencies. The Director of the CIA would head foreign intelligence, defense intelligence would be headed by the Under Secretary of Defense for Intelligence and homeland intelligence would be headed by the FBI's Executive Assistant Director for Intelligence or the Under Secretary of Homeland Security for information analysis and infrastructure protection. The three deputies would have the job of acquiring the systems, training the people and executing the operations planned by the National Intelligence Center.

Control of the budget is essential to effective management of the Intelligence Community. The President, in his remarks, has used the term "coordinate" which I understood to mean management. Others have suggested something less. There is obviously some sorting out to be done

between the enhanced intelligence community organization and its leader, and the Department of Defense and its Secretary. If this model is adopted, the Defense Department will need some assurances that tactical military intelligence will not drift away from its military commanders. On the other hand, with respect to strategic intelligence around the world, defense agencies must be prepared to respond to the management initiatives of the National Intelligence Director.

In all of this I would sincerely hope that there will not be just another additional layer of government. The Director of Central Intelligence position would simply segue to the new National Intelligence Director at the top of the table of organization reporting to the President. The number of new positions needed to manage the outreach and responsibilities of the NID should be carefully controlled.

#### National Counterterrorism Center

A key proposal is to expand the current terrorist threat integration center (TTIC) as a center for joint operational planning and joint intelligence and staffed by personnel from the various agencies. While there are a number of questions to be thought through and answered such as the role of the Center in operational activities, I believe that the concept has merit for a number of reasons. First, I think it offers a potentially effective

vehicle for dealing with the growing threat of international terrorism with full participation and sharing by agencies across the community. Second, and this is not a pejorative observation, there is a risk that the nation's preoccupation with terrorism may cause important and significant collections and analytical responsibilities of a non-terrorist nature to be neglected. Challenges such as the Cold War, major economic changes among "have" and "have not" nations and other matters requiring our best collection and analytical efforts for the benefit of our policymakers must not be neglected or subsumed. As we have seen all too painfully, sources that have been neglected after the fact can dry up and take years to redevelop when a new crisis emerges. This must not happen.

### Centers

The Director of Central Intelligence (as distinguished from CIA) has established a number of Centers located for convenience at CIA headquarters. These have made substantial community-wide contributions. I believe they should stay with the intelligence leader, be denominated at his discretion (not legislated) and located where he and his principal advisors think most appropriate.

### Covert and Paramilitary Actions

The Commission would keep responsibility for clandestine and covert operations in the CIA but place lead responsibility for paramilitary action in the military. I have some doubts about this model. The Commission acknowledged that the combined activities in Afghanistan worked well. I would prefer to keep that model on smaller “turn on a dime” activities in the CIA. Larger scale actions that are essentially troop engagements should be in Defense.

### Relations with the President

While the leader of the Intelligence Community must be the principal advisor on intelligence to the President, he must work hard to avoid either the reality or the perception that intelligence is being framed (read “spun”) to support a foreign policy of the Administration. My predecessor, Bill Casey, had a different view of this. He served in the Cabinet and participated fully in the formulation of policy. When I became DCI I asked President Reagan not to put me in the Cabinet for the reason noted above. He told me that he thought about it and had come to the conclusion that I was right. I was very pleased therefore to see that President Bush had reached a similar conclusion. The head of the Intelligence Community does not need to be located in the White House and to avoid these problems I

believe he should not be. The Director of Central Intelligence has had a small suite in the Old Executive Office Building through the years as a matter of convenience for meetings with White House officials and between appointments. I believe that is more than adequate and that he should be housed where he has access to people with whom he most frequently needs to consult.

