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Prohlašuji, že diplomovou práci na téma
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“Those who would give up Essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety.”

Benjamin Franklin

I. Introduction

Background

On September 11, 2001, a series of terrorist attacks struck at the very heart of American homeland. The USA, then living in a post-Cold War complacency, was caught largely unprepared for catastrophic terrorism aimed at civilians. Realizing the world had changed, it began to immediately rethink its means of countering the terrorists and to prepare measures for reducing its vulnerabilities. As a result, new *Office of Homeland Security* was established within a month after the attacks and a new piece of legislation – the *Patriot Act*, followed shortly thereafter. In the meantime, investigations were initiated for the purpose of revealing the main reasons why the intelligence and law enforcement agencies failed to prevent or stop the tragic events. With the ensuing creation of the new *Department of Homeland Security*, the US government underwent its biggest overhaul since the end of the WW2, virtually combining twenty-two agencies and institutions from across the other departments into one single entity. Upon the first findings of the investigations, a major intelligence reform was executed, creating the new position of the *Director of National Intelligence*. All these and other lesser changes have had an impact on American democracy, be it the distribution of power within the branches of the US government, or be it the rights and liberties of its citizens.

In my thesis, I would like to identify the most significant changes in the architecture of the US government on the homeland security field, some of which have been mentioned above, describe the processes, which led to their happening, try to evaluate the outcome of these changes and examine their impact upon the American political system. By doing this, I should be able to cover almost five years of the previously largely nonexistent **policy of homeland security**. I am actually attempting to capture the US homeland security policy in the process of its making, while sometimes looking aside – to the European Union – either for reaction or for comparison. The main goal of my thesis, however, is to analyze the issue of security (or safety) versus liberty, as stated in Benjamin Franklin's quotation on the previous page. *Has the US government gone too far in limiting the rights and freedoms of its citizens, while trying to protect them from another attack? Are Americans any safer now? Was the trade-off necessary? What should be the proper balance between security, liberty and democracy like?* My other objective, related to the first one, is to determine, whether the aforementioned changes are likely to become permanent.

Methodology

Being neither political scientist, nor historian, nor sociologist, I have tried to approach the subject with a simple tool of *common sense*, equipping myself with knowledge gained from a wide range of sources and references; although, many times I employed methods commonly used by social scientists. In one instance, I even used a style characteristic for fiction, as to magnify the effect of the narrative. Primarily, I used *descriptive* methods when examining the changes in the American political system, especially when making frequent excursions to history. *Comparative* method, on the other hand, was applied when tackling the issue of liberty vs security and, of course, when confronting the American and European approach toward homeland defense. I mostly employed *analysis* for the sake of inspecting the impact upon civil rights and for examination of the process of creating homeland policy.

Concerning the sources, I have relied mainly on the findings of the independent commissions¹, on public documents², policy papers³ prepared by various think-tanks, American newspapers⁴ and other works by investigative journalists⁵, essays by civil libertarians⁶, public speeches⁷ by government officials, as well as on personal accounts⁸ by those directly involved. Since homeland security has been a big issue recently, there are countless sources available, including on the Internet. Of the many references, one especially can become a weak point in my thesis – the *Report of the 9/11 Commission*, if it ever happens that the story is challenged by another independent investigation. I am well aware of this potential weakness, but it is the only official account of the 9/11 events so far. The substantial part of the story it presents still seems to be more logical than many conspiracy theories, which contradict it. Nevertheless, even if the official narrative proved to be false, it would not erase the changes I identified and examined.

Outline

I have divided my thesis into *three* main chapters and *seven* sub-chapters, as to distinguish the different qualities of the process of creating policy of homeland security. Each sub-chapter then consists of at least *three* sub-sections, with the aim of dividing the subject into logical units. At the end, I present a table of names and a list of common abbreviations to help in reader's orientation.

[1] e.g. Final Report of the National Commission on Terrorist Attacks Upon the United States [9/11 Commission Report 2004]
 [2] e.g. The USA PATRIOT Act [Patriot Act] or The Homeland Security Act [Homeland Security Act 2002]
 [3] e.g. Long-Term Legal Strategy Project for Preserving Security and Democratic Freedoms in the War on Terrorism [Heymann 2004]
 [4] e.g. Washington Post, New York Times and Boston Globe
 [5] e.g. Fortress America: On the Front Lines of Homeland Security – An Inside Look at the Coming Surveillance State [Brzezinsky 2004]
 [6] e.g. It's a Free Country: Personal Freedom In America After September 11 [Goldberg 2003]
 [7] e.g. State of the Union Addresses
 [8] e.g. Against All Enemies: Inside America's War on Terror [Clarke 2004]

The first chapter, titled *The Attacks and Their Immediate Aftermath*, covers the period from the terrorist hijackings to just a couple of weeks afterwards. Its first sub-chapter does not go any further than September 11, 2001. It starts with the planes, looks at the damage and casualties, points to the hijackers, and stops at media coverage. Then it moves to the improvisation of homeland security and discusses the national command authority. Because the world was watching America being attacked, it also mentions the response in Europe. One might ask why I devoted so much space to only one day, though crucial in what followed. The reason is that I tried to present it as a big shock, as it really was. From today's perspective, it's no longer so imminent, but the apocalyptic mood of 9/11 might be largely responsible for people's willingness to sacrifice some of their traditional values such as civil liberties. The second sub-chapter picks up where the first one finished, describing the next days' and weeks' response, including official denials. It also offers a flashback on the US experience with terrorism, indicating that American sense of invulnerability was unjustified prior to 9/11. Since US experience with terrorism was coming mostly from abroad, I also enter the field of foreign policy. It is typical for the post-9/11 world that the lines between foreign policy and homeland security policy are blurring.

The next chapter, which I called *Rebuilding the Homeland Security*, contains all the institutional changes that I cover in my thesis. Divided into three sub-chapters, it starts with labeling major deficiencies the institutions involved in homeland security had prior to the attacks. All three branches of the US government are represented. The next sub-chapter concerns the new architecture being built for the purpose of adapting to the new situation. It demonstrates the challenges of the huge governmental reorganization, with a detailed look at the political process of the creation of a new department. Large part of it is devoted to overhaul in the intelligence community. Third sub-chapter presents the first evaluation of the big restructuring in qualitative, as well as quantitative (financial) terms. It offers an interesting benchmark with the European Union.

The last chapter, titled *Balancing Liberty and Security*, no longer aims at institutions, instead, it focuses on people. Its first sub-chapter is largely consumed by the Patriot Act, the major piece of legislation to deal with citizens' liberties, and supposedly with citizens' protection from the terrorists. The rest of the sub-chapter covers its consequences, as for instance detentions and surveillance. The second sub-chapter offers a broader view on American system of checks and balances, which could ensure that democracy functions properly on the governmental, as well as on the citizens' levels. Civil liberties are discussed in relation to homeland security policy. At the very end, a closer look at the President and his changing powers in the War on Terror is taken.

II. The Attacks And Their Immediate Aftermath

A. Day of Infamy

The Tragic Story of September 11

*“Tuesday, September 11, 2001, dawned temperature and nearly cloudless in the eastern United States. Millions of men and women readied themselves for work. Some made their way to the Twin Towers, the signature structures of the World Trade Center complex in New York City. Others went to Arlington, Virginia, to the Pentagon. Across the Potomac River, the United States Congress was back in session. At the other end of Pennsylvania Avenue, People began to line up for a White House tour. In Sarasota, Florida, President George W. Bush went for an early morning run...”*⁹ Neither these men and women, nor their President knew that this day was going to be remembered as the Day of Terror.

1. The Attacks

Inside the Four Hijacked Planes

On that September morning, four commercial airliners fueled for flights to California had been hijacked. They never reached their original destinations. Two planes crashed into the Twin Towers of the World Trade Center in New York City, one plane into each tower, causing both towers to collapse within two hours. The third airliner crashed into the Pentagon in Arlington County, Virginia and the fourth hijacked aircraft crashed into a field in rural Somerset County, Pennsylvania.

The first plane, **American Airlines Flight 11** aboard Boeing 767 aircraft, departed Boston for Los Angeles at 7:59 A.M., carrying 81 passengers, two pilots, and nine flight attendants. The plane is believed to have been hijacked at 8:14., when the plane stopped responding to air traffic control and was diverted to New York. At 8:46:40 A.M., Flight 11 was deliberately crashed at roughly 790 km/h into the north side of the North Tower of the World Trade Center, between the 94th and 98th floors. The aircraft entered the tower mostly intact and plowed to the building core. This was the first crash in the attacks of the day.

[9] [9/11 Commission Report 2004] p. 1

The second plane, **United Airlines Flight 175**, was another morning flight that regularly flew from Logan International Airport in Boston, Massachusetts to Los Angeles International Airport in California. Flight 175 was scheduled to depart at 8:00 A.M. and left the gate on time but due to routine morning taxiing times, the flight departed the runway at 8:14. Had the flight been scheduled to depart 15 minutes earlier, it most likely would have been hijacked around the same time as Flight 11. When it crashed between floors 78 and 84 of the South Tower of the WTC at 9:03:11 A.M., it was carrying 56 passengers, two pilots, and seven flight attendants.

The third aircraft, **American Airlines Flight 77**, was a morning flight that routinely flew from Washington Dulles International Airport in Virginia, near Washington, D.C., to Los Angeles International Airport. The Boeing 757, carrying 58 passengers, two pilots, and four flight attendants, was hijacked right after takeoff at 8:20 A.M. Over an hour into the flight, at 9:37:46, it was crashed into the western side of The Pentagon, 50 minutes after the first plane's explosion.

The last of the planes, **United Airlines Flight 93**, was a Boeing 757 flight that regularly flew from Newark International Airport in Newark, New Jersey, to San Francisco International Airport. Taking off as the last of the hijacked planes at 8:42 A.M., it was the only one of the four that did not reach its intended target, instead crashing in an empty field just outside Shanksville, Pennsylvania, about 240 km northwest of Washington, D.C. The crew and passengers probably attempted to subdue the hijackers, who then crashed the plane to keep the crew and passengers from gaining control. This led to the death of all.

2. The Casualties

Counting the Dead and Evaluating Damages

The Twin Towers of the **World Trade Center**, as mentioned earlier, were struck by two of the hijacked Boeing 767 jet planes. For illustration, a typical Boeing 767 is 55 m long and has a wingspan of 48 m. With jet fuel capacities of nearly 91,000 liters¹⁰ and traveling at very high speeds, each aircraft effectively became an incendiary guided missile. The resulting explosions in each tower ignited the jet fuel and immediately spread the fire to other floors while consuming everything that stood in the way. The North Tower (1 WTC) collapsed 102 minutes after impact. The South Tower (2 WTC) collapsed at 10:00 A.M., standing only about 56 minutes after the crash of the second airliner. Other buildings of the WTC complex and those surrounding it were damaged or destroyed as the towers fell. 7 WTC, the newest of the towers, was damaged by the debris and

[10] Information obtained from the Boeing Company's Website: www.boeing.com

collapsed seven hours later. The four remaining buildings in the WTC plaza were ultimately demolished.

According to the 9/11 Commission, approximately 16,400 to 18,800 civilians were in the World Trade Center complex at the time of the first attack.¹¹ 1966 people were at or above the floors of impact in the Twin Towers: hundreds were killed instantly by the impact, the rest were trapped and died later. Some 200 people jumped to their deaths from the burning towers. In addition, some of the occupants made their way upward toward the roof in hope of helicopter rescue. No rescue plan existed for such an eventuality. Fleeing occupants instead encountered locked access doors upon reaching the roof. In any case, thick smoke and intense heat prevented rescue helicopters from landing. Only about 18 managed to escape in time (floors 78 to 84) from above the impact zone in the South Tower. No one was able to escape from above the point of impact in the North Tower after it was hit. On the other hand, out of the approximately 16,000 people, who were below the impact zones, the vast majority survived by evacuation before the towers collapsed; fewer than 200 died. Only 20 people were pulled alive from the debris after the towers' collapse.

The Headquarters of the United States Department of Defense – the **Pentagon**, were hit by the third airliner, Flight 77, sixty years to the day after its groundbreaking. It crashed into the west side of the Building killing all aboard as well as 125 civilian and military personnel at the Pentagon. Because the affected area was under renovation at the time, many offices were unoccupied, saving many lives. About 19 minutes after impact, upper floors of the damaged area of the Pentagon collapsed. In contrast to the extremely tall World Trade Center, the Pentagon is only five stories tall and it is composed of five concentric rings. The crashing aircraft fully penetrated only the outer three rings.

The last aircraft, United 93, crashed without hitting any civilian or military object. The plane's crew received warning from United Airlines about possible cockpit intrusion after having been in the air for 40 minutes, as the bad news about the attacks on WTC had already spread. Unfortunately, few minutes later, the radio transmitted “*unintelligible sounds of possible struggle of unknown origin*”¹² signaling a likely takeover. The flight then reversed direction and began flying eastward at a low altitude, probably heading for the White House or the United States Capitol. Some passengers and crew members made calls after the hijacking began. As a consequence, they

[11][9/11 Commission Report 2004] p. 316

[12][9/11 Commission Report 2004] p. 28

began a revolt. We can only guess what happened next, we know that United 93 crashed in a field and all 44 people on board were killed.¹³ Had the plane struck its target in Washington, D.C., it would not have killed many other people as both buildings had been evacuated by 9:45 A.M. However, it might have had a terrible psychological effect on the American public.

In total, some **3000 people** were killed. Out of these, 246 died on the hijacked aircraft. 243 of all were foreigners (excluding the 19 perpetrators). Approximately 400 rescue workers, most of them of the New York City Fire Department, died. The median age for the victims was 39 years. Almost all the fatalities were non-military personnel, except some of the 125 victims in the Pentagon.

3. Responsibility

The Hijackers, the Organizers, and the Financing

The attacks were allegedly carried out by 19 men affiliated with a fundamentalist Islamist paramilitary group known as **al-Qaeda**.¹⁴ In teams of five and in case of flight United 93 of four, each team including a trained pilot, they hijacked the four above mentioned commercial passenger jet airliners. Without any significant obstacles, by 8:00 A.M. on the morning of Tuesday, September 11, 2001, the hijackers “*had defeated all the security layers that America's civil aviation security system then had in place to prevent a hijacking.*”¹⁵ When on board, about 30 minutes after the takeoffs, the hijackers reportedly took control of the aircraft by using box-cutter knives to kill flight attendants and others, who stood in their way. Some form of tear gas or pepper spray, was likely used on American 11 and United 175 to keep passengers out of the first-class cabin. Bomb threats were made on three of the aircraft. According to the 9/11 Commission the bombs were probably fake.

Customs and Border Protection (CBP) officers later acknowledged, that they were able to ID probable hijackers within 45 minutes following the attacks, although the precise identity of the hijackers was initially disputed as some of the men named as hijackers killed in the attacks appeared to be living in the Middle East according to the officials of the Saudi Arabian government.¹⁶ This was later cleared and an ultimate list of 19 hijackers was published with the perpetrators' photographs. It is believed the terrorists were in two groups: six core organizers, who included the

[13] In spring of 2006, film based on these events – titled United 93, was first screened, it was directed by Paul Greengrass.

[14] Al-Qaida, literally "the database", was originally the computer file of the thousands of mujahideen who were recruited and trained with help from the CIA to defeat the Russians in Afghanistan. [Cook 2005]

[15] [9/11 Commission Report 2004] p. 4

[16] [Getter 2001]

four pilots (e.g. Mohammed Atta) and two others; and the remaining thirteen who entered the United States later in pairs in the spring and summer of 2001. Fifteen of them came from Saudi Arabia, two from the United Arab Emirates, one from Egypt and one from Lebanon. Most of the men did not seem to match the profiles of past suicide terrorists as young, poor, and uneducated. However the "muscle" hijackers, in contrast to the pilots, were between 20 and 28 years old and most were unmarried or without closer familial attachments.

The terrorist attack itself was planned by **Khalid Sheik Mohammed**. The 9/11 Commission Report calls him "*the principal architect of the 9/11 attacks*" and states that "*By his own account, Khalid Sheikh Mohammed's animus toward the United States stemmed not from his experiences there as a student, but rather from his violent disagreement with US foreign policy favoring Israel.*"¹⁷ He has been called a "*terrorist entrepreneur*" or the "*Forrest Gump of terrorism*" because he was involved in so many Islamist militant plans. He was captured in Rawalpindi, Pakistan on March 1, 2003 and put in US custody. Under interrogation, Khalid revealed that the original plan had called for more aircraft on both east and west coast to be hijacked and flown into targets.

Shortly after the attacks, the United States government declared al-Qaeda and its leader **Osama bin Laden** as the prime suspect. Bin Laden initially denied, but later admitted involvement in the tragedy. His declaration of a holy war against the United States and a Fatwa signed by bin Laden and others calling for the killing of American civilians in 1998 were seen by many as evidence of his motivation to commit such acts. The 9/11 Commission concluded that the attacks were conceived and implemented by members of al-Qaeda. According to the Report¹⁸, the plotters spent somewhere between \$400,000 and \$500,000 to plan and conduct their attack, but that the specific origin of the funds remains unknown. Recently, an audiotape was aired on Al Jazeera on May 21, 2006, where bin Laden said he had personally directed the 19 hijackers.

4. Media Coverage

The War of Networks and Terror-tainment

The attacks caused massive confusion across the United States and all over the world. In the course of the day, many unconfirmed and often contradictory reports were aired and published. One of the most prevalent of these reported that a car bomb had been detonated at the US State Department's headquarters, other report claimed that another transcontinental flight Delta 767 had

[17][9/11 Commission Report 2004] p. 145

[18][9/11 Commission Report 2004] p. 172

been hijacked. Both reports proved to be false. The main role was assigned to television: Although three of the major broadcast networks had their transmission tower atop the destroyed North Tower of the WTC, the image of the second crash was caught by live TV because of the coverage of the first hit. This coverage resulted in the longest uninterrupted news event in the history of US television. Millions of shocked television viewers watching live pictures of the World Trade Center saw the second crash and both buildings come down. And then over and over again. In order to keep up with the constant flood of information, CNN, which was the first network to break the news of the attacks, began running continuous updates in the form of a news ticker that crawled along the bottom of the screen.¹⁹

Coverage of the attacks was branded with various slogans and captions, such as “*America under Attack*“, “*The Second Pearl Harbor*“, “*Day of Terror*“, “*A Nation United*“ or „*America's New War*“ in a patriotic red, white, and blue motif, sometimes with an explicit graphic of the American flag. As James Der Derian brilliantly put it, the **war of networks** began.

“Whether terrorist, Internet, or prime-time, most of the networks seemed equally adept at the propagation of violence, fear, and disinformation. (...) For a prolonged moment there was no detached point of observation, only tragic images of destruction and loss, looped in 24/7 cycles, which induced a state of emergency and trauma at all levels of society. It was as if the American political culture experienced a collective Freudian trauma, which could be re-enacted (endlessly on cable) but not understood at the moment of shock. And in a state of emergency, as in war, the first images stick. There was no initial attempt by the media or the government to transform these images of horror into responsible discourses of reflection and action. (...) Moving at the speed of the news cycle and in a rush to judgment there was little time for deliberation, for understanding the motivations of the attackers, or for assessing the potential consequences, intended as well as unintended, of a military response.”²⁰

In other words, the media began preparing people for war. Not even two hours after the crash of United 93, General Wesley Clark announced on television that the only group with the ability to construct such a plot is Osama bin Laden's. The enemy was labeled. Television news coverage was also repeatedly showing images of Palestinians rejoicing over the 9/11 attack, though as was later discovered, the footage was filmed during the funeral of nine people killed the day

[19] This was so well received by viewers that it became a permanent feature on CNN and was adopted by most other news channels.

[20] [Der Derian 2001]

before by Israeli authorities. This irresponsible broadcasting, without explaining the background, could only be taken as propaganda for the war machine.

To be fair, the media should be given some credit for the instant coverage of the attacks. Due to the fact that many governmental and financial workers had access to Internet and TV news, word and pictures of the events spread fast. Thanks to CNN and other media, many public officials saw the actual scenes of the events in New York City and at the Pentagon only within minutes of their occurrence and were able to take action, such as opening emergency operations centers before being requested to do so officially. Among the official bodies, which acknowledged quickening their actions as a result of what they learned from television, were e.g. the Environmental Protection Agency (EPA) and the US Coast Guard (USCG). Media's other actions remain disputable.

The modern media played a significant role in the days months following 9/11 and very much shaped the public opinion concerning the measures taken by the government in the attacks' aftermath. While some supported or even called for immediate retaliation, some tried to defend rather pacifist views. The media, too, had their say on the question of liberty versus security, as I will discuss later. It also became obvious, that although the American press is constitutionally free, some sort of loyalty or fear of the government led to censorship by omission. On the other hand, the rather independent medium – the Internet, became not only an alternative source of information,²¹ but also the ground for countless conspiracy theories²², confirming people's beliefs, that great tragedies must have great reasons.

5. The Improvisation

What Went Wrong and Who Is to Blame?

Something went wrong on that September morning. Why did the attackers had a chance of succeeding in their malicious plot? Some of the reasons were rooted deeper in the system of the US Government and in the (non-)cooperation of its agencies, especially in the Intelligence Community. I will focus on them later in my thesis as they had more to do with the prevention of the attacks. But then there was the emergency system which should have set certain protective mechanisms into motion. Were there any and did they work properly?

The very first obstacle for the terrorists should have been the check-in procedures at the airlines' counters. But it was not. Though some of the hijackers were selected by a computerized

[21] Some of the alternative sources I used in my research are listed at the end.

[22] For the “Top 40 Reasons to Doubt the Official Story of Sept. 11th, 2001”, please see Appendix II.

pre-screening system known as CAPPS, which was created to identify passengers who should be subject to special security measures, but the only consequence of these selections under security rules in place at that time, was that their checked bags were hold off the plane until it was confirmed that they had boarded the aircraft. The no-fly lists then weren't updated with names from terrorist watch lists. Two of the perpetrators were for instance listed on the CBP's watch list since August that year.

