

Senate Committee on Homeland Security
and Governmental Affairs

“Ensuring Full Implementation of the 9/11 Commission’s
Recommendations”

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It is an honor to testify before the Senate Committee on Homeland Security and Governmental Affairs. I would especially like to thank Chairman Lieberman and his impressive staff for inviting me here today. I would also like to thank Ranking Member Collins and her dedicated team with whom I have had the privilege of working in the years since 9/11. My appreciation and thanks go out to all members of this committee. The work you do in overseeing our country's homeland security helps ensure those tasked with defending our country stay focused.

The 9/11 Commission made 41 recommendations. Roughly half of these recommendations have already been implemented, thanks in no small part to the efforts of this committee. The fall of 2004 was an extraordinary time. Many of us were inspired by your willingness to spend weeks and months making sure the Commission's recommendations did not fall on deaf ears. The passage of the 2004 Intelligence Reform and Terrorism Prevention Act was an historic moment, of which we can all be proud.

So much to be proud of, and yet, so much more to do. More than five years after 9/11, the terrorist threat has inevitably grown a little more distant. Some experts are now telling us that it isn't as serious as we had thought. If al Qaeda are such a threat, why haven't we been attacked again? To answer that question, just ask the people of London, or Madrid, or Bali, or the other places where the terrorists have struck since 9/11. The US has not been attacked again. But we will be.

Thanks to the work of so many dedicated public servants we are safer than we were. But in the words of 9/11 Commission Chairman Thomas Kean, we are still not as safe as we need to be.

On the morning of September 11, 2001, my mother, Judy Larocque left home to go on a business trip. She woke up early that day, at 5:30am, in order to make her 8 o'clock flight to the West Coast. Oddly enough, even though I am not a morning person, I was up even before her that day, serving as a coxswain for the MIT graduate school crew team. As I glided on the Charles River that morning, I realized I could have called Mom before my 6am practice, just for a kick, since it was not often we were both up so early. But I didn't, thinking she might be running late (a trait she passed down to me and my sister) and knowing it would be easier to talk later in the day, once her cross-country flight landed.

I never did get to talk to Mom that morning, though I left many messages on her cell phone. To this day, I still find myself looking at my caller ID whenever the phone rings, waiting for it to say "Mom cell", waiting for the call from her that I never got that gorgeous fall morning.

I often think about what I would tell Mom if she called. I dream about it all the time. She was founder and CEO of a company, so I sometimes think I might tell her about

founding the non-profit organization Families of September 11, which represents more than 2,500 individuals who chose to join our group and support the terrorism prevention work we do. I might tell her about the opportunities I have had in the past five years that she could never have predicted, like testifying before this esteemed Committee today.

But the most important thing I could possibly tell her is that I love her, and that I am doing everything in my power to make sure what happened to her never happens again. That would come as no surprise to Mom. She brought my sister and me up to fix wrongs and make them rights.

Today I am asking you to fix a small number of important wrongs, and make them right. Some of the important recommendations of the 9/11 Commission report have still not been implemented. I raise them not in the spirit of placing blame or making accusations, but rather in the hope that together we can own up to gaps, failures and mistakes in the past, so that we are not condemned to repeat them in the future.

I fully support the statements of my colleagues who are also testifying before this panel, so I will not use your valuable time repeating their words. Instead, I will say that I share their views, and echo their sense of urgency on the topics of private sector preparedness, proper first responder communication interoperability, improved information sharing in the intelligence community, creation of a shared, consolidated terror watch list, adequate border control and appropriate port security.

I will focus today on four main areas where I believe there are still important gaps that you can help to fill: congressional oversight, nuclear terrorism, transportation security and risk-based homeland security grant funding.

Congressional Oversight

Intelligence

First, congressional oversight. Since 9/11, we have overhauled the intelligence community, restructuring it so it can face up to today's threats without having to rely on yesterday's structure. We have created a new Department of Homeland Security to better organize the agencies that protect the nation. But in order to provide adequate oversight over those acting in our defense, Congress itself must change.