### Relations with Homeland Security and the FBI

The FBI should be, as it has in the past, a part of efforts to coordinate national intelligence collection efforts with international activities. This is more in the nature of putting the information together, completing the dots and other efforts to avoid information gaps. I think it is important that operationally the FBI should take its guidance from the Attorney General on its dealing with U.S. persons and the manner in which it collects information in the United States. This has been an important safeguard for the American people, should not be destructive of effective operations, and avoids the risks of receiving vigilante-type instructions, whether from the Intelligence Community or the White House. While as Justice Jackson once wrote, the Constitution is not a suicide pact, the Constitution and the Rule of Law are at the top of our core values and must be safeguarded and respected.

### Trusted Information Network

The Commission recommends an overhaul of our information systems to better process, share and protect intelligence across the agencies. This has considerable merit and will require more work in some agencies than others. As long ago as 2001, I headed a Commission on FBI Internal Security and we provided four classified appendices to our Report dealing with the infirmities of the FBI mainframe, now 13 years old. Inability to rapidly identify and capture information of value to other agencies aggravated the circumstances leading to the 9/11 tragedy.

### Congressional Oversight

The 9/11 Committee has issued a special challenge to the Congress to overhaul its oversight systems for dealing with the Intelligence Community. If acted upon it will materially increase the effectiveness, not only of oversight but, of the performance of the community in its relationship to the Congress. I am told that over 88 separate committees and subcommittees now oversight the Homeland Security Department. This is really intolerable, not to say nonsensical. Consideration should be given to a joint committee on intelligence, selected with care and including a nonpartisan, highly respected membership.

At this moment in our history, I believe we have passed the moment of great fear which often produces unhappy solutions and we have not yet entered a period of indifference where it is difficult to take the forward steps that are needed. We need to act but we must act with great care. The many thousands of dedicated men and women in the Intelligence Community, many of whom have put their lives on the line for the safety of our country, count on you. I know you will not let them down.

I will be pleased to answer any questions that you might have.

## **Biography of William H. Webster**

William H. Webster was sworn in as Director of Central Intelligence (DCI) on May 26, 1987. In this position he headed the Intelligence Community (all foreign intelligence agencies of the United States) and directed the Central Intelligence Agency until September 1, 1991.

In September 1991, he joined the law firm of Milbank, Tweed, Hadley & McCloy LLP in its Washington, D.C. office.

William H. Webster was born March 6, 1924 in St. Louis, Missouri and received his early education in Webster Groves near St. Louis. He was awarded a Bachelor of Arts degree from Amherst College, Amherst, Massachusetts in 1947 where, in 1975, he received an honorary Doctor of Laws degree. Judge Webster received his Juris Doctor degree from Washington University Law School, St. Louis, Missouri, in 1949. He served as a lieutenant in the United States Navy in World War II and again in the Korean War.

A practicing attorney with a St. Louis law firm from 1949 to 1959, Judge Webster served as United States Attorney for the Eastern District of Missouri from 1960 to 1961. He returned to private practice in 1961. From 1964 to 1969, he was a member of the Missouri Board of Law Examiners.

In 1970, Judge Webster was appointed a Judge of the United States District Court for the Eastern District of Missouri and in 1973 was elevated to the United States Court of Appeals for the Eighth Circuit. He resigned on February 23, 1978 to become Director of the Federal Bureau of Investigation. During his service on the bench, Judge Webster was Chairman of the Judiciary Conference Advisory Committee on the Criminal Rules and was a member of the Ad Hoc Committee on Habeas Corpus and the Committee of Court Administration.

A member of the American Bar Association, the Council of the American Law Institute, the Order of the Coif, the Missouri Bar Integrated, and the Metropolitan St. Louis Bar Association, Judge Webster served as Chairman of the Corporation, Banking and Business Law Section of the American Bar Association, and is a fellow of the American Bar Foundation. Judge Webster was the recipient of the 2002 ABA Medal -- the highest honor the ABA can bestow. Judge Webster is an Honorary Fellow of the American College of Trial Lawyers. He is the recipient of the 2001 Justice Award of the American Judicature Society.