Next, there were the security checkpoints. But they failed. Some of the hijackers set off alarms after proceeding through the metal detectors and were then hand-wanded, but although the items that caused the alarms were not identified, they were permitted through the checkpoints. In some cases there was no documented evidence if any alarms have been triggered, as the security checkpoints lacked close-circuit television surveillance. In any case, box-cutter knives, which were apparently used in the attacks, were not considered weapons. Actually, up until the attacks any knife with a blade up to 4 inches long was permitted on US domestic flights.²³ Once the perpetrators got aboard the aircraft and after they overcame the planes' crews, the defense of US airspace depended on close interaction between two federal agencies: the **Federal Aviation Administration (FAA)** and the **North American Aerospace Defense Command (NORAD)**.

FAA²⁴ is an agency of the United States Department of Transportation (DOT), which breaks into 22 Air Route Traffic Control Centers. As of September 11, 2001, the FAA was mandated by law to regulate the safety and security of civil aviation; in other words, maintaining a safe distance between airborne aircraft. The FAA Control Centers usually make operational decisions independently of one another, resulting in the fact, that each center has only part of the knowledge of what is going on across the system, as was the case of 9/11. What one control center knew, was not necessarily known by other centers or by the Command Center or by the FAA headquarters.

NORAD²⁵ is a bi-national command established in 1958 between the United States and Canada. Its mission is to provide aerospace warning, defense and protection of North America. NORAD is divided into three sectors. On 9/11, all the hijackings happened in NORAD's Northeast Air Defense Sector (known as NEADS). On the day of infamy, NEADS could call on two alert sites, each with one pair of ready fighters: Otis Air National Guard Base and Langley Air Force Base. NEADS reported to the NORAD headquarters.

[23][9/11 Commission Report 2004] p. 84

[24]For more information, you can visit FAA's Official Site www.faa.gov

[25]For more information, please visit NORAD's Website www.norad.mil

The FAA and NORAD had developed protocols for working together in the event of a hijacking, under which the former agency could obtain military assistance from the latter, though requiring multiple levels of notification and approval from the Pentagon's National Military Command Center (NMCC) as well as from the Office of the Secretary of Defense. Unfortunately, the protocols in place on 9/11 presumed several conditions most of which had not been met on that day, making the protocols unsuited in every respect for what was about to happen.

According to the Commission 9/11 Report, *“The defense of US Airspace on 9/11 was not conducted in accord with the existing training and protocols. It was improvised by civilians who had never handled a hijacked aircraft that attempted to disappear, and by a military unprepared for the transformation of commercial aircraft into weapons of mass destruction. As it turned out, the NEADS air defenders had nine minutes' notice on the first hijacked plane, no advance notice on the second, (...) on the third (...) and on the fourth.”*²⁶ The Commission praised at the same time, that the individual people involved in handling such a difficult situation thought outside the box in recommending a nationwide alert, in ground stopping local traffic, and in deciding to land all aircraft. That was an unprecedented step in history, but with the risk of additional flights that might be used as terrorist weapons, it was probably the right and necessary step to take. The order was managed flawlessly with 4,500 aircraft being grounded.

The official explanation by the 9/11 Commission has been challenged by other accounts of the events. The Commission is also believed to have ignored several issues and left some questions unanswered.²⁷ Since September 11, various government representatives have promoted a series of mutually contradictory stories of how the nation's air defenses responded to the attacks. Different time-lines were presented at different times by the high military command, NORAD, and the FAA. According to Richard Myers, vice-chairman of the Joint Chiefs of Staff (JCS) and acting chairman on the morning of Sept. 11, no fighter jets were scrambled to shoot down any of the flights until after the Pentagon was struck. NORAD, on the other hand, claimed that it was alerted by the FAA and it has responded to it by scrambling two pairs of interceptors from the air force bases, but the chronology indicated that it was too late for the fighters to reach any of its targets. This shifted the blame to the FAA, which then disputed the time-line, claiming that phone bridges were established immediately after the initial attack and informed NORAD in real time throughout of all developments.

[26][9/11 Commission Report 2004] p. 31

[27][Murphy 2005] or [Ridgeway 2005]

Another conflicting account of the events was presented by Richard Clarke, then the counter-terrorism adviser on the US National Security Council. He was the one chairing the teleconference in the White House's Secure Video Conferencing Center, which connected the highest-ranking officials from each department during and after the attacks on 9/11 in order to handle the situation of an apparent national crisis. His time-line of the events, which he presented in the Commission's hearings as well as in his book²⁸, grossly conflicts with that of the Commission. These and other discrepancies beg for answers and explanations. A report is expected to be released soon addressing whether testimony delivered to the commission was “*knowingly false*”.²⁹ It is no wonder that they might lead to impressions there was some sort of a cover-up and inspire numerous conspiracy theories.

To sum up, the emergency system did not work well. Each of the participating agencies bears part of the responsibility for not stopping the attackers, especially due to failures in communication among them. In order to be fair, however, it must be noted that no one at the FAA or the airlines that day had ever dealt with multiple hijackings. Such a plot had not been carried out anywhere in the world in more than 30 years, and never in the United States. The most recent hijacking prior to that tragic day, which involved US Air traffic controllers, FAA management, and military coordination had occurred in 1993.³⁰ NORAD, on the other hand, could be blamed for the lack of imagination, as it perceived the dominant threat to be from cruise missiles; it did not recognize the possible threat of terrorists hijacking commercial airliners and using them as guided missiles. The responsibility, however, extends much further.

6. National Crisis Management

Searching for the Chain of Command

POTUS, or the **President of the United States** George W. Bush, was at an Elementary School in Sarasota, Florida to read to a class and talk about education at the time of the first attack. He learned about it immediately from his Senior Adviser Karl Rove. After a second plane had struck the World Trade Center, POTUS was informed by the White House Chief of Staff Andrew Card. By that time, it was clear that America was under attack. Several minutes later, he was on the phone with his National Security Adviser Condoleeza Rice, New York Governor George Pataki, FBI Director Robert Mueller and of course he spoke to **Vice President** Richard Cheney. Mr.

[28][Clarke 2004]

[29][Eggen 2006]

[30][9/11 Commission Report 2004] p. 14

Cheney, who was at the White House, witnessed the second aircraft striking the South Tower on the television a while earlier. The **Defense Secretary** Donald Rumsfeld was having breakfast at the Pentagon with a group of members of Congress. He was also informed of both strikes in New York. After learning about the second plane he continued the briefing and was at his desk when Flight 77 struck the Pentagon.

At the White House, the already mentioned video teleconference was conducted from the Situation Room by Richard Clarke. It included the CIA; the FBI; the departments of State, Justice, and Defense; the FAA; and the White House shelter. The first topic introduced was the physical security of the President. Simultaneous teleconference was called for by the **National Military Command Center** (NMCC) in the Pentagon. Its purpose was to establish the chain of command between the National Command Authority – the President and the Secretary of Defense – and those who need to carry out their orders. The President, Vice President, Secretary of Defense, Vice Chairman of the Joint Chiefs of Staff, and Deputy National Security Adviser Stephen Hadley all participated in this teleconference at various times, as did other military personnel and the President's military aide on Air Force One. The 9/11 Report includes a testimony recalling that “*it was almost like there were parallel decision-making processes going on; one was a voice conference orchestrated by the NMCC and then there was the White House video teleconference. (...) they were competing venues for command and control and decision-making.*”³¹

The legal chain of command orders following in case of hijackings: If a hijack is confirmed, procedure calls for the President to empower the Secretary of Defense to send up a military escort, and if necessary, give pilots shoot-down orders. As we learn from the 9/11 Report, President Bush apparently spoke to Secretary Rumsfeld for the first time that morning shortly after 10:00 - more than an hour after the first World Trade Center tower was hit, 20 minutes after the Pentagon was attacked, and moments before Flight 93 was wrestled to the ground by its brave passengers. Simple mathematics reveals that during the 109 minutes it took for the attacks to be carried out (that is from hijacking of the first plane till the crash of the last one), the President Bush, the Secretary of Defense Rumsfeld and the acting Chairman of the Joint Chiefs of Staff Myers were left out of the loop. Nobody has explained why.

When the Vice President Cheney eventually got on the line with POTUS to discuss the rules of engagement for the combat air patrol (CAP) over Washington and received the authorization to shoot a plane refusing to divert, all the hijacked aircraft had already crashed. Meanwhile, some of

[31][9/11 Commission Report 2004] p. 36

the fighter jets in the air over D.C. received no orders to shoot down planes, while other military aircraft got the OK from the Secret Service to fly 'weapons free', which means they had wide authority to take out suspicious aircraft. Although NORAD officials maintained that they would have intercepted and shot down United 93,³² had the passengers not caused it to crash, the 9/11 Report seriously doubts it.

Nevertheless, several actions had taken place as a result of the national crisis management. Firstly, all the aircraft was grounded nationwide. Secondly, the borders were closed and all the international traffic was diverted to foreign countries. All the ports were sealed, so that possible plotters could not escape. DEFCON, or Defense Condition 3 of the United States armed forces was activated, which meant an increase in force readiness above normal. Important national monuments, tourist attractions, prominent buildings, other federal buildings, as well as Southern Manhattan were evacuated.³³ **Continuity of Government** (or COG) program designed to relocate administration officials to alternate sites during periods of national emergency was put in place; in other words, the government moved to caves. Sadly, another action comprised of sending Federal Emergency Management Agency (FEMA) mortuary units to Manhattan. Basically, the authorities were trying to put the country on hold until an improved security was organized so that they could pick up the pieces.

In the meantime, the Air Force One departed with the POTUS without any fixed destination, as its objective was to get up in the air – as fast and as high as possible – and then decide where to go. Although the POTUS strongly wanted to return to Washington, the Secret Service felt the situation there was too unstable and the President grudgingly agreed to go elsewhere. First making a stop at Barksdale Air Force Base near Shreveport, Louisiana, he was eventually moved to the underground bunker at Strategic Command (STRATCOM), Offutt Air Force Base in Nebraska. Later that day, the POTUS was flown back to the White House. George W. Bush was later criticized for not returning to Washington until 10 hours after the attacks and the claim by the White House spokesman Ari Fleischer that there was “*real and credible information that the White House and Air Force One were targets*” was received with great skepticism by the press.

At 8:30, for the third time³⁴ that day, the President addressed the nation from the Oval Office with a memorable speech:

[32][Squitieri 2004]

[33]e.g. Trans America Building in San Francisco, Sears Tower in Chicago, Walt Disney World etc.

[34]First speech was delivered at 1 p.m., saying: “*Make no mistake, the United States will hunt down and punish those responsible for these cowardly acts (...) Freedom itself was attacked this morning by a faceless coward. And freedom will be defended.*”

“Today, our fellow citizens, our way of life, our very freedom came under attack in a series of deliberate and deadly terrorist acts. (...) These acts of mass murder were intended to frighten our nation into chaos and retreat. But they have failed; our country is strong. (...) America was targeted for attack because we're the brightest beacon for freedom and opportunity in the world. And no one will keep that light from shining. (...) Immediately following the first attack, I implemented our government's emergency response plans. Our military is powerful, and it's prepared. (...) Our first priority is to get help to those who have been injured, and to take every precaution to protect our citizens at home and around the world from further attacks.

*(...) The search is underway for those who are behind these evil acts. I've directed the full resources of our intelligence and law enforcement communities to find those responsible and to bring them to justice. **We will make no distinction between the terrorists who committed these acts and those who harbor them.**³⁵ (...) This is a day when all Americans from every walk of life unite in our resolve for justice and peace. America has stood down enemies before, and we will do so this time. None of us will ever forget this day. Yet, we go forward to defend freedom and all that is good and just in our world. (...) God bless America.”³⁶*

In his book, Richard Clarke, describes what followed this Oval Office Address, when the President met with the staff in the Presidential Emergency Operations Center (PEOC), a place he had supposedly never seen before. Clarke states, that unlike in his three television appearances that day, Bush was confident, determined and forceful: *“I want you all to understand that we are at war and we will stay at war until this is done. Nothing else matters. Everything is available for the pursuit of this war. Any barriers in your way, they're gone. Any money you need, you have it. This is our only agenda.”³⁷* Then President asked Clarke to focus on identifying what the next attack might be and preventing it.

7. Reaction in Europe

We Are All Americans!

Not only America was shocked with the attacks, as they were televised all over the world and reached the audiences almost everywhere. They were immediately denounced by the mainstream media and governments worldwide. Condolences were being offered to America from

[35] This sentence later established the term Bush Doctrine.

[36] [911 Address]

[37] [Clarke 2004] p. 24

almost all the national and international leaders, including those who were usually not friends with the United States. Even those who did not agree with its policies, understood that there was no excuse for mass-killing innocent people. Europe, America's closest ally, perhaps felt that this was an attack on the entire western civilization and many realized, that it might be only a matter of time before similar acts of catastrophic terrorism reach the Capitols of Europe. Sadly, they were right in their judgment.

Several voices expressed how most of the people in Europe felt, as for instance the former EU External Relations Commissioner Chris Patten, who told Reuters. *“This is an act of war by madmen. This is one of those few days in life that one can actually say will change everything.”* Tony Blair added: *“Your loss we count as our loss. Your struggle we take as our struggle.”* But the most memorable quote came from France's Le Monde newspaper, with the headline summing up the international mood of sympathy: *“Nous sommes tous Américains/We are all Americans. We say this as a tribute to the people to whom we owe our freedom”*³⁸ reminding of the famous quotation from 1963, when President John F. Kennedy said *“Ich bin ein Berliner/I am a citizen of Berlin”* while visiting West Berlin, showing his support to West Germans after the erection of Berlin Wall.

European Union as a whole responded to the attacks fairly quickly, calling an emergency meeting of foreign ministers the very next day. Within a week, EU leaders had publicly committed themselves to closer cooperation with the United States than ever before. The United States, busy with its own affairs, was slow to respond, just as it had been with NATO after the invocation of Article 5, which committed its members to collective defense of the US territory, but Brussels persisted, and within a short period of time a closer US–EU relationship was forged.

[38] The famous editorial by Jean-Marie Colombani from September 13, 2001.

B. The Morning After

Sobering Up and Picking Up the Pieces

“Morning came, and everything was changed. The sun rose Wednesday over the absence of a national landmark, a smoldering ruin in lower Manhattan where the World Trade Center towers had stood. In Washington the Pentagon, still on fire, was deeply scarred — along with Americans’ collective sense of security. After a day in which terrorists had managed to effectively shut down both cities, suspend all air traffic in the US and force evacuations across the country and in US facilities worldwide, there was nothing to do in the bright, crisp fall sunshine but to clean up, search for those responsible — and mourn the dead.”³⁹

1. Immediate Response

There Are Many Good Targets in Iraq

The shock of the attacks on the preceding day was immense and America, which traditionally saw itself protected by the vast oceans was suddenly startled. The country was put on hold so it could take a deep breath. The first task was to prevent next possible attack, to gather all strength, and to begin a thorough investigation of the tragic events so that a lesson is learned as soon as possible. First of all, the process of identifying the hijackers continued, confirming the early presumptions that Osama bin Laden and al-Qaeda were involved. The list of perpetrators was finalized while the FBI agents searched for accomplices and traced recent movements of the hijackers. They quickly descended on flight schools, where some of the hijackers were trained. From today's perspective, it seems the intelligence agencies already had open files on these men. As it appeared, a clear trail of evidence was left by the hijackers. Eventually, on September 13, the White House publicly announced that there was an 'overwhelming evidence' that bin Laden was behind the attacks.

At this point, it was only logical that those identified as perpetrators should bear full responsibility for their acts. But the 'terrorist czar' Richard Clarke later brought to light another logic pushed through by the President and the Defense Department. President Bush told Clarke to investigate the possibility that Iraq was involved in the attacks, to “*see if Saddam did this*”, referring to Saddam Hussein, then President of Iraq. Even though Clarke insisted that the CIA, FBI, and White House already concluded that there were no such links, the President remained stubborn.

[39][TIME Archive] September 12, 2001.

Later on, Defense Secretary Donald Rumsfeld suggested that the US should bomb Iraq in retaliation for the attacks on the WTC and the Pentagon and to everybody's exclaim that al-Qaeda was in Afghanistan, Rumsfeld said that “*There aren't any good targets in Afghanistan and there are lots of good targets in Iraq.*” Recalling his feelings, Clarke wrote that: “*At first I was incredulous that we were talking about something other than getting al-Qaeda. I realized with almost a sharp physical pain that Rumsfeld and Wolfowitz were going to try to take advantage of this national tragedy to promote their agenda about Iraq.*”⁴⁰ These plans were first realized in March 2003 with the invasion of Iraq. Involvement of Saddam Hussein's regime in the attacks was supported by the later discounted 'Prague Connection' theory.⁴¹

On September 14, the United States 107th Congress adopted a joint resolution authorizing the President to use **all necessary and appropriate force** (AUMF) against those he determined were involved in planning, authorizing, committing, or helping the terrorist attacks that occurred on 9/11. In line with the 'Bush Doctrine' it also aimed against those who harbored such organizations or persons. In other words, the Congress granted the President carte blanche to wage the war against anybody he deemed responsible. Besides, the Congress stated that the “*grave acts of violence*” committed on the US continued to pose an unusual and extraordinary threat to its national security and foreign policy. In accordance with Congress' joint resolution, President Bush issued a proclamation declaring “*national emergency.*” Further on, he authorized the Pentagon to call up 50,000 reservists to active duty for homeland defense and recovery missions. Because of the continuing terrorist threat, this national emergency was extended for additional two years.

Five days after the attacks, on September 16, Vice President Dick Cheney as first of the high-ranking US officers, acknowledged that US intelligence officials received threat information, though not very specific, during the summer of 2001 about a big operation being planned by terrorists, possibly striking on the American soil. Such an acknowledgment turned out to be rather rare in the immediate aftermath of the attacks. As I will discuss later, most of the US authorities denied any foreknowledge of some intelligence reports or warnings prior to the September events. It took some time before they eventually conceded to their existence.

Two days later, on September 18, the Justice Department announced an interim regulation allowing non US citizens suspected of terrorism to be detained without charge for 48 hours or “*an*

[40][Clarke 2004] p. 30

[41]3 days following the attacks, the CIA intelligence liaison in Prague was told by the Czech intelligence agency (BIS) that one of its informants in the local Prague Arab community believed he had seen plotter Mohamed Atta meeting with Iraqi diplomat Ahmed Khalil Ibrahim Samir al-Ani on April 8, 2001. [Isikoff 2004]

additional reasonable period of time” in the event of an “*emergency or other extraordinary circumstance*.” This new rule led to the detention of hundreds for an indefinite period of time until the Patriot Act was passed in October, thus providing more solid grounds to hold non-citizens without charge. Both measures brought about many unwelcome consequences, on which I will focus in later chapters. These probably understandable interim regulations found a sharp contrast in the quiet departures of the bin Laden family and Saudi royalty from the US in days following the attacks, since they were approved by the highest US officials. It concerned about 140 Saudis, including around 24 members of the bin Laden family. Dale Watson, the head of the FBI’s Counterterrorism Division, later said the Saudis on the planes were identified, but they were not subject to serious interviews or interrogations before they left. Once already gone, some of them were later investigated for terrorist connections.

Adapting to the new situation, on September 20, President Bush announced the new cabinet-level Office of Homeland Security to be led by Pennsylvania Governor Tom Ridge. Accepting the post, Ridge reportedly said, “*Liberty is the most precious gift we offer our citizens.*” In her article,⁴² Alisa Solomon responded to this comment in a magazine: “*Could Tom Ridge have said anything scarier or more telling as he accepted the post of homeland security czar? Trying to strike the bell of liberty, he sounds its death knell, depicting government not as the agent of the people’s will, but as an imperious power with the authority to give us our democratic freedoms. Which means, of course, that it can also take them away.*” Those words now sound very prophetic. In November 2002, Ridge became Secretary of a new Homeland Security Department in a huge governmental overhaul.

2. First Denials

The Failure of Imagination?

But we still have a long way to go to the great restructuring of the government. First we should ask, what were the driving forces for these changes. Although the ones responsible for the attacks were named and preparations for their apprehension were under way, it was clear that part of the blame should be put on those responsible for the prevention of similar terrorist acts. United States with its enormous military power and mighty intelligence, many thought, should had been able to prevent or stop an event of similar magnitude. But the US leaders, especially in the first days

[42][Solomon 2002]

and weeks following the national tragedy, were trying to prove this assertion wrong. A long line of denials was presented to the public.

Speaking on the television, Secretary of State Colin Powell stated that in the first 24 hours of analysis, he has not seen any evidence that there was a specific signal missed. In his words, the United States “*did not have intelligence of anything of this scope or magnitude.*”⁴³ FBI Director Robert Mueller initially described reports that several of the hijackers had received flight training in the US as “*news*” and added: “*If we had understood that to be the case, we would have—perhaps one could have averted this.*”⁴⁴ It was later discovered that contrary to Mueller’s claims, the FBI had interviewed various flight school staffs about Middle Eastern militants on numerous occasions, from 1996 until a few weeks before 9/11.⁴⁵ Few days later, he said that there were no warning signs that he would know of that could indicate this type of operation in the US. Apparently, the FBI Director was lying. A year after the attacks he softened these words admitting he wished the FBI had done several things differently, but still maintained his view that the attacks could not be stopped. Similarly, CIA Director George Tenet insisted that there was no 9/11 intelligence failure.

The story told by President Bush was not any different. According to him: “*Never (in) anybody's thought processes ... about how to protect America did we ever think that the evil doers would fly not one but four commercial aircraft into precious US targets ... never.*”⁴⁶ He repeatedly claimed that he had 'no warning' of any kind. He and his administration was embarrassed in Spring following year when it was revealed that he had been warned about al-Qaeda domestic attacks in August 2001. It was no wonder that after such revelations part of the public took to conspiracy theories instead of what might have earlier seemed as incompetence as a likely explanation for the failure to give the nation some warnings that might have averted the worst disaster in American history.

Countless other US officials comment on the attacks as never being thought of; e.g. FAA Administrator Jane Garvey claimed that no one could imagine someone being willing to use an airplane as a lethal weapon in a suicide attack. Similar account of the state of imagination was given by the acting Joint Chiefs of Staff Chairman Richard Myers. The truth is, the US government seemed quite concerned about the possibility of an attack using an aircraft as a weapon. Remarkably, on the morning of 9/11, the CIA were running a pre-planned simulation to explore the

[43][Powell 2001]

[44][Fainaru 2001]

[45][Cullen 2001]

[46][Bush 2001]

emergency response issues that would be created if a plane were to strike a building. Also on 9/11, NORAD was in the middle of another periodic war game, this one called Vigilant Guardian. The scenario reportedly tested an imaginary crisis to North American Air Defense outposts nationwide, and according to one NORAD employee, 'everybody' at NORAD initially thought the real hijackings were part of the exercise.⁴⁷ Numerous other similar war games had been conducted prior to 9/11. Even the media picked upon the possibility of an attack using a plane long before the attacks of September 11 were realized.