The 9/11 Commission report talks about the need to strengthen congressional intelligence oversight, and I will use their words to underscore its importance. "Congressional oversight for intelligence...is dysfunctional¹". The creation of a National Intelligence Director, the so-called DNI "will not work if congressional oversight does not change, too."²

They go on to say "[o]f all our recommendations, strengthening congressional oversight may be the most difficult and important. So long as oversight is governed by current

¹ 9/11 Commission report, pg.420.

² Ibid.

congressional rules and resolutions, we believe the American people will not get the security they want and need.³”

Their words are unambiguous and compelling. Without congressional action to improve intelligence oversight, we are denying the American people a vital element in ensuring the security they need. You can help change this and help provide adequate oversight that is so desperately needed. As the Commission’s final report says: “The American people may have to insist these changes occur, or they may not happen.”⁴ Please consider this testimony our insistence. The change needs to take place now, not after another catastrophic event brings even more victims’ family members to this witness table.

Homeland Security

In 2002, Congress and the President created a new Department of Homeland Security (DHS), implementing the largest government reorganization in fifty years.

DHS is charged with securing the homeland, an incredibly important task. As such, it merits strong congressional oversight. Unfortunately, as it stands today, there is no consolidated congressional oversight over the department. Instead, it is split among literally dozens of congressional committees and subcommittees.

It was reported in 2004 that the Secretary of Homeland Security reported to 88 committees and subcommittees. That number has decreased, but not by nearly enough. When we talk of oversight we should not mistake quantity for quality. Secretary Chertoff has a hard enough task as it is, managing a department with over 180,000 employees. It is right he and his team should be subject to rigorous oversight. But he also needs to be allowed to get on and run his Department too.

Congress needs to streamline homeland security oversight to a limited number of committees and subcommittees. If legislators saw the urgent need to dislocate many agencies from their departmental homes to form one Department of Homeland Security, why would they not see the need to make a corresponding, if difficult, change in committee jurisdiction to have one point of oversight? Would it not help those agencies work more efficiently?

I have been told that people in Washington refer to jurisdiction as “the big J”. People are loath to talk about it. But we must. Oversight over homeland security is too important not to.

Proliferation of Weapons of Mass Destruction

Nuclear Terrorism

Osama bin Laden was the mastermind behind my mom’s murder. He planned it, watched it on CNN, and gloated about it. Now he has pledged to kill 4 million innocent Americans, backed by a religious edict. We have seen the patience, skill and

³ 9/11 Commission report, pg. 419.

⁴ Ibid.

determination with which al Qaeda works. We would be foolish not to take seriously al Qaeda's aspiration to obtain WMD.

We must stop them.

The 9/11 Commission knows it – they said “the greatest danger of another catastrophic attack in the United States will materialize if the world’s most dangerous terrorists acquire the world’s most dangerous weapons.⁵” President Bush and Senator Kerry both agreed during the 2004 presidential debates that weapons of mass destruction in the hands of terrorists were “the biggest threat facing this country”.

I am pleased that so many leaders, on both sides of the aisle, have expressed their concern about preventing terrorists from acquiring weapons of mass destruction. But expressed support, unfortunately, is not enough to keep this country safe and secure. Rather, that support must be combined with action.

The good news is, at least in the case of nuclear terrorism, we can do a great deal to stop Osama and his hate-filled comrades. Happily, there is a limited amount of nuclear weapons materials, and no terrorist organization currently has the resources to make their own. If we lock down nuclear weapons materials before the terrorists acquire them, they will not have a nuclear weapon, and there will be no nuclear terrorism.

The bad news is that our government was given a “D” by the 9/11 Commission for its work in preventing nuclear terrorism.

At the end of 2005, US funded comprehensive security and accounting upgrades had been completed for only 54% of the buildings in the former Soviet Union; quick-fix upgrades had been completed for an only an additional 10 percent.