Judge Webster was named Man of the Year 1980 by the St. Louis Globe-Democrat and in May 1981 received the William Greenleaf Elliot Award from Washington University and the Riot Relief Fund Award in New York City. In October 1982, he was presented the Fordham Law School Louis Stein Award and in August 1983, the International Platform Association Theodore Roosevelt Award for excellence in public service. In June 1984, he received the Jefferson Award for the Greatest Public Service by an Elected or Appointed Official. In May 1985, he was presented the Freedoms Foundation National Service Medal in Valley Forge, Pennsylvania and the First Annual Patrick V. Murphy Award from the Police Foundation, Washington, D.C., for distinguished service in law enforcement. He was named Father of the Year for Public Service in May 1986 by the National Father's Day Committee and received the 1986 Thomas Jefferson Award in Law from the University of Virginia. In June 1988, he received the Bracebridge Young Award from the American Society of Corporate Secretaries and in May 1989 he was presented the Federal City Club's Distinguished Public Service Award. He received the Sales Seddon Criminal Justice Leadership Award in April 1990. On October 30, 1990, Judge Webster was presented the Boy Scouts of America Silver Buffalo Award.

On July 1, 1991 Judge Webster was presented the Distinguished Intelligence Medal and on July 25, 1991 he was awarded the Presidential Medal of Freedom and the National Security Medal. Judge Webster currently serves as Vice Chairman of the Homeland Security Advisory Council.

Judge Webster was elected to active membership in the National Academy of Public Administration in October 1981 and served as President of the Institute of Judicial Administration from May 1985 until September 1988.

In 1972, Judge Webster received a Washington University Alumni Citation for contributions to the field of law and, in 1977, received the Distinguished Alumnus Award from Washington University Law School. A former member of the University of Colorado Law School Board of Visitors and the National Advisory Board of the American University, Judge Webster holds honorary degrees from Amherst College, DePauw University, William Woods College, Drury College, Washington University, Columbia College, University of Dayton School of Law, University of Notre Dame, Centre College, Dickinson School of Law, University of Miami, DePaul University, the American University, The John Jay College of Criminal Justice, Westminster College, Georgetown University, Rockhurst College and Pepperdine University.

Judge Webster was married to the late Drusilla Lane Webster. He is the father of three children: Drusilla L. Busch, William H., Jr., and Katherine H. Roessle, and has seven grandchildren. On October 20, 1990 Judge Webster married Lynda Clugston.

## **William H. Webster**

### **Addendum**

Since leaving Government, Judge Webster has participated in the following law enforcement activities:

- In 1992 headed the Webster Commission to evaluate the performance of Government agencies involved in the Los Angeles riots following the acquittal of officers charged in the Rodney King matter
- Served as a member of the White House Security Evaluation Committee following the airplane crash and automatic weapons attack on the White House grounds at the request of the Secretary of the Treasury
- Served as a member of the National Institute of Justice Law Enforcement and Corrections Technology & Policy Assessment Executive Panel
- Has served for 12 years as a member of the three man Independent Review Board of the International Brotherhood of Teamsters under RICO Consent Decree
- In 1999 conducted an evaluation of the Criminal Investigative Division of the Internal Revenue Service at the request of Commissioner Rossotti and Secretary Rubin
- From 1998 to 2000 Chaired the Statutory Commission for the Advancement of Federal Law Enforcement by appointment of Chief Justice Rehnquist producing a study and recommendations for the future of federal law enforcement entitled "Law Enforcement in a New Century and a Changing World"
- Served as a member of the National Commission on the Future of DNA Evidence
- Served as a Special Advisor to the Illinois Commission on Capital Punishment
- In 2001 headed the Commission to Evaluate Internal Security Breaches at the Federal Bureau of Investigation at the request of Director Louis Freeh and Attorney General Ashcroft
- Serves as Vice Chair of the Homeland Security Advisory Council originally appointed by President George W. Bush on June 11, 2002. The purpose of the Council is to provide the President and Secretary with advice on homeland security matters from experts representing state and local government, the private sector, public policy experts and the non-profit sector.