Unfortunately, no one has taken personal responsibility for the evident failures so far. Paradoxically, some of the performers in the aforementioned media games with words have been promoted, such as in case of Richard Myers, who became JSC Chairman three days after 9/11. It was till much later that President Bush conceded that his intelligence agencies had problems, especially in communication, which led to their restructuring. But the bitter taste from this myriad of denials, half truths and complete lies remained. Besides other things, it helped create an illusion that terrorism and al-Qaeda was relatively new to the United States. The opposite was the truth.

3. Experience With Terrorism

Out of Nowhere?

“If the attack against the World Trade Center proves anything it is that our offices, factories, transportation and communication networks and infrastructures are relatively vulnerable to skilled terrorists...Among the rewards for our attempts to provide the leadership needed in a fragmented, crisis-prone world will be as yet unimagined terrorists and other socio-paths determined to settle scores with us.” “The explosion shook more than the building: it rattled the smug illusion that Americans were immune, somehow, to the plague of terrorism that torments so many countries.” Surprisingly, these two testimonials do not refer to 9/11 attacks, they appeared in print already in March 1993 as a reaction to the first World Trade Center Bombing.⁴⁸

Due to the above mentioned illusion, many people felt that the events of September 11 came out of the blue. But in reality, 9/11 was just *“the most far-reaching of a long series of painful encounters between the United States and the forces of terrorism.”*⁴⁹ There was a slow but certain build-up to the day. Its history reaches back to April 18, 1983, to the deadliest attack on a US diplomatic mission up to that time, an event which marked the beginning of anti-US attacks by

[47][Thompson 2003]

[48]The former comes from *The New York Times* (editorial by Mark Edington, March 2, 1993) and the latter from *Newsweek* (March 8, 1993, p. 22).

[49][Freedman 2002]

Islamist groups. On that day, 63 people were killed in a bombing of the **US Embassy in West Beirut**. The attack was probably motivated by the American intervention in the Lebanese Civil War, which sought to bring some calm to the region after the massacre of hundreds of Palestinians in the Sabra and Shatila refugee camps by Lebanese Christian militiamen backed by nearby Israeli army units.

In October of the same year, in an attack considered one of the first instances of suicide bombing, delivery truck loaded with tons of explosives crashed into the headquarters of the **US Marines in Beirut** Airport. This caused 241 marines and other US personnel to lose their lives as the building collapsed upon them.⁵⁰ At the same time, also in Beirut, another suicide bomber attacked the French barracks, where 58 people were killed. The attack served as Muslim retaliation for the act of US warships firing rounds into Muslim positions, in support of the Christians. Although the attacks did not immediately trigger the withdrawal of the American peace-keeping force from Beirut, they did undermine the conviction behind President Reagan's policy, and weakened political support for the mission. A series of kidnappings and murders followed, which eventually led to pulling American troops out of Beirut.

Withdrawal from Beirut gave the impression that America was vulnerable to terrorism and that if casualties were high enough they could be forced into abandoning overseas commitments. This was nothing really new, though, the so called lesson of Vietnam taught American leaders that the United States should only take on wars that could sustain popular support and not those that threatened to be indecisive. This lesson was further intensified in **Somalia**, in October 1993. The operation, which was later made into a movie called *Black Hawk Down*⁵¹, was supposed to lead to arrest of those responsible for killing UN troops, which were earlier sent to Somalia in order to reinforce a faltering effort to ease humanitarian distress. After a call from UN Security Council, members of the elite US Army Rangers and Delta Force entered a hostile part of Somalia's capital, Mogadishu, in search of the warlord Mohammed Farah Aidid. When trying to find Aidid, they were attacked by Somalis armed with automatic weapons and rocket-propelled grenades. The battle lasted for 17 hours and left 18 US soldiers killed and 84 wounded.

As a result, President Clinton decided to give up the hunt for Aidid and withdrew US troops from Somalia. Paradoxically, the largest military power on Earth was overcome by one of the poorest nations in Africa. American people's aversion to casualties set a new trend of keeping away

[50][Clarke 2004] p. 40

[51]2001 film by Ridley Scott, based on the book *Black Hawk Down: A Story of Modern War* by Mark Bowden.

from hostile places up to the day of 9/11 attacks, when the cup finally overflowed. Following the Mogadishu debacle, America confined its involvement to air power or simply stayed away (case of Kosovo in 1999 and Rwanda in 1994 respectively). Even when the US embassies in **Kenya** and **Tanzania** were attacked by an organization later labeled as al-Qaeda in August 1998, the US response was nothing more than to launch cruise missiles against bin Laden's training camps in Afghanistan. It became clear, that casualty intolerance was and perhaps still is (we will see with the occupation of Iraq) the greatest political vulnerability of the US.

As we learned, foreign terrorism was not new to the US presence abroad, but what about terrorist incidents on American soil? We already know from the introducing lines of this chapter, that February 1993 was marked with the attack on New York's **World Trade Center**. The attack involved a car bomb in a stolen Ford van, which was driven into the underground garage of the WTC.⁵² When the bomb detonated, it created a massive crater, seven stories deep in the garage of the building. Six people were killed and over 1,000 were injured. The terrorists anticipated Tower One to collapse onto Tower Two after the blast, but this part of the plan failed. The incident was investigated relatively quickly and some arrests were made, also uncovering and thus spoiling another terrorist plot to bomb New York City landmarks, including the UN headquarters, planned for July 4, 1993.

Two years later, on April 19, 1995, the most destructive incident of terrorism on American soil until 9/11 took place. In a protest against the US Government, two terrorists bombed the Alfred P. Murrah Federal Building in downtown **Oklahoma City**, killing 168 people. The main plotter and Gulf War veteran, Timothy McVeigh, called the casualties in the bombing 'collateral damage' and compared the bombing to actions he had taken during the Gulf War. About a year after that, another domestic bombing occurred in Atlanta, Georgia, during the Atlanta Olympics. One person was killed and 111 injured.

As to Osama bin Laden and al-Qaeda, the alleged culprits behind 9/11, they were not completely unknown to the US authorities when the 19 hijackers turned the airliners into guided missiles. Some links were drawn between al-Qaeda and the first World Trade Center Bombing. More apparent link was found with the mentioned embassy bombings in East Africa and then with the so called 2000 **Millennium attack plots**, which included bombing of hotels in Jordan, blasting bombs at the Los Angeles Airport and bombing of the USS The Sullivans. The first two attacks were foiled, the third was aborted after a mistake occurred. After failing to blow the mentioned

[52][Lance 2003]

guided missile destroyer, al-Qaeda tried again in October 2000 with another plot, this time choosing **USS Cole**. Suicide bombers attacked it with a small boat loaded with explosives, eventually killing 17 sailors and injuring 40. It was concluded that all these plots were being part of bin Laden's ambitious strategy, which counted on the fact, that by causing mass casualties on a regular basis, the Americans would keep clear of overseas conflicts.

America learned its lesson and remained cautious. By killing its people on a significant scale, its adversaries persuaded Americans on several occasions to back off from any undesirable stance on an issue. But there was a limit. With the second attempt to destroy the World Trade Center on September 11, the terrorists succeeded, be it al-Qaeda or else. If the aim was simply to hurt the United States then the attack will have succeeded beyond their expectations. If, however, the aim was to convince the United States that it should detach itself from the rest of the world, it has failed mightily. America began to massively engage in the world affairs.

4. Foreign Policy

Back to the Stone Age? Fighting the Axis of Evil

“I'm not so sure the role of the United States is to go around the world and say this is the way it's got to be. We can help. (...) I want to help people help themselves, not have government tell people what to do. I just don't think it's the role of the United States to walk into a country and say, we do it this way, so should you.”⁵³

Surprisingly, those were the words of then Governor George W. Bush in a Presidential Debate about positions on foreign policy with then Vice President Al Gore on a NewsHour with Jim Lehrer in October 2000. After tightly winning the elections, the new President Bush did stand to his words assigning foreign policy only a minor role. An editorial in the Washington Post published hours before the 9/11 attacks confirms that: *“When it comes to foreign policy, we have a tongue-tied administration. After almost eight months in office, neither President Bush nor Secretary of State Colin Powell has made any comprehensive statement on foreign policy. It is hard to think of another administration that has done so little to explain what it wants to do in foreign policy.”⁵⁴* A major change followed soon.

Immediately following the attacks, the US went on the international offensive. War was declared on those who wittingly harbored terrorists. New rhetoric was being used, introducing the

[53][Presidential Debate 2000]

[54][Abramowitz 2001]

term “*axis of evil*”,⁵⁵ which referred to the so called rogue states, namely Iraq, Iran and North Korea, later extending also to Libya, Syria and Cuba. Pressure was being put on other states to cooperate, as for instance in case of Pakistan; former Deputy Secretary of State Richard Armitage is said to have told the chief of Pakistan's intelligence agency that “*the choice is up to you. Help us and breathe in the 21st century along with the international community or be prepared to live in the Stone Age.*”⁵⁶ Eventually, with help from the international coalition including Pakistan, the US offensive caused the downfall of the Afghan Taliban regime, which supposedly refused to extradite Osama bin Laden.

The hunt for bin Laden and his al-Qaeda network, was not probably the only reason of this and subsequent American interventions. The newly established foreign policy more or less adhered to the neo-conservative idealistic view of the world as being divided into good and evil and partly to the liberty doctrine,⁵⁷ which seeks to promote individual freedoms abroad by toppling undemocratic regimes and establishing democratic institutions. For the **neo-conservatives** in the Bush Administration, such as Paul Wolfowitz, Dick Cheney, Donald Rumsfeld or Richard Perle, September 11 became one of the moments for redefining America's place in the world, continuing in the line of events like Pearl Harbor, the communist coup in Czechoslovakia or the invasion of South Korea. The end of the Cold War and the end of the first Gulf War could have been central moments in the redefinition of American foreign policy and the international system, but they were not. Although the neo-cons were part of the administration from the beginning, they had very little influence before 9/11. In the wake of that terrible tragedy, after the apocalyptic mood that took over the country, it was the neo-conservatives who offered an explanation for why this had happened and what should be done about it. This brought them back to power in America and George Bush thus became the first neo-conservative President.

With the initial success in **Afghanistan** and in the first weeks of the invasion also in **Iraq**, the so called War on Terror, in the neo-cons' eyes referring to real war, not just to its metaphor like 'war on drugs', seemed to go well while winning substantial public support. But then the problems began. Guerrilla war broke out in Iraq and more and more US soldiers were being killed by the insurgents. This caused some disquietude at home. The missing link between Iraq and al-Qaeda, as well as the failure to deliver proof of Iraq possessing weapons of mass destruction (WMD) did not help the situation either. Last, but not least, the legitimacy of the US detention center at

[55][Union Address 2002]

[56][Rind 2001]

[57][McFaul 2002]

Guantanamo Bay, Cuba, set up for the purpose of holding illegal enemy combatants brought from abroad, was being questioned in relation to abuse of human rights. Civil rights defenders were pointing out to the inconsistency of the US policy, which tries to promote freedom abroad while curtailing civil liberties at home.

5. Domestic Front

More Safe, Less Free

Domestically, the United States launched a broad effort to protect its homeland. In order to reduce its vulnerability to terrorist attacks, several measures were taken within the field of border security, intelligence and justice. The Bush Administration established new Department of Homeland Security (DHS), which represented the largest restructuring of the US government in more than fifty years. As a result of the 9/11 investigations, the intelligence community was reformed and the post of Director of National Intelligence (DNI) was established in order to ensure better cooperation within the community. New legislation was being passed by Congress, most notably the USA PATRIOT Act, with the purpose to help detect and prosecute terrorism and other alleged future crimes. The Administration also invoked 9/11 as the reason to initiate a secret National Security Agency (NSA) operation, *“to eavesdrop on telephone and e-mail communications between the United States and people overseas without a warrant.”*⁵⁸

The civil liberties groups have criticized the PATRIOT Act and other legislation, saying that it allowed law enforcement to invade the privacy of citizens and eliminated judicial oversight over law-enforcement and domestic intelligence gathering. Also the hunt for Arab and Muslim immigrants⁵⁹ that ensued the attacks brought some bad blood. 80,000 Arab and Muslim immigrants were fingerprinted and registered, about 8,000 men of the same origin were interviewed, and 5,000 foreign nationals were detained with the aim to deter and prevent acts of international terrorism against the United States.⁶⁰ In many cases, the government and the law enforcing authorities went too far. Nevertheless, changes on the front of homeland security were necessary, since the old Cold War model was no longer suitable to meet the challenges of the new millennium.

[58][VandeHei 2006]

[59][Solomon 2002]

[60][Wikipedia]

III. Rebuilding Homeland Security

A. The Cold War Legacy

Enjoying the Cold War Peace Dividend

With the collapse of the Soviet Union, the *short twentieth century*⁶¹ was suddenly over. Although some argued that this was only a prelude to the breakdown of *Pax Americana*, others have argued that as the *world's policeman*, the United States was left to fill the imperial role of nineteenth century colonial powers. Whatever was the case, it was evident that the world had changed. But as we will learn, America, or at least its institutions, had not.

In the years following the *end of history*⁶², but preceding the 9/11 attacks, with the absence of a threat similar to the one posed by the Soviet Union for the preceding half-century, the United States failed to identify and invest in the prevention of the main security problems that could affect their way of life and possibly threaten its very survival, such as proliferation of weapons of mass destruction (WMD) and the prospect of catastrophic terrorism.⁶³ At the same time, technology was advancing, becoming increasingly available to small groups of extremists and thus giving them destructive power that was formerly available only to states. As societies became more vulnerable to these threats, the need to rebuild the architecture of security institutions arose, but the political climate hostile to big government did not allow it. American people wanted to enjoy the so called *Cold War peace dividend* after investing their money in the arms race with the Soviets. And they did, as post-Cold War era became a period of unprecedented prosperity. United States, or they complacent leaders and institutions, did not invest into defense from these new threats such as terrorism and now the country has to pay for it, sadly with interest. Further we will look closer at the (mal)function and (un)suitability of these institutions.

1. Law Enforcement Community

Law Enforcement and Its Nonadaptation

Logically we start with the law enforcement agencies, as they were responsible for the primary response to terrorism. At the federal level, the main law enforcement activity concentrated

[61] Term used by historian Eric Hobsbawm to refer to the period between 1914 and 1991.

[62] Term employed by American philosopher Francis Fukuyama to describe the end of the Cold War.

[63][Carter 2001]

in the Department of Justice (DOJ) with Federal Bureau of Investigation (FBI) as its dominant agency. Other agencies contributing to the common effort of countering terrorism included United States Marshals Service (USMS), Immigration and Naturalization Service (INS), and Drug Enforcement Administration (DEA). Remaining federal law enforcement counter-terrorism resources were to be found in the Department of Treasury (DOT), which housed the Secret Service, the Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms (ATF). As we will see, before 9/11, with the exception of one portion of the FBI, very little of the US law enforcement community was engaged in countering terrorism. This came to full light after the attacks; as a consequence, the law enforcement community had to undergo major changes, which will be described later in this chapter.

1.1 Federal Bureau of Investigation

The history of the FBI dates back to 1908, when Bureau of Investigation was established. In 1935, it was renamed to Federal Bureau of Investigation.⁶⁴ Its domestic intelligence gathering originated in the 1940s, when President Roosevelt ordered then FBI Director J. Edgar Hoover to investigate foreign and foreign-inspired subversion. After the war, foreign intelligence duties were assigned to the newly established Central Intelligence Agency (CIA), but the FBI retained its **domestic intelligence activities**. Those kept growing in the 1950s and 1960s, but abruptly ended in the 1970s with the Watergate *scandals*. The Church and Pike committees disclosed FBI's covert action program aimed against domestic organizations and dissidents, such as spying on Martin Luther King, Jr. As a result, Domestic Intelligence Division was dissolved and new domestic security guidelines to regulate intelligence collection were adopted. These guidelines were revised in 1983 in order to encourage closer investigation of potential terrorism. Three years later, Congress authorized the FBI to investigate terrorist attacks against Americans that occur outside the United States. In 1989, it added authority for the FBI to make arrests abroad without consent from the host country. Meanwhile, Counter-terrorist Center was established to ensure the FBI, the CIA, and other organizations could work together on international terrorism.⁶⁵ Its first major success was demonstrated with the investigation of Pan American Flight 103.

Louis Freeh, who was chosen as the Director of the Bureau in 1993 and remained as such until June 2001, recognized terrorism as a major threat. He increased the number of legal attaché offices abroad, focusing in particular on the Middle East. After the 1993 World Trade Center

[64] For more information, please visit www.fbi.gov

[65] [Posner 2005]

bombing, he created a Counter-terrorism Division within FBI Headquarters to complement the already mentioned Counter-terrorist Center at the CIA. He also arranged for exchanges of senior FBI and CIA counter-terrorism officials, but all these efforts did not lead to a major shift of resources. This was mostly due to the fact, that most of FBI's work was done in field offices, headed by special agents in charge, who were in general free to set their office's priorities. And counter-terrorism did not usually constitute a priority, since it involved lengthy intelligence investigations that might never have positive or quantifiable results. Individual field offices understandably made choices not to serve national, but their local priorities.

In 1998, a five-year strategic plan was introduced by FBI Deputy Director, Robert 'Bear' Bryant, including counter-terrorism as its top priority. The plan called for a stronger intelligence collection effort, and if implemented, it would have meant a significant change in addressing terrorism. Unfortunately, it failed due to several reasons, lack of human resources being one of them, the inadequacy of its information systems being another. In 1999, the FBI created separate Counter-terrorism and Counterintelligence divisions. Dale Watson, the first head of the new Counter-terrorism Division, presented a plan called MAXCAP, setting the goal of bringing the Bureau to its maximum feasible capacity in counter-terrorism by 2005. But terrorists did not wait.

Another possible problem, which was later seen as an obstacle to successful prevention of the attacks, were the legal *constraints* put on the FBI investigations in the course of its hundred year-long history.⁶⁶ The most important one was the Foreign Intelligence Surveillance Act (FISA), which was passed by Congress in 1978, establishing procedures for requesting judicial authorization for foreign intelligence surveillance and creating the Foreign Intelligence Surveillance Court (FISC).⁶⁷ Its main intention was to preserve the system of checks-and-balances, while regulating intelligence collection directed at foreign powers and agents of foreign powers in the United States. It was interpreted by the courts that searches would be approved only if their 'primary purpose' was to obtain foreign intelligence information and thus they could not be abused in criminal cases.

Throughout the 1980s and early 1990s, however, the prosecutors followed informal arrangements for obtaining information gathered in the FISA process. This lack of information-sharing controls resulted in Janet Reno, then Attorney General, issuing formal procedures aimed at managing information sharing between the prosecutors and the FBI in 1995. Unfortunately, these

[66][Wechsler 2002]

[67][Mac Donald 2003]

procedures, referred to as '**the wall**', were misunderstood and misapplied, leading to far less information sharing and coordination between the FBI and the Criminal Division in practice than was allowed under the procedures.⁶⁸ Relevant information from the National Security Agency (NSA) and the CIA often failed to make its way to criminal investigators. In the end, FBI agents working on intelligence matters began to believe they could not share information even with their fellow agents who were working on criminal investigations. As the 9/11 Commission Report puts it, these developments "*blocked the arteries of information sharing*".⁶⁹

1.2 Other Law Enforcement Agencies

Other agencies contributing to the common effort of countering terrorism included United States Marshals Service (USMS), Immigration and Naturalization Service (INS), and Drug Enforcement Administration (DEA). Remaining federal law enforcement counter-terrorism resources were to be found in the Department of Treasury (DOT), which housed the Secret Service, the Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms (ATF).

As we learned earlier, the Justice Department was much more than the FBI, it comprised of other agencies. The **US Marshals Service** (USMS) was an expert in tracking fugitives with local police knowledge, being almost 4,000 strong on 9/11; the **Drug Enforcement Administration** (DEA) with its more than 4,500 agents would many times introduce sources to the FBI or CIA for counter-terrorism use; the most potent agency, concerning counter-terrorism, was the the **Immigration and Naturalization Service** (INS), with its 9,000 Border Patrol agents, 4,500 inspectors, and 2,000 immigration special agents. But its potential was not used, instead it focused on the illegal crossings over the border with Mexico, to illustrate it, one Border Patrol agent was required every quarter mile by 1999. Also, the inspectors at the ports of entry were not asked to focus on terrorists, they did not even know that when they checked the names of incoming passengers against the automated watch lists, they were checking in part for terrorists. The only partial success was inclusion of the INS in the **Joint Terrorism Task Force** (JTTF), which made it a partner in the FBI investigations. A total of 34 JTTFs were created, but they still had many limitations.

As to the other federal law enforcement agencies located within the Treasury Department, the **Secret Service's** mission was to protect the president and other high officials and thus it became involved whenever terrorist assassination plots were in place. The **Customs Service** agents worked

[68][Joint Inquiry 2002]

[69][9/11 Commission Report 2004] p. 80

alongside INS agents, and the two groups sometimes cooperated. The third agency, The **Bureau of Alcohol, Tobacco, and Firearms** (ATF) was used as a resource by the FBI. ATF was mainly known to the public for its infamous handling of two domestic incidents in the early 1990s⁷⁰, the less known fact was that its laboratories and analysis were critical to the investigation of the February 1993 bombing of the World Trade Center and the April 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma.

2. Federal Aviation Administration

Customer Satisfaction First

The FAA, agency within the Department of Transportation (DOT) partially blamed for not stopping the hijacked planes as described earlier in the first chapter, assumed responsibility for safety oversight of commercial space transportation prior to 9/11, but it did not perceive hijacking as a major threat. Instead, it focused on sabotage, explosives or surface-to-air missiles as its main concerns over the aviation security. The FAA produced a layered system of defense to be implemented by airlines and airports, which meant that *“the failure of any one layer of security would not be fatal, because additional layers would provide backup security”*.⁷¹ These layers included intelligence, passenger pre-screening, checkpoint screening, and on board security.⁷² Then why these layers failed to stop any of the four teams of hijackers at three different airports?