The Global Threat Reduction Initiative, the US led program to secure highly-enriched uranium (HEU) around the world has major gaps. Two thirds of the US supplied HEU abroad is not yet covered and nearly half of the research reactors that use weapons usable material are not yet targeted or conversion to fuel that can’t be used for a nuclear weapon.

As Senator Sam Nunn says, we are in a race between cooperation and catastrophe and the outcome is unclear. We need to take action now.

There has been much discussion about what Congress can do to prevent terrorists from acquiring weapons of mass destruction. There is an answer.

First, and foremost, we need proper direction for this effort in the Administration. The most fundamental requirement of success is sustained high-level leadership. So the task is - in the first instance - bureaucratic. We need someone with the clout to bring departments and agencies together, someone with Presidential access to create

⁵ 9/11 Commission report, pg. 380.

opportunities to accelerate work to lock down nuclear materials and someone to break through the bureaucratic obstacles that stymie progress.

Right now, for the most part, there are still separate streams of work, separate reporting chains and I find it shocking that there is no one at a high level in this Administration who wakes up every day solely focused on preventing nuclear terrorism.

We need, as a start, a high level assistant to the President, whose sole job it is to oversee and prevent nuclear terrorism. This person should be a Deputy National Security Advisor, who works within the National Security Council. This person should be able to coordinate work across departments (State, Energy, Defense) to dramatically accelerate our work with other nations to lock down nuclear weapons materials at their source. The terrorists don't operate in neat functional silos. We cannot afford to do so either.

I urge you not to wait for a systemic failure that will bear witness to the need for this high level, focused attention to dramatically accelerate our cooperative work to lock down nuclear weapons materials – we simply cannot afford the consequence of failure -- whether measured in human lives or on economic terms.

I'd like to make one final point on this issue. We have devoted huge resources to the detection of nuclear weapons materials– at the borders, in ports, in our cities. But I want to make one thing clear - even if it were 100% effective, by the time we are talking about “detecting” a nuclear device, we are talking about a bomb that has already been formed and is ready to do severe damage. Rather than relying on scanning equipment at ports in the U.S. and abroad our first line of defense should be in securely managing the nuclear materials that are essential to bomb-making.

There are nuclear weapons materials in more than 40 countries, some secured by nothing more than a chain link fence. We need a global effort to lock down highly enriched uranium and plutonium world wide and the United States government should be the change agent. Detection is very hard to do. Nuclear bombs give off very little radiation, and a sheet of lead can easily shield radiation from detection equipment. As such, the best way to make the country—and the world we live in—safe against nuclear terrorism is to lock down the materials at the source, plain and simple.

Incidentally, there is a short, 45-minute docudrama called *Last Best Chance* that highlights this issue quite well. It stars one of your former colleagues, Senator Fred Dalton Thompson, and puts you in the perspective of the President of the United States after terrorists have gotten their hands on nuclear weapons materials. As Senator Thompson's character laments, why didn't we do something about this sooner? Now is our last best chance, and we simply cannot afford to squander it.

Families of September 11, the nonprofit organization I co-founded, understands that nuclear terrorism is not the most probable, but that it is the most devastating form of terrorism. We have joined with the Nuclear Threat Initiative, a non-profit, non-partisan organization led by former Senator Sam Nunn and Ted Turner and whose Board Members include Senators Lugar and Domenici. We're now working together to raise

public awareness about the issue and what we can do to reduce the risk. The 9/11 Commission gave the government the grade of “D” in its efforts to prevent terrorists from acquiring weapons of mass destruction. Families of September 11 and NTI are working to turn that “D” into an “A”. I am happy to supply more information about our work for the record.

Transportation Security

All Modes of Transportation

Third, a word on transportation security. The threat to our nation’s transportation assets has not lessened in the five years since 9/11. We know al Qaeda is plotting its next attack - we don’t know where and when, but we can safely assume based on previous attacks around the world that it will probably involve some sort of public or commercial transportation.