First of all, the FAA's 40-person intelligence unit was supposed to receive the intelligence data from the other intelligence agencies in order to make assessments about the threat to aviation. However, the 2001 warning of radical Middle Easterners attending flight school was not passed to FAA headquarters. Even if it did, it would not receive much attention from the agency's leadership. Secondly, the pre-screening process failed, because the FAA's 'no-fly' list contained the names of just 12 terrorist suspects, even though government watch lists contained the names of some 60,000 of known and suspected terrorists. Thirdly, the most obvious layer – security checkpoints – performed poorly, as many deadly and dangerous items were failing to set off metal detectors. Secondary screening of individuals and their carry-on bags to identify weapons other than bombs did not exist and also, the staff operating the X-ray machines was not very much trained. As one

[70]The first incident involved the Branch Davidian raid in Waco, Texas, which ended in the fiery deaths of nearly one hundred men, women, and children. The disastrous raid took place because it was alleged that certain individuals had not paid a tax on certain firearms the group allegedly possessed. The second incident was the Ruby Ridge incident, where a young boy was shot in the back and killed with a machine gun by a federal agent, and a woman holding her baby at her doorway was shot in the head by a highly skilled HRT sniper. This raid stemmed from an alleged violation involving a shotgun that was 1/4 inch too short. [Wikipedia]

[71][9/11 Commission Report 2004] p. 83

[72][Staff Report 2004]

former member of the FAA elite squad responsible for conducting mock undercover raids as terrorists and hijackers pointed out, “*with surprising ease and frequency during routine tests, members of his team slipped bombs, guns and knives onto aircraft*”.⁷³ He adds:

“We breached security up to 90 percent of the time. The FAA suppressed these warnings. Instead, we were ordered not to write up our reports and not to retest airports where we found particularly egregious vulnerabilities, to see if the problems had been fixed. Finally, the agency started providing advance notification of when we would be conducting our 'undercover' tests and what we would be 'checking.'” This negligence did not pay off.

Finally, security on board commercial aircraft was not designed to counter suicide hijackings. The common strategy taught flight crews that “*the best way to deal with hijackers was to accommodate their demands, get the plane to land safely, and then let law enforcement or the military handle the situation*”.⁷⁴ This strategy of cooperation and non-confrontation was based on the assumption that hijackers will be open to negotiation – wanting asylum or release of some prisoners; the eventuality of a suicide hijack was not covered. Additionally, there were the armed and trained **Federal Air Marshals** (FAM), but these were not deployed on US domestic flights and there were only 33 of them, as no terrorist had hijacked US commercial aircraft anywhere in the world since September 6, 1986, when the Pan Am Flight 73 was stormed on the ground in Karachi, Pakistan.⁷⁵ In the absence of any recent aviation security incident, the FAA's leadership focused on operational concerns and customer satisfaction in the aviation system. There was no focus on terrorism.

3. Intelligence Community

The Bad Times for Intelligence

The then United States Intelligence Community was a cooperative federation (though it should have rather been called a confederation, as its overall structure lacked a well-defined, unified leadership) of several government agencies and organizations that worked separately and together with the goal of providing the President and the National Security Council “*with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security*

[73][Katovsky 2006]

[74][9/11 Commission Report 2004] p. 85

[75]Interestingly, Zayd Hassan Safarini, the Jordanian leader of the hijackers, was captured by the FBI about two weeks after 9/11 attacks. He was sentenced to a 160 year prison term in 2004. [Wikipedia]

*threat.*⁷⁶ Among their varied responsibilities the members of the Community collected and produced foreign and domestic intelligence, contributed to military planning, and performed espionage. The Intelligence Community was established by President Ronald Reagan in December 1981, thus amending the provisions of the National Security Act.⁷⁷

Back in 1947, the National Security Act created the position of the **Director of Central Intelligence** (DCI), which headed the US Intelligence Community independently from the other policy departments. As of 1981, the Intelligence Community referred to the following agencies or organizations: the Central Intelligence Agency (CIA); the National Security Agency (NSA); the **Defense Intelligence Agency** (DIA); the offices within the Department of Defense (DOD) for the collection of specialized national foreign intelligence through reconnaissance programs; the **Bureau of Intelligence and Research** of the Department of State; the intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and the staff elements of the Director of Central Intelligence. The number of intelligence agencies increased in the 1990s with the activation of the **Air Intelligence Agency** (AIA) in 1993 and the establishment of the **National Imagery and Mapping Agency** (NIMA) in 1996.

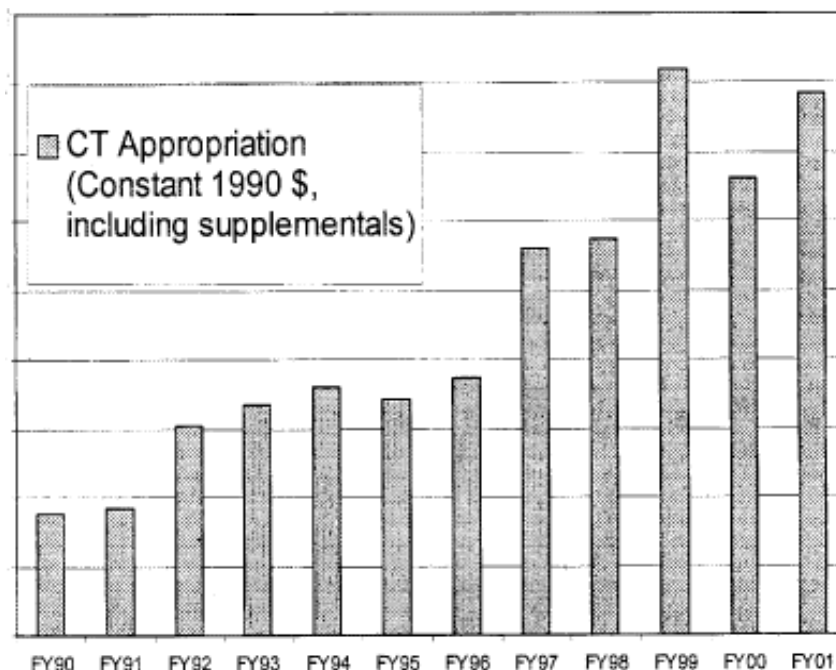


Illustration 1: Intelligence Community Counter-terrorism Spending Before September 11

[76][Executive Order 12333] paragraph 1.1

[77][Warner 2001]

Of these many agencies, the independent CIA, as well as those under the Department of Defense (DOD) played major role in the Intelligence Community. Intelligence agencies under the DOD accounted for approximately 80 percent of all US spending for intelligence⁷⁸: the NSA was and still is believed to be the largest US intelligence gathering agency, being responsible for the interception and analysis of foreign communications and for the security of US government communications against similar agencies elsewhere; the NIMA provided and analyzed imagery and produced things like maps, navigation tools, and surveillance intelligence; the **National Reconnaissance Office** (NRO) operated the reconnaissance satellites of the United States government; and DIA supported the Secretary of Defense, Joint Chiefs of Staff (JCS), and military field commanders. As to the Office of the Director of Central Intelligence, the DCI's powers over the rather loose Intelligence Community was limited. He or she⁷⁹ could state the community's priorities and coordinate the budget requests for submission to Congress, but he neither had the authority over the other agencies' leadership, nor could he shift resources within the overall budget. Moreover, his authority derived from his personal closeness to the president and other high officials, especially the Secretary of Defense.

3.1 The National Security Agency

For a long time during the Cold War, the existence of the NSA was not acknowledged by the US government. It was joked that its acronym stood for 'No Such Agency' or for 'Never Say Anything' when referred to its employees. As already mentioned, its mission consisted of eavesdropping and securing communications; its *cryptanalytic* research made NSA the largest employer of mathematicians.⁸⁰ This mission was relatively easy when confronting the US Cold War adversaries, which used hierarchical and predictable command and control methods. The fall of the Berlin Wall, however, complicated the situation. Suddenly, some of its advanced technologies were of little use when facing different adversaries, such as terrorists. On the one hand, significant cuts were made in national security funding, assigning fewer resources to the NSA, on the other hand, with the telecommunications revolution, the scope of its data collection grew at a geometric rate. The NSA was not prepared to handle this.⁸¹

But even the best information technology, which was slowly being put in place in order to tackle the possible threats arising from the new communication means, such as the Internet, could

[78][9/11 Commission Report 2004] p. 86

[79] Actually, there had never been a woman directing the Central Intelligence in its 60 year-long history. [Wikipedia]

[80] For more information, please visit www.nsa.gov

[81][Joint Inquiry 2002]

not help as long as the agencies' personnel did not share information: The law required the NSA not to collect data on US citizens or on persons in the United States without a warrant. This led to NSA focusing solely on **foreign intelligence** and to avoidance of anything domestic, as well as to an obsessive protection of its sources and methods. It did not either report on communications with suspected terrorists or tried to obtain the appropriate warrants, instead, it relied on the assumption that this was an FBI role. The only benefiter of this situation were the terrorists.

3.2 The Central Intelligence Agency

The CIA, whose task was to collect, analyze, and disseminate intelligence from different sources, was the only part of the Intelligence Community independent from a cabinet agency, which separated it from the pressures of policy interests to a far greater degree than its brother intelligence agencies.⁸² In other words, it was the 'first among equals' in the Intelligence Community, also because its number one customer was the President and his key national security lieutenants. The President had the authority to direct it to conduct **covert operations**, but the CIA's support to the commander-in-chief was not always the best, as for instance in the 1990s: "*The past decade in major armed conflicts reveals a consistent pattern of shortcomings, particularly in regard to human intelligence collection. One of the starkest lessons to be gleaned from looking at past CIA performance is that it has consistently failed to produce top-quality human intelligence against the greatest threats to the United States.*"⁸³ But let us look back on its evolution.

The CIA was created in 1947 as a descendant of the World War II Office of Strategic Services (OSS). It very much copied the innovations brought into the OSS by its father William J. Donovan, which consisted of recruiting well traveled and well connected professionals, as well as scholars from US universities for its Research and Analysis Branch. The former collected intelligence while the latter prepared reports on economic, political, and social conditions abroad. Because of fears that the newly established agency might become US Gestapo, it was given only very limited domestic security functions, leaving these to the FBI. Eventually, the CIA found its niche in clandestine and covert actions.

In its first years, a decentralized system naturally developed within the CIA organization, establishing rather independent stations all over the globe, where they conducted secret operations. The 1960s, however, brought sharp criticism to the CIA with the exposure of its mishandled effort to land Cuban exiles at the Bay of Pigs and overthrow Castro's regime. The Vietnam War

[82] More information can be obtained at www.cia.gov

[83] [Russell 2004]

involvement and then the Watergate investigations made it even worse. As a result, Congress established oversight committees to ensure that the CIA did not undertake covert action contrary to basic American law. From then on, the President had to approve and report to the Congress any covert action. After the controversies in the 1980s over covert action programs in Central America led to several CIA officers' accusations, the CIA leaders became very cautious before taking any future actions, possibly leaving certain hostile groups at large.

Another problem, as with other agencies, was the post-Cold War peace dividend, which meant cuts in staff number. Inevitably, some parts of the world and some collection targets were no longer fully covered, or not covered at all. The capacity was to be replaced by establishing close relations with foreign liaison services. Also, after the collapse of the 'Evil Empire', the international environment was changing, and so were US intelligence goals and interests. In this situation, the CIA analysts could no longer afford to perform thorough and patient research as they used to. "*A university culture with its versions of books and articles was giving way to the culture of the newsroom*".⁸⁴

Light was shed on the weaknesses of the CIA work in the late 1990s by two panels, both calling attention to the dispersal of effort on too many priorities, the declining attention to the craft of strategic analysis, and security rules that prevented adequate sharing of information. These rules became stricter in the early 1990s with the Ames espionage case,⁸⁵ which intensely embarrassed the CIA. As a consequence, numerous restrictions on handling information were put in place and information was further *compartmented*, thus vastly complicating its effective sharing. These security concerns also increased the difficulty of recruiting officers qualified for counter-terrorism. Anyone who was foreign-born or had numerous relatives abroad was advised not even to apply for the CIA job.

As to counter-terrorism, the CIA's activities in this field date back to mid-1980s, when the DCI created a Counter-terrorist Center, which also had some representation from the FBI and other agencies. The Center stimulated and coordinated collection of information by CIA stations, compiled the results, and passed the reports to appropriate stations, including other parts of the Intelligence Community, or to policymakers. The problem, however, was the fact that it focused on support of operations, rather than to provide warning of terrorist attacks.⁸⁶ It was clear that the CIA

[84][9/11 Commission Report 2004] p. 91

[85] Aldrich Ames was CIA's counter-intelligence officer and analyst, who in 1994 was convicted of spying for the Soviet Union, to which he sold the names of US operatives and agents, a number of whom died as a result. [Wikipedia]

[86][Jansen 2004]

needed significant change in order to tackle terrorism appropriately. In 1997, President Clinton appointed George Tenet as DCI, for whom terrorism was a priority. Tenet tried to work on the problems faced by the CIA, but by 9/11 the Agency was still years away from being fully ready. And another question was left open, concerning the DCI's role: while he was clearly the leader of the CIA, it was not so obvious *who was in charge* of the entire US intelligence effort.

4. State and Defense Departments

Redeployment of Power from the State to the Pentagon

4.1 The State Department

The State Department is the Cabinet-level foreign affairs agency.⁸⁷ Its head, the Secretary of State, was the President's principal foreign policy adviser, but as we will see, in the course of history, other officials or individuals have gained more influence on President's foreign policy decisions. It started in 1947, when the National Security Council (NSC) was created as a result of lobbying from the Pentagon for a forum where the military could object to the State Department's foreign policies. For the following decade, the department retained its dominant role in advising the president and Congress on US relations with the rest of the world, but in the 1960s, the administrations of Kennedy and Johnson turned instead to Defense Department for analysis of foreign policy issues. President Nixon then concentrated policy planning and coordination in the National Security Council staff, overseen by Henry Kissinger. In later years the department's role continued to erode regardless of the important figures serving as secretaries of state. Even the host governments were many times making connections with the US government through the CIA stations or Defense attachés, which illustrates the decline of the department's power.

This erosion of power also manifested itself in the counter-terrorism field. While in the 1960s and 1970s, the State Department embodied the official channel for communication with the governments presumed to be behind the terrorists through its coordinator for combating terrorism, the prolonged crisis of 1979–1981, when 53 Americans were held hostage at the US embassy in Tehran, ended the State Department leadership in counter-terrorism. President Carter's assertive National Security Adviser, Zbigniew Brzezinski, took charge, and since then the coordination function remained in the White House. President Reagan's second Secretary of State, George Shultz, tried to reverse this situation by appointing prominent senior career ambassadors – Paul

[87]For more information, please visit www.state.gov

Bremer and then Robert Oakley as counter-terrorism coordinators, but lost his battle with the then Secretary of Defense Caspar Weinberger. Secretaries of state after Shultz took less personal interest in the problem and by the time Madeleine Albright became the Secretary of State in 1996, the position of the Coordinator was seen as a minor one within the department.

4.2 The Department of Defense

As it was already described, the Defense Department played a significant role in counter-terrorism, be it in the intelligence field or in foreign policy. The Department of Defense (DOD) controlled the US military and was headquartered at **The Pentagon**, its head being the Secretary of Defense. With its huge budget and the number of people it employed⁸⁸, it could be referred to an empire. Being so big, the DOD necessarily had to focus on the differing mission of each of its services, including the Army, Navy, Air Force, or Marine Corps, which then led to fights over budget and leadership. The Goldwater-Nichols Act of 1986 attempted to fix the problems caused by this inter-service rivalry, introducing the most sweeping changes to the department since its establishment in 1947, such as requiring some period of duty with a different service for the the promotion to high ranks. Although this was first seen merely positively, as it made the high ranking officers think more broadly about the military, it might have also had a negative effect in connection with the prevention of the terrorist attacks, as it lessened the diversity of military advice and options presented to the President.

Speaking of terrorism, the Pentagon first became concerned about it in the 1970s, following the hostage taking incidents in Europe and Africa. United States had to adapt to the new situation and set about creating the Delta Force, one of whose missions was hostage rescue. The first test on its readiness came in April 1980 during the Iranian hostage crisis, but ended up as a complete failure.⁸⁹ More incidents occurred in the 1980s and 1990s such as the Beirut Massacre or the 'Black Hawk Down'; these were already covered in the first chapter. These incidents became symbols evoking *“the risks of daring exploits without maximum preparation, overwhelming force, and a well-defined mission”*.⁹⁰ The military was more successful in its traditional role of acting against state sponsors of terrorism. Its attack on Libya in 1986 and on Iraq in 1993, which retributed killing of two American soldiers in Berlin and the plan to assassinate the former President Bush in Kuwait, respectively, symbolized an effective use of military power for counter-terrorism – limited

[88]As of 2006, its official budget accounts for \$419.3 billion. With 700,000 civilian and 2.3 million military personnel, the DOD is the largest employer in the United States. [Wikipedia]

[89] The incident was remembered as “Desert One” after the name of the site some 200 miles southeast of Tehran.[Wikipedia]

[90][9/11 Commission Report 2004] p. 97

retaliation through air strikes, aimed at deterrence. This sort of discouragement, however, could not be effective when the adversary turned to be a loose transnational network, as in case of al-Qaeda.

The second half of the 1990s also saw the DOD investing effort in planning how to handle the possibility of a domestic terrorist incident involving weapons of mass destruction (WMD). The idea of a domestic command for homeland defense began to be discussed in 1997, and in 1999 the Department established the **Joint Forces Command**, which was made responsible for military response to domestic emergencies. The DOD also created 32 National Guard WMD Civil Support Teams to respond in the event of a WMD terrorist incident shortly before 9/11. In case of an attack, these teams would provide support to civilian agencies to assess the nature of the attack, offer medical and technical advice, and coordinate state and local responses.

5. The White House

The Threats And Problems of Today And the Day After

As we learned in the previous sub-chapter, the White House took charge of the crisis management in counter-terrorism during the Iranian hostage crisis with Brzezinski as the **National Security Adviser**. The main reason for this was that prior to the 1979-1981 incident, coping with terrorism was not the sole province of any component of the US government, and thus some coordinating mechanism was necessary. The ensuing Reagan administration continued and formalized the practice of having presidential staff coordinate counter-terrorism. After the escalation of terror against US presence abroad, President Reagan signed a National Security Decision Directive⁹¹, calling for more active defense measures and adding new resources for it. He underlined his determination to fight terrorism in his famous 1985 speech:

“We must act against the criminal menace of terrorism with the full weight of the law, both domestic and international. (...) There can be no place on earth left where it is safe for these monsters to rest, to train, or practice their cruel and deadly skills. We must act together, or unilaterally, if necessary to ensure that terrorists have no sanctuary anywhere.”⁹²

Unfortunately, the credibility of the White House's effort was later overshadowed by the Iran-

[91]No. 138; Interestingly, various presidents have issued such directives, but under different names. During Kennedy's and Johnson's terms they were called National Security Action Memorandums or NSAMs, during Nixon's and Ford's they changed to National Security Decision Memorandums or NSDMs, with Carter in office, they were called Presidential Directives or PDs, Reagan used the title National Security Decision Directives or NSDDs, George H. W. Bush called them National Security Directives or NSDs, Clinton called them Presidential Decision Directives or PDDs, and the current President Bush issues National Security Presidential Directives. [9/11 Commission Report 2004]

[92] [Reagan 1985]

Contra Affair, which made parts of the bureaucracy skeptical about any operating directive coming from the White House.

Nevertheless, for the next administrations, the functions of the National Security Adviser expanded and the procedures and structure of the National Security Council staff became more formal. The adviser would develop recommendations for presidential directives, which then made their way through inter-agency committees usually composed of representatives of the cabinet departments. The NSC staff with its senior directors would sit on these inter-agency committees, in order to facilitate agreement and to represent the wider interests of the National Security Adviser. When President Clinton took office, he decided to coordinate counter-terrorism straight from the White House. Richard Clarke, a veteran civil servant from the G.H.W. Bush administration, became responsible for the coordination. He would chair a mid-level inter-agency committee eventually titled the **Counter-terrorism Security Group (CSG)**.

After promising “*comprehensive legislation to strengthen our hand in combating terrorists, whether they strike at home or abroad*”⁹³ in his 1995 State of the Union Address, Clinton sent proposals to Congress for the extension of federal criminal jurisdiction, that would make deportation of terrorists easier and terrorist fund-raising harder. In the light of the 1995 sarin nerve gas attack in Tokyo's subway and the bombing in Oklahoma City, Clinton proposed to amend his earlier proposals, among other things by increasing wiretap and electronic surveillance authority for the FBI and through providing more money not only for the FBI and CIA, but also for local police. This was also reflected in the following years, when Clinton requested significantly larger amounts of money designated for counter-terrorism, be it on the FBI or the CIA budgets. In his second term, President Clinton mentioned terrorism first in a list of challenges facing the country and accepted a proposal from his new National Security Adviser, Sandy Berger (replacing Anthony Lake), to create a new position of **National Coordinator** for Security, Infrastructure Protection, and Counter-terrorism. This post was given to Clarke, who was also later awarded a seat on the cabinet-level Principals Committee when it met on the counter-terrorism issues. In his testimony to the 9/11 Commission, Richard Clarke summarized Clinton administration's approach toward terrorism:

“My impression was that fighting terrorism, in general, and fighting al-Qaeda, in particular, were an extraordinarily high priority in the Clinton administration – certainly no higher priority. There were priorities probably of equal importance such as the Middle East peace process, but I certainly don't know of one that was any higher in the priority of that

[93][Clinton 1995]

administration.” Since Clarke continued to work for the new Bush administration, he was also asked to estimate its stance on the issue:

“I believe the Bush administration in the first eight months considered terrorism an important issue, but not an urgent issue. (...) George Tenet [former DCI] and I tried very hard to create a sense of urgency by seeing to it that intelligence reports on the al-Qaeda threat were frequently given to the president and other high-level officials. And there was a process under way to address al-Qaeda. But although I continued to say it was an urgent problem, I don't think it was ever treated that way. (...) My view was that this administration, while it listened to me, didn't either believe me that there was an urgent problem or was unprepared to act as though there were an urgent problem. And I thought, if the administration doesn't believe its national coordinator for counter-terrorism when (...) and if it's unprepared to act as though there's an urgent problem, then probably I should get another job.”⁹⁴

The Bush administration in its first months faced many problems other than terrorism, such as the collapse of the Middle East peace process, and focused heavily on Russia or the renewal of the missile defense system. As it became clear, it did not pay much attention to the surging reports on terrorism. It can be best illustrated on the fact, that on September 11, 2001, the new National Security Adviser Condoleezza Rice was scheduled to outline a Bush administration policy that would address *“the threats and problems of today and the day after, not the world of yesterday.”*⁹⁵ Astonishingly, it focused largely on missile defense, not on terrorism from Islamist radicals.

6. The Congress

Commissions And Committees

I have mentioned, when describing the activities of the law enforcement agencies as well as of their intelligence counterparts, that the Congress seriously changed their working conditions in response to the discovered abuses of power on their side. As a result of the 1977 Church and Pike investigations, the House of Representatives and Senate created select committees to exercise oversight of the executive branch's conduct, most notably the **Intelligence Committees**. A closer look at them reveals that they did not have exclusive authority over intelligence agencies. Firstly, the budgeting part was ultimately determined by the Appropriations Committees, secondly, it was the **Armed Services Committees**, which exercised jurisdiction over the intelligence agencies

[94][Clarke 2004] Appendix A: Excerpts From Public Testimony to the 9/11 Commission, p. 293-297

[95][Wright 2004]

within the Department of Defense and over the Central Intelligence Agency. Another thing making the situation harder, were the restrictions on the members of the Intelligence Committees to serve for a limited time, which might had prevented committee members from developing the necessary expertise to execute effective oversight. In part, it was the necessary secrecy, which had harmed oversight of the Intelligence Community budget. Because it was classified, the committees could not take advantage of public disclosure as democracy's probably best oversight mechanism.

With the Cold War over, the Intelligence Community badly needed reform. There appeared some comprehensive reform proposals of the Intelligence Community, such as those offered by Senators Boren and McCurdy, but the institutional weaknesses remained unaddressed. Some recommendations came from a presidential commission chaired by former secretaries of defense Les Aspin and then Harold Brown, addressing the DCI's lack of personnel and budget authority over the Intelligence Community, which then resulted in the introduction of new legislation to repair these problems. The Defense Department opposed it and neither the President nor the DCI actively advocated these changes, so in 1996 they eventually ended up as being only cosmetic. Among other things, they created a new deputy for management and assistant DCIs for collection and analysis. It should be also noted, that these reforms occurred only after the Senate Select Committee on Intelligence threatened to bring down the defense authorization bill.

In general, if we look back to the years before 9/11, we can say that the Congress failed to reform the executive agencies in any significant way. Nor it systematically performed its oversight to “*identify, address, and attempt to resolve the many problems in national security and domestic agencies*”.⁹⁶ The main trends contributing to the Congress's inadequacy comprised the following: adherence to *public opinion* and to what public identified as key issues; its strong orientation toward domestic affairs; its accession to the executive branch's funding requests with no initiative on its own; diminution of its oversight function and focus on issues with media attention; setting down of other priorities on certain issues unhelpful to meeting the emerging threats; and mostly its failure to reorganize itself after the end of the Cold War, especially in its national security functions. Issues such as the emerging transnational terrorism came under the jurisdiction of several different committees, in other words, it meant that counter-terrorism fell between the cracks. In late 1990s, Congress asked outside commissions to do what was arguably its own work. These commissions produced reports with number of recommendations for addressing terrorism and homeland security but they again drew little attention from Congress. Most of their impact came first after 9/11.

[96][9/11 Commission Report 2004] p. 106

B. The Big Overhaul

The New Architecture of the Homeland Defense

“On September 11, 2001, the post-Cold War security bubble finally burst”.⁹⁷ Suddenly the world had changed. America's sense of invulnerability was lost and its peace and prosperity were in jeopardy. The previous findings of terrorism commissions recommending bureaucratic alignments, such as the early 2001 Hart-Rudman Commission verdict that the nation had a “*fragmented and inadequate homeland defense apparatus*”⁹⁸ proved to be true. As a solution, the Commission proposed a creation of a **National Homeland Security Agency** (NHSA) with “*responsibility for planning, coordinating, and integrating various US Government activities involved in homeland security.*” The Federal Emergency Management Agency (FEMA) was to be a key building block in this effort. Ironically, Vice President Cheney, who then opposed the concept of a new department as a big-government mistake⁹⁹, found himself recommending the creation of a new **Office of Homeland** (OHS) just 3 days after the September 11 attacks. The task of this new White House entity was to *coordinate* all the relevant agencies in assessing vulnerabilities and handling problems of protection and preparedness. The new OHS, later turning into the Homeland Security Council (HSC) thus became a parallel to the National Security Council. President Bush named Tom Ridge as the first Homeland Security Adviser. According to Clarke, “*Ridge assumed that he would have real authority as Assistant to the President for Homeland Security, but he soon found out that he could do nothing without first clearing it with White House Chief of Staff Andy Card.*”¹⁰⁰ Actually, Card's name was to be present in everything which had something to do with the reorganization.

When rethinking homeland security, some argued that in order to prevent future terrorist acts, it was necessary to analyze the intelligence failures and patch up the systems that failed to stop the attacks, as for example Gerald Posner wrote in his book *Why America Slept: The Failure to Prevent 9/11*.¹⁰¹ In other words, it was necessary to make the FBI and CIA share information and then catch and prosecute the criminals. Others believed that focusing only on the disconnects that led to the failure to prevent the September 11th attacks would not be enough. In their view, merely patching up the system would not do the job, as the security institutions of the federal government themselves were particularly ill-suited to deliver homeland security. That is to say that the problem

[97][Carter 2001]

[98][Hart-Rudman 2001]

[99][Glasser 2005]

[100][Clarke 2004] p. 248-9

[101][Posner 2003]

with catastrophic terrorism is that it is neither a *war*, so that the Pentagon could use its conventional arsenal; it is neither *crime* and thus it cannot be handled by law enforcement, which centers on solving the case rather than preventing a crime; nor it is a *disaster* to be managed in the same way as acts of God. Moreover, the key players to both prevention and response to terrorism are to be found on the state and local levels, as well as in the private sector.

Ashton Carter pointed out in his article that as to homeland security, there was “*a fundamental managerial inadequacy, as basic as that of a corporation with no line manager to oversee the making of its leading product.*”¹⁰² The 9/11 Commission illustrated the government's broader inability to adapt to the changes in a even more candid way: “*The agencies are like a set of specialists in a hospital, each ordering tests, looking for symptoms, and prescribing medications. What is missing is the attending physician who makes sure they work as a team.*” The immediate, but interim solution to these inefficiencies was found in the creation of the above mentioned Office of Homeland Security with Tom Ridge as its head. In the meantime, a debate was started about what to do next in order to deliver the most valuable public good – security.

1. Options for Reorganization

The Four Approaches of the Defense's Re-engineering

In general, *four* approaches to managing the mission of homeland security had been proposed in the months following the attacks: the command and control approach, the lead agency approach, the establishment of a Department of Homeland Security, and the appointment of a White House coordinator or 'czar'. The Bush administration picked the fourth approach, later switching to the third, but I will try to describe all four approaches.

The first approach of **command and control** was the one used during the Clinton administration. It would focus on the question of who is in charge, presuming that the government possessed the capabilities to combat catastrophic terrorism; all that was required was to order them effectively under a clear command system. It determined that the Department of Justice would have the lead in domestic terrorist incidents, while the Department of state would do so in incidents abroad. This approach, however, reinforced the false distinction between domestic and foreign terrorism. New presidential directives further apportioned the matter of who's in charge among the existing agencies according to their traditional functions, though they did not have the capabilities. Supporters of the second approach would designate a **single lead agency** as having the homeland

[102][Carter 2001]

defense mission, most probably the Department of Defense, since it already had much relevant technology, an generous budget, and a reputation for carrying out its mission more effectively than most other government agencies. Nevertheless, this approach had some weaknesses. As for example the missing capability for domestic surveillance of potential terrorists.

The third approach called for the creation of a **Department of Homeland Security**. Instead of solving the problem of inter-agency coordination, it would concentrate the catastrophic terrorism mission in a single agency. It recognized that none of the existing cabinet departments was a natural lead agency. But as it appeared, the notion that inter-agency coordination could be avoided was wrong, because certain functions of the new department would always overlap with those of other departments. It was thought that aggregating functions such as customs, immigration, border patrol, and coast guard into a new agency might be efficient.

The fourth approach to organizing the federal government for catastrophic terrorism was to appoint a **White House coordinator** or 'czar'. The asset of this approach was that it recognized that the solution rested in the coordination of a wide range of government functions into the new priority mission. The problem with the White House czars, however, was the fact that they had no resources or agencies of their own, and while their instructions compete with other needs and tasks of the individual departments, they usually lost the battles with the cabinet secretaries. Eventually, after losing several battles, they lost the whole war, because the lower-level bureaucrats concluded that the czar's directives could be ignored.

When the Office of Homeland Security was established and Governor Ridge was put in its lead, it appeared the Bush administration was focusing on the last approach, which like the other three had many deficiencies. Ashton Carter, a former Assistant Secretary of Defense under President Clinton, advised how should the Homeland Security Adviser handle his job. According to Carter¹⁰³, Tom Ridge in his best, would not become a coordinator; not a czar; not an agency head; certainly not a spokesman; but instead he would become an architect, an architect of the capabilities United States did not have but urgently needed to build. The architect would create a *multi-year, multi-agency program plan*, meaning an investment plan to build new capabilities. He would create a kind of matrix, where the various agencies of the Federal Government, the states and the localities, as well as the private sector, which owns and operates critical infrastructure, would be given various tasks that need to be accomplished in a competent national effort to combat terrorism. The individual parties in the matrix would be assigned tasks in correspondence with the time line of

[103][Carter 2001]

possible events, as to what goes from before an incident to after an incident. It would start with detection, surveillance, intelligence, prevention and protection, then there would be interdiction, and afterwards consequence management, attribution and forensics and learning from what has happened. Once this matrix is put into practice, it would ensure that the country has the set of capabilities it needs. Naturally, it would require support from the President, substantial funding, cooperation from all the participating parties, and of course approval in Congress.

This ideal situation had never been accomplished and the Office of Homeland Security became only a rudiment of the newly built homeland defense. In January 2003, the OHS was merged into the Department of Homeland Security (DHS) and the White House Homeland Security Council (HSC) – both of which were created by the 2002 Homeland Security Act. Tom Ridge was made Secretary of the new department; he and many of his White House subordinates moved there. President Bush explained the decision to keep part of the agenda in the White House with these words:

*“Even with the creation of the new Department, there will remain a strong need for a White House Office of Homeland Security. Protecting American from terrorism will remain a multi-departmental issue and will continue to require inter-agency coordination. Presidents will continue to require the confidential advice of a Homeland Security Adviser, and I intend for the White House Office of Homeland Security and the Homeland Security Council to maintain a strong role in coordinating our government-wide efforts to secure the homeland.”*¹⁰⁴

In May 2003 Bush appointed John Gordon as his new Homeland Security Adviser to lead the **Homeland Security Council**. Members of the HSC include the president, the vice president, the secretary of homeland security, the attorney general, the secretary of defense and other individuals designated by the president. The duties of the council are to: *“assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President; oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and perform such other functions as the President may direct.”*¹⁰⁵ The main burden of defending the homeland, however, was to stay with Tom Ridge and his new Department of Homeland Security. It was going to be a tough job.

[104][Bush 2002]

[105][Homeland Security Act 2002]

2. Department of Homeland Security

Bureaucrats on the Barricades

The creation of the new DHS on November 25, 2002 represented the *largest and most complex reorganization* of the federal government in more than 50 years, i.e. since the creation of the Department of Defense after World War II. It combined **twenty two** existing agencies and more than 180,000 federal employees into a new cabinet-level department located at the Nebraska Avenue Complex (NAC). The ranks of these people were drawn from the Departments of Justice, Commerce, Energy, Agriculture, Treasury, Transportation, Defense, and Health and Human Services. Five separate directorates were created to administer the DHS' mission. The huge Border and Transportation Security unit grouped Customs, the Coast Guard, the Transportation Security Administration (TSA)¹⁰⁶, and the Immigration and Naturalization Service (INS) to safeguard American shores, skies and land borders. The Emergency Preparedness and Response Directorate put together federal agencies like Federal Emergency Management Agency (FEMA) or the Strategic National Stockpile to rush vaccines and coordinate first responders such as the firefighters and medical personnel. A Science and Technology Directorate was made to coordinate all research and development of potential homeland security technologies, and the Information Analysis and Infrastructure Protection Directorate, the intelligence arm of DHS, comprised analysts from the CIA, FBI, DIA, and experts on industrial security from the civilian sector. The Office of Personnel Management designed for in-house administrative issues became the fifth directorate. However interesting its mission and the corresponding organizational structure might be, it cannot match the exciting story behind its conception.

2.1 The Curvy Road to DHS

As we know already, the idea of a new department for homeland defense or security had been proposed prior to 9/11 by the Hart-Rudman Commission, but was not greeted with much enthusiasm by the new Bush administration, because it ran counter to the Republican belief of fighting against big government. A month after the attacks, Senator Joseph Lieberman argued the case at a White House meeting, but Bush was dismissive, saying that the Homeland Security Adviser “*Ridge could do the job out of the West Wing.*”¹⁰⁷ Ridge himself first held a view that “*the*

[106]The TSA was created as part of the Aviation and Transportation Security Act on November 19, 2001. It operates security checkpoints at airports thus replacing private checkpoints typical of the pre-9/11 era. [Wikipedia]

[107][Glasser 2005]

last thing we need to do now is reorganize and create a new department,”¹⁰⁸ but soon he was finding it difficult to get things done. In late December 2001, he came with a modest proposal to a Cabinet-level principals meeting, with an idea of creating agency that would bring together immigration officers, customs agents and other border-related personnel, which was then scattered around the government. But he found no support among Cabinet secretaries. He took away a lesson, that next time it must be done secrecy, because bureaucracies tend to resist when they smell potential threats to their empires.

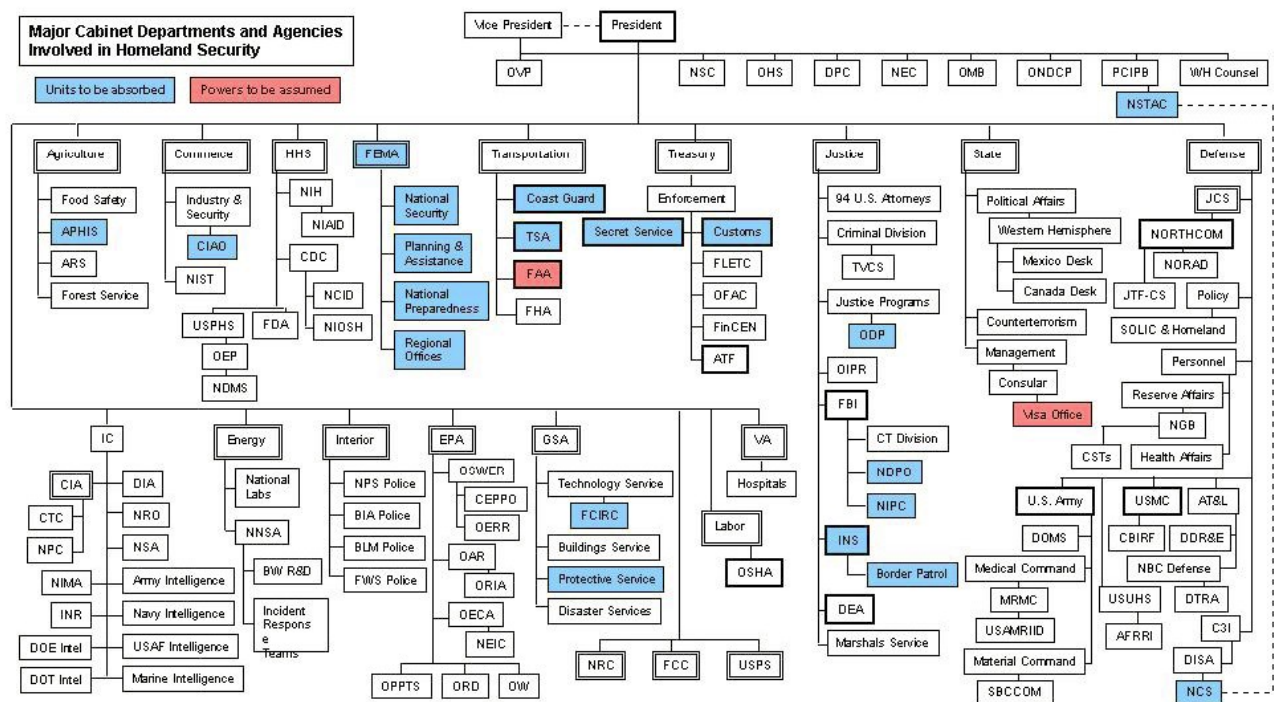


Illustration 2: Major Cabinet Departments and Agencies Involved in Homeland Security

In the meantime, some more elaborate organization designs dealing with homeland security began to appear on Capitol Hill. Through Senator Lieberman, the Democrats introduced a bill to establish a Department of National Homeland Security and the National Office for Combating Terrorism. According to Lieberman, “the head of the new department, who would be both a member of the Cabinet and the National Security Council, would have the rank and power to ensure that the security of our homeland remains high on our national agenda, and that all necessary resources are made available toward that end.”¹⁰⁹ The Bush administration initially rejected the idea of a new cabinet department, but pressure for a new agency was building in Congress, even among many Republicans who, though suspicious about a vast new bureaucracy, did not want to cede the homeland security issue to the Democrats. President Bush, according to

[108][Clarke 2004] p. 249

[109][Brook 2006] p. 21

Clarke, was facing the possibility that “*the major new piece of legislation in response to September 11 would be named after the man whom the majority of voters had wanted to be Vice President just twenty months earlier.*”¹¹⁰ Thus Bush completely changed his position and eventually, the idea of creating a new Department began to develop in the White House. It would not be called Lieberman Bill, but **Homeland Security Act**.

Director Ridge, who was facing more and more administrative problems running his office, was handed a two-page list of government entities that could be folded into a new department, by a homeland security expert at the Rand Corporation in February 2002. Although Wermuth warned Ridge it was a horrible idea and that it would take at least five years, probably 10, for the department to function smoothly, Ridge decided to give it a go. In April, President Bush instructed his chief of staff, Andrew Card, to come up with proposals for a new department, who then organized a White House staff group to develop a homeland security agency proposal in secret, without explicit consultation with or advance notice to congressional leaders, cabinet secretaries, or agency heads. The staff group of five policy and budget officials, known as the G-5 (or *Gang of Five*), would meet secretly in the Presidential Emergency Operations Center (PEOC) to carry the task and then report to five senior administration officials.¹¹¹ The secrecy was kept as to avoid potential opposition from Cabinet members, who would have an intent upon keeping their departments intact; from Members of Congress, who would attempt to protect their committee interests; and from union leaders, who would be of course interested in maintaining their right to collective bargaining. The Unions eventually became the strongest opponents to the new department, but the Bush administration overrode its objections. The reason was that “*while the supporters of reform presented their arguments in terms of national security; their opponents argued in terms of collective bargaining rights. In the post-9/11 policy environment, national security was a political trump card.*”¹¹²

According to several narratives of the designing process, the expertise of the G-5 team was rather arguable. Bruce Lawlor and Richard Falkenrath, two of the “gang”, described the organizational challenge respectively:

“When we originally built the Department, if you think about it, you’ve got information, critical infrastructure protection—that’s two of your functions. That’s one Directorate. We’ve

[110][Clarke 2004] p. 250

[111]G-5 comprised Richard Falkenrath; Mark Everson, then comptroller of the Office of Federal Financial Management and later Deputy Director for Management of OMB; Joel Kaplan; Bruce Lawlor; and Brad Berenson, Associate Counsel to the President. The group they answered to included administration principals: Chief of Staff Card; Josh Bolten, then Deputy Chief of Staff for Policy; Mitch Daniels, Director of OMB; White House counsel Alberto Gonzales; and Nick Calio, head of White House Legislative Liaison. [Brook 2006]

[112][Barr 2006] p. D04

got the borders, law enforcement and transportation security. There's another Directorate. And emergency response and recovery—that's the third Directorate. We only had three Directorates when we started. Then the Vice President came along and said, "You've got to do something more about bio-terrorism." That's the fourth Directorate, Science and Technology."¹¹³

"Falkenrath thought it would be nice to give the new department a research lab that could bring cutting-edge research to homeland security problems. He called up a friend and asked which of the three Department of Energy labs would work. 'He goes, 'Livermore.' And I'm like, 'All right. See you later.' Click,' Falkenrath told historians from the Naval Postgraduate School. He did not realize that he had just decided to give the new department a thermonuclear weapon simulator, among other highly sensitive assets of the Lawrence Livermore National Laboratory."¹¹⁴ It was no wonder that the DHS later fell short of its expectations.

2.2 The Big Unveiling

On June 6, 2002, after just six weeks of meetings, the President announced its proposal for a new **Department of Homeland Security**. The secret had been kept so well that even secretaries with major turf had no idea what was coming. When President revealed his plan to the Cabinet, its members were baffled. Several departments launched a behind-the-scenes campaign to keep a handful of offices that were supposed to go to DHS. Some of the angry officials tried to explain how their agencies really worked and sometimes they succeeded to get them back, as in case of the above mentioned Livermore, others willingly surrendered turf as for example the Department of Treasury. Richard Clarke, then White House Cybersecurity czar, immediately warned about the DHS' design flaws, saying that the failure to include a policy office would leave the secretary helpless to control its independent agencies. The reason it was not included was that the thrifty conservatives did not want the department to spend more than its 22 agencies were already spending.