Aviation security is a key part of this. The planners of al Qaeda have shown themselves peculiarly fixed on terror in the air. My mother's murder is one of many that testify to this. We can never let our guard down at airports and in the skies. But transportation security is not just aviation security. Transportation security must also include rail and transit. In that vein, any complete strategy for transportation security must encompass all modes. That includes those places where different modes of transport come together, where chaos, confusion and crowds reign each day.

Prevent Tomorrow’s Threat, Not Just Today’s

The methods of the terrorists evolve at alarming speed. But there are common themes. For example, we shouldn't have been too surprised last August when we found out that al Qaeda operatives were planning to use liquid explosives to blow up commercial aircraft while en route. In fact, more than 11 years ago, in 1995, Operation Bojinka was uncovered. Planned by 1993 World Trade Center bombing mastermind Ramzi Yousef and his uncle, 9/11 mastermind Khalid Sheikh Mohammed, Operation Bojinka was a plot to explode more than a dozen commercial airliners over the Pacific Ocean. They were planning to carry out the attack with liquid explosives, smuggled on board through passenger security checkpoints.

Law enforcement and intelligence officials deserve credit for uncovering the August 10th plot. The teamwork between British, Pakistani and American officials to prevent the execution of the attack is commendable. But the incident demonstrates how much more work we need to do. If we are not even protecting against methods we know terrorists have tried to use in the past, it is hard to imagine we are protecting against new methods they might think up in the future. We must think like them, in order to out-think, and stop, them.

The difficult truth is that we can never make planes - or railways or buses or ships - fully secure. Almost anything can be used as a weapon aboard an airplane, train or bus, even a ballpoint pen. Our focus on preventing dangerous weapons from getting on board is a

necessary part of the solution, but it is not the only way to go. We also need to focus on preventing dangerous people from getting onboard.

Implement Secure Flight

Part of this will be accomplished through a consolidated terror watchlist, which my colleagues have already discussed. Part of keeping dangerous people off planes involves the long-awaited Secure Flight program. Millions of dollars have been sunk into this program that would transfer responsibility to the government to compare passengers' names to the terror watch list, instead of the current system in which the airlines do the passenger pre-screening. We have waited many years to see Secure Flight take off, but I am told we have a long wait to go. This is even more disturbing, since we know airlines are not screening passengers against the most up-to-date terror watch lists.

TSA must be held accountable for the money it is spending, and the programs it has been entrusted to implement. If TSA cannot get it done, Congress should take action to ensure that all available technologies and resources are being employed to keep known dangerous people off planes on both domestic and international flights.

Behavior Pattern Recognition

At the end of the day, though, we need more than lists to determine who boards planes. And we need to consider other modes of transportation on which Secure Flight, when it is completed, will not be used. One potentially valuable way to identify ticket-bearing persons who present a potential threat on our transportation systems is through behavior pattern recognition. And I am concerned this technique is not getting the investment and prominence it deserves.

What is behavior pattern recognition? It is the use of specially trained screeners and law enforcement officers to scan crowds, looking for odd, suspicious behavior. When a would-be passengers demonstrate such behavior, which is evident in "micro-facial expressions" that screeners are trained to identify, they are approached by officials, who ask them questions: "Where is your ticket?" "What are you doing here?" "Do you have any identification". If the answers are benign, the passenger moves on. If the answers raise more questions, the individual may be assigned for secondary screening or receive more in-depth questioning.

Behavior pattern recognition is not racial profiling. Privacy advocates and racial profiling opponents who have voiced opposition to it may in fact not understand what behavior pattern recognition actually is. I encourage them to be partners in making it an effective tool against terrorism and ensuring its proper use. As George Naccara, the Federal Security Director for Boston's Logan Airport has said, anybody using race as part of behavior pattern recognition is simply doing it wrong⁶.