Nevertheless, upon the Bush's announcement, the Republican leadership in Congress asked for draft legislation quickly, which in fact meant that the President's original proposal had to be transformed from its concept form to the legislative language in mere five days¹¹⁵, which added to

[113][Brook 2006] p. 26

[114][Glasser 2005]

[115][Brook 2006] p. 29

the lack of expertise another shortcoming – lack of time. Though in haste, it was delivered to Capitol Hill on June 18, 2002. The White House then “*launched a nationwide road show to whip up support for the new Department of Homeland Security. Those who opposed the new legislation, the Administration's supporters implied, were unpatriotic (few raised the question of whether the White House had been unpatriotic when it had opposed the same bill a few weeks earlier).*”¹¹⁶ This rhetoric also influenced the outcome of the 2002 congressional elections, which ended up with the Republican gain of net eight seats in the House, thus further consolidating its majority there, and with gain of two seats in the Senate, hence giving them a narrow majority in the other chamber.¹¹⁷ It worked also vice-versa, as the outcome of the 2002 congressional elections eventually determined the outcome of the proposed legislation. After the already mentioned delay stemming from the unions' opposition, the Homeland Security Act was passed in both chambers and on November 25, 2002, the Department of Homeland Security was created.

On January 24, 2003, Tom Ridge was sworn in as the first **Secretary of Homeland Security** and began naming his chief deputies. According to Clarke, Ridge “*loathed the idea of becoming the Secretary, [but] he was forced to do so by Bush and Card.*”¹¹⁸ Ridge, who was neither a manager, nor a security expert, but a politician at root, realized that being a Governor of Pennsylvania was not like actually running a nationwide department that conducts sensitive and critical security functions. But in his remarks at swearing-in of Ridge, Bush hailed him as a “*superb leader who has my confidence.*”¹¹⁹ With the naming of Ridge, DHS officially began its operations, although most of the department's 22 component agencies¹²⁰ were not transferred into the new Department until March 1st. The critics, however, did not wait, as for instance Senator Hillary Clinton in her Manhattan speech:

“While today, the new Department of Homeland Security opens its doors in Washington, DC (...) we are examining the question of how far has our nation come since September 11th when it comes to Homeland Security. (...) The truth is we are not prepared, we are not supporting our first responders, and our approach to securing our nation is haphazard at best. We have relied on a myth of homeland security – a myth written in rhetoric, inadequate resources, and a new bureaucracy, instead of relying on good old fashion American ingenuity, might and muscle. (...) Homeland Security is not simply about reorganizing

[116][Clarke 2004] p. 251

[117]It was one of the few mid-term elections in the last one hundred years that the party in control of the White House gained Congressional seats (the other such mid-term elections were in 1902, 1934 and 1998). [Wikipedia]

[118][Clarke 2004] p. 249

[119][Bush 2003]

[120]For a complete list of agencies which, became part of the DHS, please see Appendix I.

existing bureaucracies. It is about having the right attitude, focus, policy and resources, and right now we are lacking in all four."¹²¹

2.3 Department's Challenges

Criticism from all sides was to become typical of the department, leading to a question, whether the DHS was real or simply a *paper tiger*, i.e. a way of appeasing Congress and the public without substantially changing the status quo.¹²² Some of the Bush administration's actions suggested that. On Jan. 28, 2003, just four days upon his naming, Ridge learned from the President's State of the Union¹²³ address that new Terrorist Threat Integration Center – which he had expected to be the hub of DHS's dot-connecting efforts – would not be controlled by DHS. Ridge and his team thought the center was one of the key reasons the department had been created, to prevent the coordination failures that helped produce September 11. Not only had the White House undercut Ridge, it also let him find out about his defeat on television. "*We watched it and thought: 'What the hell are we doing here?'*" recalled John Rollins, who became chief of staff for the new DHS intelligence section. "*The White House did not support us,' said one of Ridge's top advisers. 'That occurred repeatedly. It was if the White House created us and then set out to marginalize us.'*"¹²⁴

DHS Headquarters was also seriously *understaffed*, although it had to oversee a department that was suddenly responsible for everything from livestock inspections to floodplain mapping to the national registry for missing pets. Even now, in 2006, DHS has many vacancies, including top leaders in the department's cybersecurity, technology and disaster response divisions.¹²⁵ The bureaucratic challenge of the unprecedented government *merger* overwhelmed the department's leaders. They worked on it almost full time, mostly being busy fighting battles with other departments, especially with Ashcroft's Justice Department. Some of these problems were structural, because the White House and Congress had left the department's powers unclear, meaning that many key tasks had to be shared with other departments under contradictory laws and presidential directives. The Congress also kept Ridge busy with frequent congressional inquiries.

Another problem was Ridge's *managerial approach*. First, he was being perceived as relatively weak by the other Cabinet's Principals, who managed to win several battles over him. Second, instead of concentrating on substance, that is the country's key vulnerabilities, Ridge

[121][Clinton 2003]
[122][Brzezinsky 2004]
[123][Union Address 2003]
[124][Glasser 2005]
[125][Hall 2006]

focused on the image and branding of the department. Third, there was no *policy shop* present in the department. Ridge and his aides eventually realized it was necessary in order to have a way to focus on long-term planning, perhaps remembering Clarke's earlier warning, but Ridge did not manage to push it through. Eventually, Ridge named Stephan, a retired Air Force colonel, to head a modest "integration staff" that would focus on big-picture thinking. But Stephan spent much of his time with the department's plan to protect America's *critical infrastructure*, which after going public appeared to be little more than a list, with no analysis of what was most vulnerable or vital.

To be fair, however, it must be said that from his first day at DHS, Ridge pushed hard to create eight *regional* directors who would manage the department's assets in their areas during a crisis in order to ensure better preparedness for a disaster. Like so many DHS initiatives, Ridge's regions plan went nowhere, because the White House let him down. It became clear that the department's real policy shop was in the White House, where the Homeland Security Council oversaw almost every detail of its work. Another illustration of Ridge's lack of influence inside the administration was a situation, when Ashcroft, then Attorney General, issued warning of a dire terrorist threat, while Ridge had been publicly reassuring. President Bush took Ashcroft's side, and according to sources in DHS and the Justice Department, ordered Ridge to back down.¹²⁶

After establishing the basic structure of DHS and working to integrate its components and get the department functioning, Ridge announced his resignation on November 30, 2004, following the re-election of President Bush. Given the obstacles Ridge and his department had to face, few were being surprised. As some of Ridge's senior advisers and aides recalled, "*there was an attitude in [the White House] that the department couldn't do anything right, that the department was not competent, and that carried through on almost everything you tried to do. (...) The most common term used to describe DHS was frustration. (...) Most of the world didn't see it until Katrina. We saw it all the time.*"¹²⁷

3. Federal Emergency Management

A Nation Prepared?

Mentioning Hurricane Katrina, one cannot avoid connecting it to Federal Emergency Management Agency, or shortly FEMA, probably the most important agency of the twenty two, incorporated into the newly established DHS. Its history dates back to 1979, when President Carter

[126][Glasser 2005]

[127][Glasser 2005]

created FEMA out of patchwork of smaller agencies. Before that, the federal government had no one agency responsible for dealing with disaster. Being born during the Cold War, FEMA had a mission largely defined as nuclear fallout shelters and other civil defense measures, but in reality it mostly dealt with hurricanes. After the severe Hurricanes Hugo (1989) and Andrew (1992), which did not produce appropriate federal response, FEMA was reorganized in 1993, being granted the agency Cabinet-level status and a highly visible role it had not previously had. Its response to ensuing crises such as the Oklahoma City Bombing received high marks.

With the 2002 overhaul, FEMA's Cabinet status disappeared, as it became part of the DHS. For a time, it was to become the **Directorate of Emergency Preparedness and Response**, but it retained its original name in the end. Some Congressmen, especially from hurricane-prone states, opposed FEMA's absorption. *“What we were afraid of, and what is coming to pass, is that FEMA has basically been destroyed as a coherent, fast-on-its-feet, independent agency. (...) In creating DHS, people were thinking about the possibility of terrorism. (...) They weren't thinking about the reality of a hurricane.”*¹²⁸ Michael Brown, then FEMA's director and DHS Undersecretary, warned in September 2003, that the shift *“would fundamentally sever FEMA from its core functions, shatter agency morale and break longstanding, effective and tested relationships with states and first responder stakeholders. (...) The inevitable result of the reorganization of 2003 would be an ineffective and uncoordinated response to a terrorist attack or a natural disaster.”*¹²⁹

The DHS with FEMA under its wings, was tasked with developing a comprehensive new plan for disasters. The **National Response Plan** was supposed to supersede the confusing overlay of federal, state and local disaster plans, and to designate a principal officer in the event of a significant national incident. An accompanying new **National Incident Management System** (NIMS) would integrate all the cascades of information. But when Hurricane Katrina hit New Orleans in August 2005, it exposed FEMA as a dysfunctional organization, paralyzed in a crisis four years after the attacks of 9/11. The report by House investigators concluded: *“If 9/11 was a failure of imagination then Katrina was a failure of initiative. It was a failure of leadership.”*¹³⁰ Director Brown was turned into a symbol of government ineptitude, being criticized personally for a slow response and apparent disconnect with the actual situation on the ground. He would resign soon thereafter.

[128][White 2005]

[129][Grunwald 2005]

[130][Hsu 2006 a]

Although initially Brown's bosses at DHS and the department's architects in the White House shared the same goal of a beefed-up FEMA, this vision had vanished over time. The mammoth reorganization was mostly blamed for the failure of the once effective agency. Since Hurricane Katrina, some critics have called for FEMA to be removed from the Department of Homeland Security, saying that its position in the department badly hindered the agency's response, and that FEMA is beyond repair. Senator Lieberman, the author of the original plan for the Department of Homeland Security, even called for Congress to dissolve FEMA and rebuild it from scratch, but within the Department of Health. In a broader sense, FEMA's deterioration had become the most visible failure of DHS. But it was also characteristic of the *turf battles* then tormenting the rest of the department.

4. Evolution of the DHS

The Changing of Guards and the Prospects of DHS 2.0

The first two years of the DHS were seen as a *failure*, it appeared that the department was just a dozen broken agencies patched together. It was not being managed very well (although Ridge's work was being compared to building an airplane in flight), and even if it were, the problem lied elsewhere: in the fact that “*most of the homeland security functions of the government were not included, such as the FBI, who are responsible for domestic surveillance, the CIA, who are responsible for tracking terrorists and the materials they might bring into the country, and the Centers for Disease Control and Prevention, who are responsible for detecting and responding to a bio-terrorist attack.*” Furthermore, the DHS could not be perceived as the lead agency without authority over these other agencies. “*If the coordinator is seen as a competitor, other agencies whose cooperation is crucial will likely balk at following its lead, and bureaucratic fights over turf become pervasive.*”¹³¹

Another obstacle to a successful department was the fact that some of the agencies had a wide range of functions not related to terrorism, which then *diverted* resources, both physical and human, away from the DHS's primary mission of preventing terrorist attacks. In other words, the department performed functions and activities which had nothing to do with fighting terrorism and, at the same time, it was unable to address the intelligence failures of intelligence organizations like the FBI and the CIA.

[131][Gillies 2005]

With Tom Ridge leaving the post of Secretary of Homeland Defense, President Bush initially nominated former NYPD Commissioner Bernard Kerik as his successor¹³², who then withdrew his nomination citing personal reasons and saying it would not be in the best interests of the country for him to pursue the post. On January 11, 2005, President Bush nominated federal judge Michael Chertoff to succeed Ridge. About a month later, Chertoff was confirmed by the Senate. It was known that the department had many lingering problems which Ridge did not manage to overcome. What he left behind was mostly an array of reorganizational ideas, ranging from an intelligence directorate to a chief medical officer to a policy shop. In February 2005, Chertoff “launched a sweeping second-stage review of DHS”¹³³, eventually achieving some of the Ridge's goals. At the same time, a broader debate was started within some of the Washington's think-tanks. In his testimony to Congress, homeland security expert Wermuth suggested: “Clearly, there are some changes that we and others have proposed that rise to the top of the list for consideration in the near term: The creation of a robust policy and planning structure; more holistic approaches in managing risks, the establishment and enforcement, through evaluations and assessments, of a better system of performance metrics. And as noted, both the White House and the Congress have important obligations in providing better strategic guidance and oversight.”¹³⁴

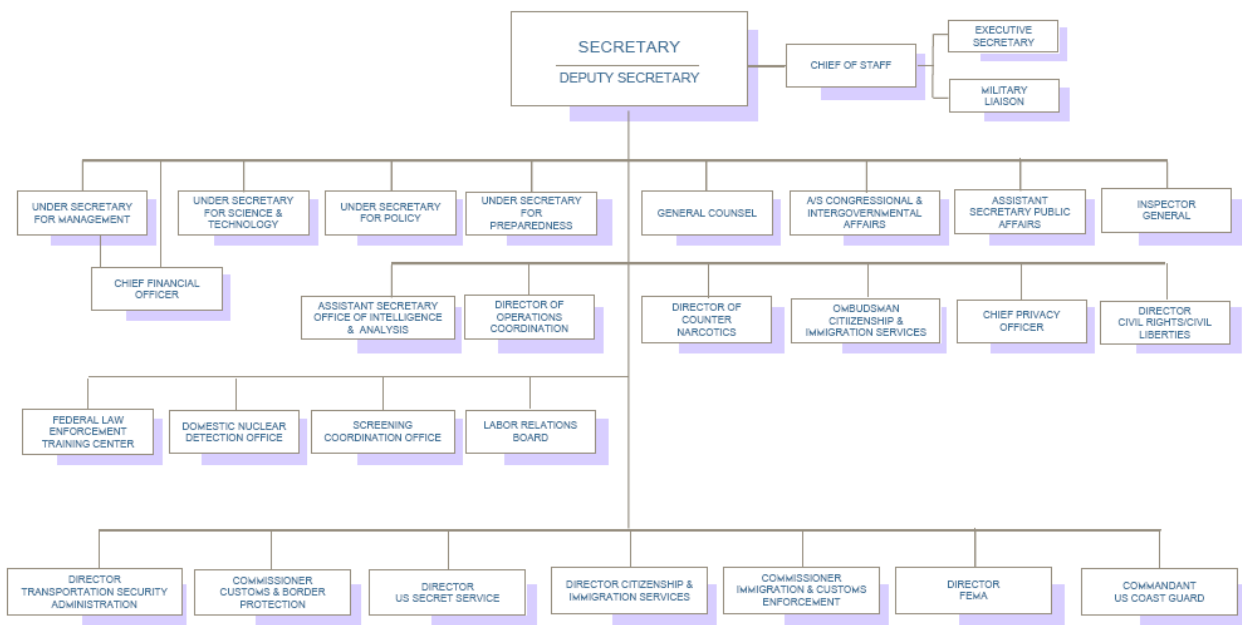


Illustration 3: Department of Homeland Security Organization Chart - Proposed State

[132]Other candidates included Frances Townsend, Bush's Homeland Security Adviser and Asa Hutchinson, the current Undersecretary of Homeland Security for borders and transportation.

[133][Glasser 2005]

[134][Wermuth 2005]

Even though Chertoff has been supposedly trying hard to address the problems faced by his predecessor, just like Ridge he has been faced with a “*bureaucratic quagmire*.”¹³⁵ So far, he is still in the process of designing the coordinating mechanisms among the twenty-two agencies, which takes and will take time. Many of these agencies are highly *dysfunctional* (as in case of FEMA), have overlapping jurisdictions, and keep their long-standing rivalries. They are not willing to give up previous authority and autonomy in their specific areas and submit to a new structure under the authority of the DHS.

It has become apparent that the current DHS Secretary still has only few mechanisms at his disposal to build linkages between the *reluctant* agencies and thus the the DHS will remain in a period of transitioning for an additional number of years, before the bureaucracies adapt to the new situation and the anticipated Department of Homeland Security 2.0 sees the light.¹³⁶ Some argue, that the DHS should be fixed as soon as possible, before it, like the Pentagon, becomes set in concrete, unmovable for a generation.¹³⁷ Focus on the organizational issues, however, undermines the whole purpose of the DHS's creation – to help defend American homeland, or even identify and assess major threats to it.

DHS has been mainly criticized for its failure to produce an elaborate infrastructure plan. According to government officials, nearly five years after the September 11 attacks, the US has made *limited progress* in identifying and securing the domestic targets whose destruction would pose the greatest threat to American lives and national defense. The department target list has grown exponentially, “*from 160 in 2003 to 28,000 in 2004 to nearly 80,000 today -- but it is filled with bean festivals, car dealerships, small-town parades and check-cashing businesses.*”¹³⁸ Despite a huge increase in the department's spending, it appears that DHS has not yet been able to make a risk based analysis of the country's critical infrastructure. Many ports and borders still remain largely unprotected; airplanes and nuclear plants are safer, but airports and chemical plants are not. Following Ridge's unsuccessful bid for regional preparedness via establishing regional directors, the state and local efforts to fight terrorism remain inadequate. Although, as it is argued, that is where most of the focus should be put – on first responders, because they actually save lives and limit the damage after an attack, just like in case of September 11.

[135][Gillies 2005]

[136][Carafano 2005]

[137][Rosenzweig 2005]

[138][Hsu 2006 b]

The conclusions that can be drawn from the four years since Bush's announcement of the creation of a new department until now, that is summer of 2006, are not very optimistic. While the drafting and enacting of the Homeland Security Act of 2002 was fast and effective, it has become clear that the used strategies of secrecy and general language resulted in the situation that the detailed issues had to be fought out after the enactment, thus delaying the implementation phase. The questions of policy, which could have been tempered before the enactment, had to be addressed afterwards, making the DHS *slow and ineffective*. From today's perspective, knowing that the Bush administration did not give much support to the DHS after it was established, it may seem that the White House, which was initially opposed to the idea of creating a new department, “*embraced the DHS gambit to address concerns of perceived weakness in policy competence and to cash in on the public perception that Republicans would do more than Democrats in terms of homeland security.*”¹³⁹ In reality, the Bush administration did not adequately address the issue of protecting the US homeland, despite the White House rhetoric. On the other hand, given the fact that George W. Bush was reelected to the White House in 2004, he (or his advisers such as Karl Rove and Andrew Card) must know how to make people feel safer. “*His self-assured and encouraging words, combined with his shows of force abroad, have created the appearance of progress toward building a more secure country.*”¹⁴⁰ Now let us look at the other sphere of homeland security policy, which, as I already noted, did not become part of the DHS's responsibility – that is the coordination of the intelligence.

5. Intelligence Reform

Sharing Is the Starting Point

By September 11, 2001, the US Intelligence Community was in a very bad shape. Just like it failed to predict the end of the Cold War or the 1998 nuclear tests in Pakistan, it did not disrupt the conspiracy of September 11. The reasons for the community's rather weak performance were of various origins, the lack of *information sharing* being probably the most obvious one, as described in the previous sub-chapter. Its less-than-stellar performance, however, continued in time following the attacks. The case of wrong assessment of Iraqi WMD programs highlighted the new demands for strategic intelligence in the twenty-first century and showed that the community could hardly be trusted in the wake of these events. It became obvious that the Intelligence Community comprising numerous intelligence agencies, each with its own set of entrenched interests, had to be reorganized,

[139][Gillies 2005]

[140][Ham 2003]

if it was “to match wits with transnational threats to American security such as al-Qaeda and traditional threats stemming from nation-states with the political intent and military means to challenge American interests and power.”¹⁴¹ Concerning these problems, some of the commissions established to investigate the failures leading to the 9/11 attacks, called for amending the National Security Act of 1947 to establish a director of national intelligence statutory post. As one commentator put it, “the American intelligence community is quickly becoming a dinosaur. It has to transform itself to combat new security challenges, such as terrorism.”¹⁴²

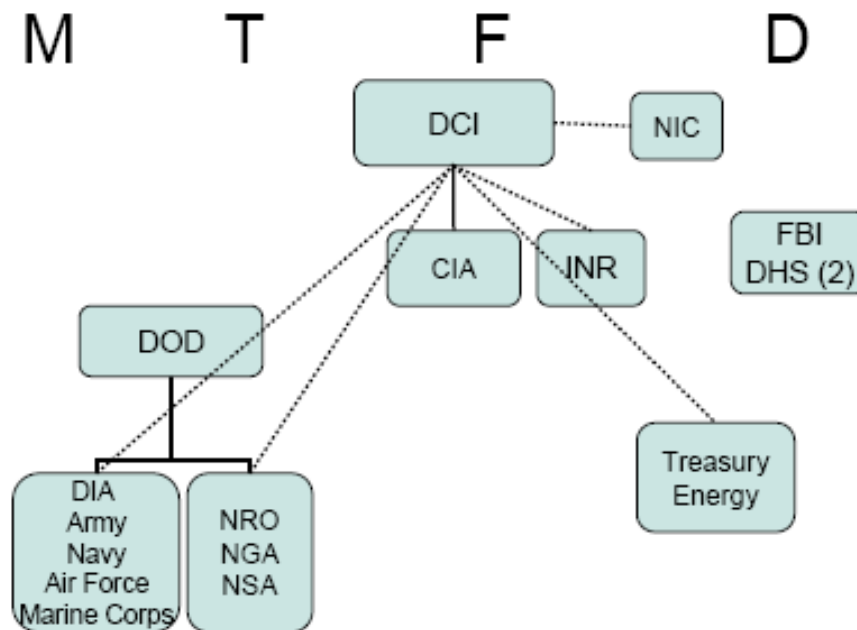


Illustration 4: The Intelligence System - Before the Reform

The first institutional steps to improve intelligence in regard to counter-terrorism were taken in 2003. After announcing its creation in his 2003 Union Address, the **Terrorist Threat Integration Center** (TTIC) was established on May 1. Its aim was to ensure that all members of the Intelligence Community had access to the same information. Several month later, on September 16, Attorney General Ashcroft, DHS Secretary Ridge, Secretary of State Powell, FBI Director Mueller and Director of Central Intelligence Tenet announced the establishment of the **Terrorist Screening Center** (TSC), as to consolidate terrorist watch lists and provide 24/7 operational support for federal screeners across the US. Until then, there were several major watch lists and related systems, which could result in a similar occurrence as on 9/11, when some of the hijackers were listed on other lists than those available to screeners. An important part of the system was that it

[141][Russell 2004]
 [142][Brookes 2004]

became interconnected with the the Department of State, thus stretching its use to visa application procedures. The new thus became a multi-agency center, anchored by the Departments of Justice, Homeland Security, and State, and the Intelligence Community, and administered by the FBI. Some argued that although the creation of TTIC and TSC were the right steps to merge information, they should have been placed under the Secretary of Homeland Security.

The expected change, however, came first with the Intelligence Reform and Terrorism Prevention Act.¹⁴³ On December 7, 2004, symbolically 63 years after the Pearl Harbor Attack, the US Senate approved the bill and President Bush signed the Act 10 days later, making it law. Its content is clear from its eight Titles, as follows:

1. Reform of the intelligence community
2. Federal Bureau of Investigation
3. Security clearances
4. Transportation security
5. Border protection, immigration, and visa matters
6. Terrorism prevention
7. Implementation of 9/11 Commission recommendations
8. Other matters

Most important, this act established both the National Counter-terrorism Center (NCTC) and the position of Director of National Intelligence (DNI) with the aim to fix two widely acknowledged problems. The first was the intelligence community's pre-9/11 failure to collect and share information that might have warned of the al-Qaeda attacks, the second problem was the confusion and competition spawned by post-9/11 attempts to fix the first.

5.1 Director of National Intelligence

Establishment of the DNI position was a result of the recommendations by the 9/11 Commission. After considerable debate on the scope of the DNI's powers and authorities, the DNI was designated as the leader of the US Intelligence Community.¹⁴⁴ At the same time, he or she was prohibited from serving as the CIA Director or the head of any other Intelligence Community element at the same time. The post of of the Director of Central Intelligence (DCI) was replaced by the new position of the **CIA Director**. The law required the CIA Director to report his agency's activities to the DNI. The DNI exercises leadership of the community primarily through the

[143][Intelligence Reform 2004]

[144][Shenon 2004]

statutory authorities under which he controls the National Intelligence Program budget of nearly \$40 million, provides guidance for the community, and directs the tasking of, collection, analysis, production, and dissemination of national intelligence.¹⁴⁵ However, the DNI has no authority to direct and control any element of the community except his own staff, the Office of the DNI. On February 17, 2005, President Bush named US Ambassador to Iraq John Negroponte to the post, who was then confirmed by the Senate on April 21, 2005; he was sworn in by President Bush on that day. Being the DNI, Negroponte has also become the primary adviser to the President over intelligence.

Some argue, as for instance two former DCIs James Schlesinger and John Deutsch, that the new position of DNI will do little to correct the intelligence performance, because DNI's role and responsibilities are little more than a rehash of the theoretical responsibilities and authority of the former Director of Central Intelligence (DCI). *“The establishment of the post is likely to do more harm than good by superimposing yet another ponderous layer of bureaucracy onto an already top-heavy intelligence community superstructure.”*¹⁴⁶ The problem, in the critics' view, is that the community already is already busy facing the challenges posed by the new bureaucracy of the DHS and this burden gets heavier with the establishment of the DNI. They think that strengthening the hand of the DCI and keeping DCI close to human intelligence collection and analysis would serve better to the US policymakers.

Other critics say compromises during the bill's crafting led to the establishment of a DNI, whose powers are too weak to adequately lead and improve the performance of the Intelligence Community.¹⁴⁷ In particular, the law left the Department of Defense in charge of the National Security Agency (NSA), the National Reconnaissance Office (NRO), and the National Geospatial-Intelligence Agency (NGA, former National Imagery and Mapping Agency). In this sense, the Intelligence Community still has not stepped out of the Cold War mind frame, when it made sense for the secretary of Defense to own the most intelligence assets, because the primary threat to US security was the military might of the Soviet Union. *“Today, the threat is different: It's al-Qaeda, biological weapons, dirty bombs, North Korea and Iran – not a Soviet tank.”*¹⁴⁸

[145][Wikipedia]

[146][Russell 2004]

[147][Daalder2004]

[148][Brookes 2004]

5.2 National Counter-terrorism Center

The establishment of the NCTC¹⁴⁹ was not completely new, as it served as a successor to the Terrorist Threat Integration Center (TTIC) we discussed earlier in this chapter. With the Intelligence Reform and Terrorism Prevention Act it was placed under the Director of National Intelligence. Since its establishment, NCTC serves as a central and *shared knowledge bank* on terrorism information. It provides all-source intelligence support to government-wide counter-terrorism activities in its state-of-the-art operations center to help manage the response to potential terrorist attacks on the US and to monitor incidents worldwide. According to reports, the representatives from across the Intelligence Community meet there three times each day to update the nation's threat matrix. Participants include representatives of the CIA and FBI; the Defense Intelligence Agency (DIA) and others from the Pentagon; the departments of State, Homeland Security, Treasury and Energy; and other subsidiary agencies such as the Drug Enforcement (DEA) and Transportation Security administrations (TSA). Topics vary, they may “*include individual suicide bombers, movements of groups and people, potential targets, reliability of information on specific threats, and actions being planned or already taken.*”¹⁵⁰

The NCTC analysts turn out reports, adding context and information about response actions already taken, that are disseminated to more than 5,500 policy and intelligence officials with the security clearances required to read them. The information-sharing is still slow, however, as the communications systems architecture of the 16 intelligence agencies involved is largely incompatible. And of course, the old problems on the human side linger, although most of the destructive and expensive rivalry is over. In its best, the eventual outcome of the NCTC should be cooperation and personal relationships formed through shared tasks within the community, resembling of the 1986 defense reorganization. The Intelligence Community should then be working as a team, not as separate fighting forces. Concerning the NCTC's expertise, it has produced a new strategy for combating terrorism in early summer of 2006. It is called **National Implementation Plan**, it is highly classified and it is supposed to be revolutionary in its concept. For the first time, it sets government-wide goals and assigned responsibility for achieving them to specific departments and agencies. It was written under a directive signed by President Bush in winter 2005 and now it returned to him for review. The 160-page plan aspires “*to achieve what has eluded the Bush administration in the five years since the Sept. 11, 2001, attacks: bringing order*

[149]For more info, please see www.nctc.gov

[150][DeYoung 2006]

and direction to the fight against terrorism.”¹⁵¹ One can imply that the current counter-terrorism infrastructure is not in the best condition.

5.3 The Intelligence So Far

The Intelligence Community witnessed its *boom* following the 9/11. Institutions historically charged with protecting the nation, which we reviewed in the previous sub-chapter, have “*produced a new generation of bureaucratic offspring*”¹⁵² – the Pentagon's **Counterintelligence Field Activity (CIFA)** and **Joint Intelligence Task Force for Combating Terrorism (JITF-CT)**, the Treasury Department's **Office of Intelligence and Analysis (OIA)**, and the FBI's **National Security Service (NSS)**, to name a few. As result, the country now has 16 intelligence agencies, many with seemingly overlapping missions. But for the unity of effort, fewer agencies are needed, not more. Their capabilities are critical to the counter-terrorism mission, but not their bureaucracies. As the Brookings Institution's senior advisers argue, for instance, the “*CIA should be expanded to include the eavesdropping National Security Agency and the satellite-spying National Geospatial-Intelligence Agency. Along with its human-espionage capability, the CIA would be become a true 'central intelligence agency.'*”¹⁵³ As of 2006, almost every part of the federal government has its separate counter-terrorism division, starting from the Transportation Department to the Food and Drug Administration. On the state level, 42 out of 50 states have established centralized locations where local, state and federal officials operate joint information-gathering and analysis operations. And the White House, as always strong in its rhetoric, says the proof that it is all working is the fact, that there has been no attack on US soil since 2001.

The critics claim that after nearly five years, the fight against terrorism seems like a chaotic work in progress, which is probably the case. The reorganization has so far focused on adding layer upon layer, but with none taken away, which results in the ever present *competing* for turf among individual agencies. It was quite natural that the military took the lead in fighting terrorism after 9/11, but then the Defense Department tried to dominate much more than the war-fighting effort, which led to clashes with the CIA and the State Department. The level of animosity culminated in summer 2005, forcing Michael Hayden, then deputy DNI, to negotiate an agreement about intelligence-gathering responsibilities between Donald Rumsfeld and then-CIA Director Porter Goss. From now on, a shift in weight away from the military should be occurring. Another related

[151][DeYoung 2006]

[152][DeYoung 2006]

[153][Brookes 2004]

problem is the existence of *overlaps*, which leads to inefficiencies and wasted effort. The typical example of this happened before Winter Olympics in Turin, when eight of the 16 agencies in the Intelligence Community independently produced assessments of possible terrorist threats to the Games.¹⁵⁴ They all concluded exactly the same thing – that the threat was minimal.

The coherence of the government effort has been also undermined by the rapid turnover among top officials, which can be best illustrated on the FBI – in April 2006, the Bureau's sixth counter-terrorism chief since 2001 resigned after 10 months on the job. It has been observed that a large portion of the resigned or retired officials then enter the burgeoning private-sector security industry. To sum up, a lot has been done in the years since 9/11, but there's a lot more that still needs to be done. A lot more. Perhaps the still secret National Implementation Plan will address those problems and eventually do the job of making the US Intelligence Community finally ready to face the challenges of the 21st century. Hopefully there will not be some sort of “Katrina” to test the proclaimed preparedness of the US intelligence.

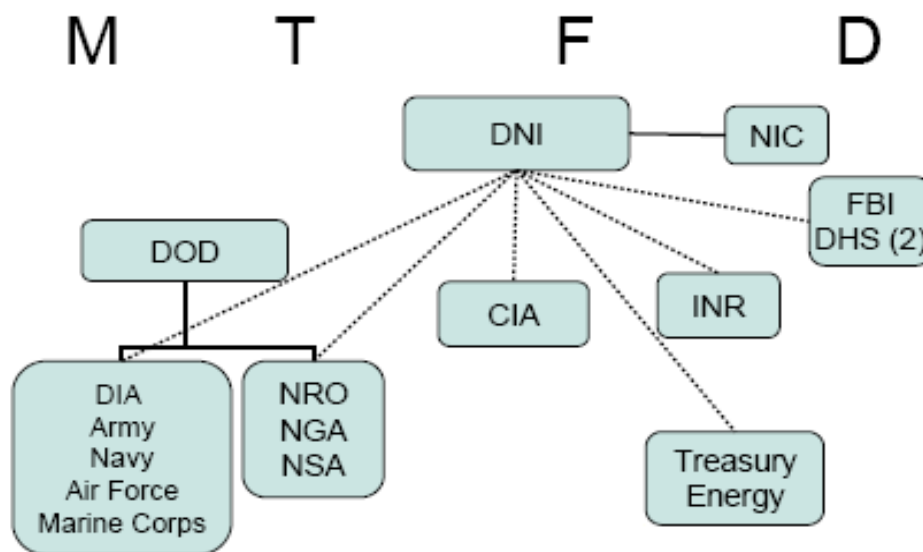


Illustration 5: The Intelligence System - After the Reform

[154][DeYoung 2006]

C. First Evaluation

9/11 Commission Measuring the First Results

Almost 5 years after the 9/11 terrorist attacks, Americans are asking themselves, if they are any safer than they were on that infamous September day in 2001. The answers vary, not only based on the political color of the one being asked. Many changes have occurred as the federal government has undergone an unprecedented expansion and reorganization. Some of them were necessary, but could have been handled differently. Some went perhaps too far, as I will try to explain in the next chapter. And some changes should have been accomplished but there was not political will for them to happen. But one thing is for sure, the changes have been and in case of those not yet accomplished, probably will be very costly, as I will try to document later on.

As for evaluating the success of the Bush administration on the domestic front, I will try to compare its accomplishments with the findings and recommendation of the independent / bipartisan **National Commission on Terrorist Attacks Upon the United States**, popularly referred to as the 9/11 Commission. It was established on November 27, 2002 and released its report on July 22, 2004.¹⁵⁵ This Commission continued in a line of previous inquiries into the domestic security matters. There was the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, mostly known as the **Gilmore Commission**.¹⁵⁶ It produced an annual report each year from 1999-2003 in December of every year. Its final report was released in December 2003. Another Commission, the National Commission on Terrorism or shortly **Bremer Commission**,¹⁵⁷ released its final report in June 2000. The US Commission on National Security/21st Century, or under the name of **Hart-Rudman Commission**,¹⁵⁸ produced three separate reports, the last being submitted in March 2001. Finally, the **Joint Inquiry**¹⁵⁹ of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence into a range of issues related to the terrorist attacks on the United States on September 11, 2001 with the focus on the activities of the US Intelligence Community, issued its ultimate report in December 2002.

[155][Dwyer 2004]

[156][Gilmore 2003]

[157][Bremer 2000]

[158][Hart-Rudman 2001]

[159][Joint Inquiry 2002]

1. The Report Card

The Largely Missed Opportunities to Defend Homeland

First of all, it should be noted that the work of the **9/11 Commission** as well as of its predecessors, was not in vain. In certain areas, the current administration followed its recommendations, as for instance with passing of the historic intelligence reform, which created the NCTC and thus made the country safer. A number of common-sense recommendations made by the 9/11 Commission in its final report, however, remain unimplemented. Of the 41 urgent recommendations to prevent and prepare for terrorist attacks, which flowed directly from the Commission's investigation of September 11, 2001, a large portion is still waiting to be addressed. The sad proof that they were relevant, could be seen in the recent difficulties in the initial response to Hurricane Katrina.

In December 2005, the 9/11 Public Discourse Project,¹⁶⁰ which embodies the nonprofit successor to the Commission, issued a report card grading government's implementation of the commission's recommendations on the homeland security field. The results were shameful: five F's, 12 D's, nine C's and only one A (an A-minus). Progress in many important areas was assessed as being slow or non-existent. *“While the terrorists have been learning and adapting, we have been moving at a bureaucratic crawl.”*¹⁶¹ The most appalling failures included the *Aviation security*, where the recommended screening airline passengers for explosives should have been implemented. This failure gains new dimensions with the breaking up of a major aviation terror plot in early August 2006. Similar negligence was reported in the inspecting of checked baggage and cargo shipped on commercial flights, which is then stored beneath airline passengers' feet. The Report Card notes that communication woes, which hindered rescue efforts on 9/11 again worsened the response to Hurricane Katrina, thus sending first responders into danger unprepared, without communications they needed to do their jobs in order to keep everyone safe. Although the Commission did not put it as bluntly as for instance the Progressive Policy Institute, its report card bore a similar message:

“In spite of satisfactory results in a few areas, taken as a whole, the Bush administration's efforts to protect the homeland have been surprisingly lax and inadequate. (...) It has not brought the same energy and attention to homeland security that it has brought to overseas military efforts. (...) In the absence of presenting a compelling vision of the changes

[160]Part of the Report Card addressing the homeland security preparedness is listed as Appendix IV.

[161][Thompson 2005]

*necessary to protect the homeland, the Bush administration has failed to push back on the government bureaucracies that have resisted meaningful change. (...) In short, President Bush has failed to fulfill his promise to make homeland security his top priority.”*¹⁶²

The Commission was again critical of the missing *risk assessment* of potential targets. Because the resources devoted to protecting American homeland are scarce, they should be deployed where the enemy intends to strike – and where the country is most vulnerable. Although Congress has allocated large sums of money to help state and local governments prevent and prepare for terrorist attacks, its distribution and use has been bad. The Commission made a seemingly obvious recommendation to distribute the funds based on an impartial assessment of risk and vulnerability. Thompson illustrates¹⁶³ the failures with examples of the city of Newark using homeland security grants for air-conditioned garbage trucks, Washington sending sanitation workers to self-improvement seminars, or Columbus, Ohio, buying body armor for Fire Department dogs. The Commission also regretted the Congress missing a golden opportunity to implement a risk-based system in the legislation to reauthorize the Patriot Act. The Commission underscored its worries with a rhetorical question: *“Every reasonable expert believes the terrorists will strike again. Many believe their goal is to outdo the carnage and death of September 11. If they do, and these problems have not been addressed, what excuse will we have?”*¹⁶⁴

Of the forty-one Commission's recommendations, the five most important and still unaddressed ones are as follows:

- Adopt a risk-based approach to homeland security;
- Improve collaboration among local responders;
- Keep the world's most dangerous weapons out of the hands of terrorists;
- Better communicate our message to the Muslim world;
- Reform Congress for the post-9/11 era.

2. The Costs of War

Paying For the Expensive Campaign

The 9/11 Commission made clear that by 2005, the United States was not much safer than it was before the 2001 attacks, although certain positive changes had been made. At the same time,

[162][Report Card 2003]

[163][Thompson 2005]

[164][9/11 Commission Report 2004]

the Bush administration assures US citizens that it has done a lot to protect them. The large amounts of money spent by the administration would suggest that it heavily invested in its pursuit of safer America. The disastrous response to Hurricane Katrina, however, pointed to the fact that these funds have been largely *misallocated*. It became obvious that more dollars have been spent in Iraq than in the United States, where security and preparedness needs still remain unmet. With the War in Iraq being far from its resolve, Bush's core goal of *fighting the war on terrorism overseas*, so that it will not have to fight it in the United States, is being put into question. It seems more likely that the Iraq war is at the root of this mismanagement.

Response to and Recovery from 911 Terrorist Attacks	
Afghanistan	
Military Operations (DoD)	76
Reconstruction and Related Aid	7
Subtotal	82
DoD Homeland Security, Recovery and Related	34
Non-DoD Homeland Security	112
Victim Relief and Recovery from 911 attacks	16
Total:	244
War In Iraq	
Military Operations (DoD)	226
Reconstruction and Related Aid to Iraq	25
Total:	251
Other	
Foreign Aid (supporters of operations in Afganistan and Iraq)	7
Aviation Industry Relief	2
Other	2
Total:	11
Defense Programs and Activities Unrelated to HLS, Afghanistan or Iraq	
	250
Grand Total	
	754
In annual appropriations acts	432
In supplemental appropriations acts	322

Illustration 6: Additional Funding Since 9/11, By Major Mission or Activity

Steven Kosiak at the Center for Strategic and Budgetary Assessments has released analysis¹⁶⁵ in late 2005 that tries to measure total federal funding for defense, homeland security, and national security since 9/11. He found a total net increase of \$754 billion in federal spending since 9/11 above expected baseline pre-9/11 spending. Of that total, he estimated that approximately one-third has gone for the War in Iraq, and one-third for national security spending that has little or nothing to do with the war on terror. The remaining third, for activities directly

[165][Kosiak 2005]

related to 9/11, includes spending for the war in Afghanistan, recovery from the attacks, and homeland security. Kosiak calculated that the total net and cumulative spending on homeland security attributable to 9/11 equaled to \$146 billion, of which \$34 billion went to the Defense Department for homeland defense activities, and the remaining **\$112 billion for civilian homeland security activities**. This \$112 billion represents approx. a doubling of homeland security spending if compared to pre-9/11 baseline. The \$430 billion spent so far on overseas military and diplomatic 'counter-terrorism' operations, seem to make the War on Terror far more expensive when fought abroad.

3. Comparison with the EU

How the Europeans Defend Themselves

Europe's reaction to the 9/11 attack was somewhat *different* from the American one.¹⁶⁶ When the hijacked planes hit their targets in New York City and in Washington DC, the European countries were in a different situation, managing to react on the intelligence, justice, as well as law enforcement – that is traditionally counter-terrorism – fields. Cooperation between individual secret services and police agencies had improved since the 1970s when a massive wave of terrorism hit France, Spain, Italy and Britain.¹⁶⁷ Many European countries had some sort of experience with terrorism and their legal codes contained measures to fight it. Most of these *countries* reacted to the 9/11 events by strengthening the existing anti-terrorist measures. The legislation expanding the powers of the intelligence agencies, police authorities and prosecutor's offices was passed by national parliaments at extraordinary speed and additional funding was provided for these agencies. Countries, which did not have special anti-terrorism legislation, enacted such laws. These new laws mostly established stronger penalties for crimes relating to terrorism and made indirect support of terrorism and terrorists to criminal offenses. National law enforcement agencies were given increased powers for the investigations in connection with terrorism.

As to the European *supranational* level, the attacks on America helped the EU achieve some of its goals it had set in time, when terrorism was not a number one priority.¹⁶⁸ Only a week after September 11th, Council of the EU had agreed on a common European **definition of terrorism**, which becomes important if compared to the UN, whose attempt for consensus on the common definition led to failure at the same time. Within several next months, the EU succeeded in

[166][Stevenson 2003]

[167]As for instance TREVI Group dating back to 1976. [Pikna 2004]

[168][Heisbourg 2004]

harmonizing of penalties for terrorist crimes, in producing of a common arrest warrant, and in establishing provisions for the freezing or seizure of terrorist assets.¹⁶⁹ Moreover, a common European list of organizations and persons linked to terrorist activities was established; a new agency, Eurojust, composed of high level magistrates and prosecutors, was created to assist in investigating cross-border crimes; and a counter-terrorism unit was established within the European Police Office (Europol).¹⁷⁰

If assessing Europe's effort to reduce internal vulnerabilities and to strengthen its protective capabilities, then it must be noted that in comparison to the US, the progress has been quite weak. Priorities were set differently. A simple look at the EU's **Action Plan to Combat Terrorism**¹⁷¹ from September 21, 2001, reveals that five of its seven main points were related to strengthening instruments and cooperation within the spheres of intelligence, police and justice; only one – air transport security – was protective in nature. The last point tackled the global counter-terrorism efforts within the Common Foreign and Security Policy (CFSP).¹⁷² Eventually, it was decided to establish a communication network for the exchange of urgent information about chemical, biological, radiological or nuclear (CBRN) threats. Then in late 2002, the Council approved a program to improve the Union's ability to support member states' efforts in the area of civil protection, recommending a variety of initiatives, such as stronger risk-analysis capabilities and actions to protect vulnerable infrastructure. This program, however, did not have any legal implications since civil protection belongs to the *competence* of the member states, moreover, it did not provide any funding to support the implementation.

The proposal to create **Civil Protection Agency** with a European Civil Protection Coordinator in its head could have significantly upgraded Europe's protection, but it found limited response. Instead, member states focused on strengthening of their protective capabilities by themselves, ignoring the fact that the protection from catastrophic terrorism is rather indivisible. Individual countries then ended up with various results. Some of them increased funding for emergency preparedness agencies, some established bio-terror research centers, others increased their national stockpiles of vaccines. The main deficiency of their effort, apart from the missing supranational link, was that responsibility for the various protective initiatives remained "*scattered among different cabinet-level ministries and services, such as health, energy, commerce,*

[169][Fiorill 2004]

[170][Dalgaard 2005]

[171][Action Plan]

[172]Following the attacks in Madrid and then in London, the Action Plan to Combat Terrorism was revised in June 2004 and most recently in February 2006.

transportation and research.” The authorities charged with coordinating the overall national efforts against terrorism then “*continued to be dominated by the traditional counter-terrorism ministries, justice, interior and defense.*”¹⁷³ To sum up, neither the Union, nor the individual states, managed to institutionalize the coordination of the traditional counter-terrorism efforts in a similar regard the US did with the creation of the Homeland Security Department.