⁶ PBS Online Newshour broadcast, 8 September 2006.

Screening of Passengers by Observation Techniques (SPOT)

George began the SPOT program, which stands for Screening of Passengers by Observation Techniques, after 9/11. It has shown promising results and adds a much needed additional layer on the airport's security system.

The Transportation Security Administration is talking about expanding this program nationwide. But it takes money, and training, in order for the SPOT program to work - money you can authorize, to ensure an adequate number of screeners needed to cover thousands of checkpoints at hundreds of airports nationwide get the proper training.

Importantly, when a SPOT-trained screener identifies an individual that needs questioning, the person who does the questioning should be trained in behavior pattern recognition as well. If law enforcement officers are going to conduct questioning, they should be trained to detect the same micro-facial expressions. Otherwise, as Rafi Ron, the former head of security for Israel's Ben Gurion Airport has noted, that officer "is doomed to fail"⁷. I urge you to consider behavior pattern recognition training for law enforcement officers, screeners and others who work in all modes of transportation, and in agencies government-wide.

One final thought on transportation security. Congress has given authority to the Secretary of Homeland Security to develop the National Strategy for Transportation Security. However, it is classified. This document should be used to tie transportation priorities to budget priorities, but because it is classified, it can be hard to demonstrate those ties to those who don't have access to the document. It is a situation that begs for a solution. If anything, you should direct the Secretary of Homeland Security to create classified and non-classified versions of the two-year review so those who need to better understand the Department's priorities are allowed to view it.

Risk-based Homeland Security Grant Funding

"Homeland security grants should be based strictly on an assessment of risks and vulnerabilities."⁸ This is what the 9/11 Commission report says in its recommendation regarding homeland security grants. Priorities must be set, and funding must be tied to those priorities.

I understand the desire to ensure a broad distribution of money for grants to states and locales. True, a terrorist may strike anywhere. Moreover it is human nature—and an American trait—to want a piece of the pie. But I would argue that there is a better and more effective way to address the issue. Require governmental jurisdictions and infrastructure facility operators to conduct risk assessments using federally prescribed, common methodology. That methodology should, to the maximum extent possible, enable cross-comparisons. It will allow decision-makers to better understand where are the greatest, relative risks and needs. Then allocate available funding accordingly. If a state or jurisdiction does the hard work and develops the prescribed assessment and an

⁷ PBS Online Newshour broadcast, 8 September 2006.

⁸ 9/11 Commission report, pg. 396.

effective strategy for use of homeland security grants, their applications should be accorded an appropriate level of priority with the grant award being based on its merit. Furthermore it is critical for states to use homeland security grant money wisely.

In every way Congress must convey the extraordinary importance of fighting terrorism and preparing to effectively respond. Treating the allocation of homeland security grants as run-of-the-mill Federal aid undercuts that message. Certainly, no taxpayer dollars should be spent on air conditioned garbage trucks again.

Conclusion

I began my testimony mentioning what I would say to my mom, if I had a chance to speak with her again. One thing is for sure, I would tell her all about Cole Jude, my two-year-old nephew, Mom's first grandson who she never got to meet. I would tell her how he likes fire trucks, dogs and his stuffed lion Simba. I would tell her he has developed a penchant for skiing and Warren Miller extreme skiing movies. I would tell her I am doing everything I can to make sure this world is safer for him.

Your actions this session, and in creating a 9/11 Commission recommendation implementation bill, will be a message to the American public. I hope it is the same message I want to get through to Mom. That we all are going to do what it takes to make the country safer and more secure. That we are willing to make the tough decisions, take on the tough battles, be accountable for our actions, and heed the wise advice of the 9/11 Commission by implementing, in full, those recommendations that have been ignored for too long.

Thank you for doing this difficult work on behalf of all Americans, and on behalf of those, like Mom, who cannot be here today to help and applaud you.

Thank you for inviting me to speak today. I am happy to answer any questions you may have.