With terrorist attacks in Madrid and London, which showed that the Old Continent was not immune to the new terror, the EU intensified its rhetoric, trying to send a strong message that it was united in the fight against terrorism. The new **Declaration on Combating Terrorism** admonished the justice and interior ministers who had failed to implement their prior commitments. It aimed at strengthening of the previously adopted measures and on making them more effective, but it failed to bring any major innovations in the fight with terrorism. The Madrid bombings, however, pushed the member states as well as the EU institutions towards more action. One of its consequences was the creation a new position of **Counter-Terrorism Coordinator**. When Gijs de Vries took the office on March 25, 2004, his main mission became to pursue realization of the new Action Plan to Combat Terrorism and to coordinate the EU's effort in this field.¹⁷⁴ The urgency for coordinated effort was even more intensified after the London attacks in summer of 2005, underscoring the EU's belief that the “*way to greater safety lies in building Europe, as individual governments alone have very limited means of countering the terrorist threat.*”¹⁷⁵

Actually, more cooperation in law enforcement and intelligence was needed not only within the EU, but also with its western ally, the United States. During the years since September 2001, the US and the EU have signed agreements previously thought unachievable and have worked together much more closely than ever before. They have developed law enforcement cooperation, agreed to extend the freezing of terrorist assets, or developed more secure procedures for container shipping, air passenger travel and issuance of travel documents. Both entities have probably realized, that a strike against one would hit the other almost immediately.

[173][Dalgaard 2005]

[174][Thieux 2004]

[175][Lebl 2005]

IV. Balancing Liberty And Security

The horror of the September 11, 2001 attacks was awful. Even now, almost five years after, most people would remember what exactly they were doing when they first learned of the hijacked planes hitting the WTC Towers. They were shocked and scared. Until then, for most Americans security seemed to be almost a birthright. But then came several fanatical individuals from distant places as far as in Africa and Asia and took this right away. The government promised to find them and punish them for what they have done to America. But not only in those distant places, at home, too. The government, marshaled the might of “*every single statute to root out the terrorists among us.*”¹⁷⁶ The resources of all federal law enforcement agencies were gathered for one “*first and overriding priority to defend our nation and its citizens against terrorist attacks.*” Citizens' representatives, that is the Congress, in response to the government's plea for “*the tools to fight terrorism,*” quickly provided them through the USA Patriot Act, which gave broad and virtually unprecedented powers to the Justice Department, FBI, CIA and other federal law enforcement agencies.¹⁷⁷ More than anything, this new law reflected how profoundly the attacks changed the nation's thinking about the balance between domestic security and civil liberties.¹⁷⁸

*“Wrapping themselves in the flag, they have shredded the Constitution. They have sneered at, ignored, or defied the courts and legislatures that are designed to provide checks and balances on uninhibited executive power. They have eroded the precious Bill of Rights protections of free speech, assembly, and association and its assurances of privacy, due process, equal protection, legal counsel, and a fair trial – practically everything but the right to bear arms. Thanks to these maneuvers in the name of combating terrorism, the government can now freeze the release of public records, monitor political and religious gatherings, and jail Americans indefinitely without trial and with legal representation.”*¹⁷⁹

With the time passing since the 9/11 attacks, more and more people, not just civil libertarians, immigrant advocates, and human rights activists who suspected it from the very start¹⁸⁰, were beginning to realize there were various ways in which the new laws, regulations, and acts threatened various constitutional protections. The government that promised to fight the terrorists,

[176]Paraphrasing the words of John Ashcroft.

[177][Aden 2003]

[178][McGee 2001]

[179][Solomon 2002]

[180]Although in the first week following 9/11, surprisingly only “traditional pacifists . . . and a tiny handful of reflexive Rip Van Winkles” objected to the aims and methods of the anti-terrorism campaign. [Hollander 2002]

could not bring the former “right to security” back, that was lost forever. What it could do, however, was to strip its citizens of some other important rights, unlike the “right to security” anchored in the US Constitution. Some people were afraid that this was exactly what was happening in the name of fighting the War on Terror. America was standing before the problem of choosing between liberty and security. Some trade-offs were difficult and necessary. Was it thinking of Benjamin Franklin's comment on this issue? We will look at that. As Russell Feingold, the only brave Senator to vote nay on the Patriot Act in 2001, put it: “*There is no doubt that if we lived in a police state it would be easier to catch terrorists. (...) [But] that would not be America.*”¹⁸¹

A. The State is Back

We Are From the Government ...

*“Around the world we will see governments become more powerful, more intrusive and more important. This may not please civil libertarians and human-rights activists, but it will not matter. The state is back, and for the oldest Hobbesian reason in the book--the provision of security.”*¹⁸² The early prediction of Newsweek commentator Zakaria that with the attacks, the terrorists rendered one mainstay of American politics – a certain rhetorical hostility to government – obsolete, seems to come true. It is even more paradoxical that this happened during the Republican presence in the White House, which has always been opposed of the big government. The famous Reagan's line “*We're from the government and we're here to help,*” received a new meaning. It is because people's perception has changed. “*When we feel secure, we worry about interest rates, violent movies, and whether Michael Jordan is going to play for the Wizards. When we don't feel secure, we worry about that, until the worry goes away. This time, the worry is not going to go away anytime soon.*”¹⁸³

The term big government does not necessarily has to mean more people working for the government or more money being spent on public issues; although it is also the case. Mostly, it should be understood in terms of power. If we examine the problem from this point of view, the rise of the government is evident. In relation to homeland security, it has been primarily the Department of Justice, in other words Attorney General Ashcroft, who granted himself and the agencies he oversees a great deal of new powers. By decree, he suspended attorney-client privilege. Soon after, he unilaterally removed restraints on the FBI that had been put in place after the excesses of the

[181][Feingold 2001]

[182][Zakaria 2001]

[183][Aronson 2001]

1960s and 1970s, “*unleashing agents to sniff around community meetings, political gatherings, religious services, and even your e-mail messages and Web site visits, without having any evidence, nor even a good hunch, that anything illegal is afoot.*”¹⁸⁴ The expansion of power went all the way up to the White House, which is an issue I will discuss later in the chapter.

1. The Patriot Act

In the Name of Safety

In response to the September 11 attacks, new legislation was quickly formed to address the fears of another attack happening. The first of the laws to come, was the USA Act, passed on October 12, 2001, under which a terrorist who was not an agent of a foreign power could be the target of a federal investigation of foreign intelligence. Next came the Financial Anti-Terrorism Act of October 17, 2001, which increased the federal government's powers to investigate and prosecute the financial supporters of terrorism. Both of these acts were subsequently folded into the Patriot Act.

The primary drafters of the new USA PATRIOT Act, acronym of the **Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism**, were Assistant Attorney General Viet D. Dinh and future Secretary of Homeland Security Michael Chertoff. After the new bill was introduced into the House of Representatives on October 23, 2001 by Republican Congressman James F. Sensenbrenner, it swept through the House remarkably quickly and with little dissent, winning a 357-66 vote, getting support of members from across the political spectrum. On October 25, 2001, the Act was passed nearly unanimously by the Senate 98-1. Democratic Senator Russ Feingold cast the lone dissenting vote¹⁸⁵, and Senator Mary Landrieu was the sole non-voting member. President Bush then signed the bill into law on October 26, 2001.

The USA PATRIOT Act, which dramatically expanded the authority of American law enforcement for the purpose of fighting terrorism, consists of ten titles:

1. Enhancing Domestic Security against Terrorism
2. Enhanced Surveillance Procedures
3. International money laundering abatement and anti-terrorist financing act of 2001
4. Protecting the border

[184][Solomon 2002]

[185][Stolberg 2005]

5. Removing obstacles to investigating terrorism
6. Providing for victims of terrorism, public safety officers and their families
7. Increased information sharing for critical infrastructure protection
8. Strengthening the criminal laws against terrorism
9. Improved intelligence
10. Miscellaneous

The Act did not cause any major controversy within the US Congress, mainly because hardly any law maker had enough time even to read the 342-page document, much less debate it. In light of this, it seems increasingly important that the new Act contained several sunset provisions, demanded by those worried about the potential for abuse, which in fact gave the law makers an opportunity to correct some extreme parts of the act stemming from the initial overreaction to the attacks. Actually, every major law, it has been argued, should have a sunset provision in it. Sunset clauses would provide for the expiration of the law in five years unless Congress voted to renew it. *“Advocates claim that many laws remain on the books long after their mission has been accomplished. Sunset provisions would automatically sweep away the deadwood.”*¹⁸⁶ Although this idea sounds good, in practice it might have some bad side effects, because it does not make the legal framework stable and predictable. It can also seriously heat up the lobbying wars.

As to its contents, the Patriot Act amended, among other, immigration laws and banking and money laundering laws. It also amended the Foreign Intelligence Surveillance Act (FISA) of 1978. The Act also created the new crime category of “domestic terrorism.” According to this provision, *“domestic terrorism means activities that (A) involve acts dangerous to human life that are a violation of the criminal laws of the US or of any state, that (B) appear to be intended (i) to intimidate or coerce a civilian population, (ii) to influence the policy of a government by intimidation or coercion, or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping, and (C) occur primarily within the territorial jurisdiction of the US”*¹⁸⁷ It also includes the crime of international terrorism, which is identical to domestic terrorism, except that it transcends national boundaries. This provision, however, is not the outcome of the Act. Other definitions relating to terrorism, such as terrorist activity or terrorist organization, can be also found in the Act, in section 411.

[186][McKenna 1994] p. 231
[187][Patriot Act] Section 802

1.1 The Improvements

As to law enforcement, the Patriot Act allowed the law enforcement agencies to use the tools that were already available to investigate organized crime and drug trafficking, but expanding them to fight with terrorism. It also allowed the law enforcement to use **surveillance** against more crimes than before, thus enabling investigators to gather information when looking into the full range of terrorism-related crimes. The practice of using “roving wiretaps”, which means that it applies to a particular suspect, rather than a particular phone or communication device, was widened, authorizing agents to seek court permission to use these techniques even at home to track terrorists. It allowed law enforcement to conduct investigations without tipping off terrorists, in other words, it gave the authorities a “reasonable delay” time to notify the suspects of a search warrants being issued. One of the controversial provisions allowed federal agents to ask a court for an order to obtain business records in national security terrorism cases. Under the Patriot Act, the government could ask a federal court (the Foreign Intelligence Surveillance Court) to order production of the same type of records available through grand jury subpoenas.

Concerning **information sharing**, the Patriot Act facilitated sharing and cooperation among government agencies so that they could better “connect the dots”. The Act removed the major legal barriers that prevented the law enforcement, intelligence, and national defense communities from talking and coordinating their work so it becomes easier to uncover potential terrorist plots before they are completed. From then on, the right hand of the government should know what the left hand is doing. Fundamental changes were made at the FBI, the CIA and several Treasury Department law enforcement agencies. The law empowered the government to shift the primary mission of the FBI from solving crimes to collecting domestic intelligence. In addition, the Treasury Department was charged with building a financial intelligence-gathering system whose data can be accessed by the CIA. Most significantly, the CIA will have the authority for the first time to influence FBI surveillance operations inside the US.¹⁸⁸ The law also tried to break geographical barriers in allowing law enforcement officials to obtain a search warrant anywhere a terrorist-related activity occurred. Before the Patriot Act, law enforcement personnel were required to obtain a search warrant in the district where they intended to conduct a search. But as we know from the previous chapter, the actual removal of legal barriers does not necessarily destroy the barriers entrenched in people's heads.

[188][McGee 2001]

The Act's major attempt was to bring the law up to date with modern technology in order to reflect the new threats, because the digital-age battles cannot be fought with antique weapons, as the 9/11 has shown. It even entered cyberspace, specifically the field of computer hacking, placing electronic trespassers on the same footing as physical trespassers. Actually, the overall perimeter of the law enforcement has broadened. The Patriot Act imposed tough new **penalties** on those who commit and support terrorist operations, both at home and abroad. In particular, it prohibited the harboring of terrorists, thus creating a new offense that prohibits knowingly harboring persons who have committed or are about to commit a variety of terrorist offenses. Under previous law, many terrorism statutes did not specifically prohibit engaging in conspiracies to commit certain terrorism related offenses. In such cases, the government could only bring prosecutions under the general federal conspiracy provision, which carried a maximum penalty of only five years in prison. Naturally, the Act significantly increased the penalties for those who actually commit terrorist crimes.¹⁸⁹

1.2 Reauthorization

Ever since has the Patriot Act been enacted, it began to inspire several groups to make changes to it. While several Congressmen tried to fix it in terms of safeguarding the civil liberties, others tried to make its provisions permanent or even make the Act stricter. The last mentioned is the case of the so called Patriot Act II, or the **Domestic Security Enhancement Act** of 2003, which was a draft legislation written by Ashcroft's Department of Justice. The draft version of the bill would greatly expand the powers of the United States government to unprecedented levels, while simultaneously eliminating or curtailing judicial review of these powers. The draft, which was still confidential, slipped from the DOJ and became public, provoking protests from all kinds of civil rights organizations. Members of the Congress said they had not seen the drafts, though the documents indicated that House speaker Dennis Hastert and Vice President Cheney have received copies.

Most of the action, however, centered on the other end. In July 2003, Senators Murkowski and Wyden, introduced the Protecting the Rights of Individuals Act, a bill which would revise several provisions of the Patriot Act to increase judicial review. Several months later, two years after the attacks, Congressman Dennis Kucinich introduced a bill titled the **Benjamin Franklin True Patriot Act** with the intention to repeal more than ten sections of the Patriot Act, among them

[189][Patriot Act]

being those that authorize sneak and peek searches, library, medical, and financial record searches, and the detention and deportation of non-citizens without full judicial review. The last of the major attempts for revision was the **Security and Freedom Ensured Act** (SAFE) of April 2005, a legislation proposed by Senators Craig, Sununu and Durbin, which would add checks and balances to the Patriot Act. It would curtail some powers of the Act by requiring court reviews and reporting requirements. All these revisions aimed at limiting the reach of the Patriot Act by placing better checks and balances into the law, however, failed in the Republican controlled Congress.

At the beginning of 2005, partisans tried to rush through the reauthorization process at the administration's request that all the powers be made permanent with no changes. On July 21, after its introduction by Representative Sensenbrenner, the House of Representatives passed the USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005, which would have removed certain sunset clauses entirely rather than renewing them or allowing them to be enacted. Senate, however, passed a different bill to reauthorize the Patriot Act, the Senate version being significantly better for civil liberties than the House version. Since they were not the same bill, the differences were resolved in a conference committee with representatives from both chambers, but critical compromises were made while excluding Democrats from negotiations. The new bill was rather weak, failing to contain any reforms, that is the civil rights protections in the Senate version.

The combined House-Senate conference report was passed in the House, but it was blocked in the Senate in December 2005, when four Republican Senators Sununu, Hagel, Murkowski and Craig joined all but two Democratic Senators in a filibuster. The Senate fell seven votes short of invoking cloture¹⁹⁰ on the matter, leaving the future of the Act in doubt. Since it became clear that the reauthorization will not be made before the end of 2005, when several provisions of the Patriot Act were to expire, the Senate came to a bipartisan agreement on December 21, to extend these provisions by six months. The next day, however, the House rejected the idea and voted for a one-month extension till February 3, 2006, which the Senate subsequently approved. This extension was later extended again to March 10, 2006. Eventually, the four Republican Senators dropped their opposition to the bill after modifications were made that they said appeased their concerns about protecting civil liberties. Senator Durbin, one of several Democrats who agreed to back the compromise, said *“it falls far short of the bill that was passed by the Senate last year but rejected*

[190]In parliamentary procedure, cloture (also called closure, and sometimes a guillotine) is a motion or process aimed at bringing debate to a quick end. [Wikipedia]

by the House. But if you measure it against the original Patriot Act, we've made progress toward protecting basic civil liberties at a time when we are dealing with the war on terrorism."¹⁹¹

The Senate voted to renew the Patriot Act on March 2, 2006, the vote being 89-10. Five days later, on March 7, 2006, the House of Representatives approved renewing the Act with a vote of 280-138. President Bush signed the **USA PATRIOT Improvement and Reauthorization Act** on March 9, 2006, just one day before the expiration of the sunset provisions.¹⁹² Bush thus accepted some changes in the law. For example, one change involved National Security Letters; some libraries would no longer be subject to such letters. The reauthorization made all but two of its provisions permanent. The provisions in question were the authority to conduct roving surveillance and the authority to request production of business records, both under FISA. These provisions will expire in 4 years. But some new possibly negative things were also added: The Secret Service will be able to arrest peaceful demonstrators at special events of national significance. The critics say that the amended Patriot Act continues to fail to adequately protect the privacy rights of ordinary people in this country, that it retains the most serious flaws from the original Patriot Act, primarily failing to require that any private records sought in an intelligence investigation be about suspected foreign terrorists or Americans conspiring with them.

If anything else, the process of the Patriot Act's reauthorization has shown one important thing. The perception of the Act has changed and a few Congressmen found the courage to oppose it though they risked being labeled as helpers to the terrorists. When the Senate first voted on the Patriot Act in October 2001, only one Senator opposed it. On the 2006 reauthorization vote, that number increased ten-fold. What is even more important, in the late 2005, a bipartisan group of 52 Senators stood up to the administration and filibustered the reauthorization of the original bill. Some further improvements to the Patriot Act are also being underway, as for instance the new bill supported by several Democratic, as well as Republican Senators, presented by Arlen Specter, which contains the civil liberties protections that were dropped from the bill signed by the President on March 9. As it seems, the political climate is slowly changing.

1.3 Patriot's Failures

When the Patriot Act law was passed, the Electronic Privacy Information Center depicted a tombstone on its website, captioned: "*The Fourth Amendment: 1789–2001.*"¹⁹³ Several influential

[191][Babington 2006]

[192][Brubaker 2006]

[193][Mac Donald 2003]

non-governmental organizations (NGOs) involved in the protection of civil rights and liberties, such as American Civil Liberties Union (ACLU), Center for Democracy and Technology (CDT), Human Rights Watch, Amnesty International, or American Library Association, raised their voices criticizing the new legislation for its failure to include safeguards for the preservation of civil rights. They did make clear that terrorism was a serious problem and changes were necessary, but the law should not have been enacted before examination of why existing authorities failed to prevent September 11 attacks. As the CDT policy post put it, “*this bill has been called a compromise but the only thing compromised is our civil liberties.*”¹⁹⁴

The above NGOs share a common belief that the Act dismantles many privacy protections for communications and personal data and many of the Act's provisions are not limited to terrorism investigations, but apply to all criminal or intelligence investigations. As to other points of criticism, the bill's main flaws supposedly lied in the fact that it:

- Allowed government agents to collect undefined new information about Web browsing and e-mail without meaningful judicial review;
- Allowed Internet Service Providers, universities, network administrators to authorize surveillance of computer trespassers without a judicial order;
- Overrode existing state and federal privacy laws, allowing FBI to compel disclosure of any kind of records, including sensitive medical, educational and library borrowing records, upon the mere claim that they are connected with an intelligence investigation;
- Allowed law enforcement agencies to search homes and offices without notifying the owner for days or weeks after, not only in terrorism cases, but in all cases – the so-called sneak and peek authority;
- Allowed FBI to share with the CIA information collected in the name of a grand jury, thereby giving the CIA the domestic subpoena powers it was never supposed to have;
- Allowed FBI to conduct wiretaps and secret searches in criminal cases using the lower standards previously used only for the purpose of collecting foreign intelligence.
- Undermined the traditional system of checks and balances in favor of the executive branch.

These groups hoped that certain provisions would sunset in four years time and that there would be a Congressional review that would involve the balancing of civil liberties and national security that was lacking from the 2001 debate. They were aware of the fact, however, and they criticized it, that the **sunset provision** did not apply to the sharing of grand jury information with the CIA, giving the CIA permanent benefit of the grand jury powers. Nor did it apply to the provisions for sneak and peek searches or the provision extending application of the pen register

[194][CDT Policy 2001]

and trap and trace law to the Internet. They were also skeptical of the fact that the sunset also did not apply to ongoing investigations, realizing that since intelligence investigations often run for years, even decades, the authorities would continue to be used even if they were not formally extended in 2005. As it turned up, this skepticism was rather optimistic. Almost all the former sunset provisions were made permanent in Spring of 2006.

2. Detentions and Profiling

The Immigrants First. Who Is Next?

Soon after the attacks of 9/11, the US government began detaining people who fit the profile of the suspected hijackers: mostly male, Arabic, Muslim and South Asian non-citizens. By late November 2001, 1147 people had been detained and held incommunicado.¹⁹⁵ The exact number cannot be known, however, because the government stopped releasing the number ever since. The problems with these preventive detentions is that the INS have done it in secrecy. By now the vast majority of detainees has been deported or released without yielding any information about or connections to al-Qaeda. The Patriot Act allowed the Attorney General to function as prosecutor, judge, and jury when it comes to imprisonment and deporting of non-citizens. All he had to do is say he had reasonable grounds to believe that they have engaged in terrorist activity, as broadly defined in the Patriot Act. Such detainees are granted neither opportunity to defend against their classification as terrorists, nor to know why the Attorney General has branded them so. Moreover, the detainees cannot be released from detention even if they prove their innocence in immigration hearings, until the Attorney General lifts the indication.

Actually, John Ashcroft did not need the Patriot Act for his policy of preemption. Shortly after the attacks and before the Patriot was passed, he simply changed the regulations that govern INS detention. By declaration, he expanded from 24 to 48 hours the period the INS could detain someone without charges, and added that in times of emergency, an unspecified 'reasonable' period of time was permissible. This gave the INS agents opportunity to detain people first and then to “*dig up minor immigration violations as justification.*”¹⁹⁶ Although on the surface the policy of detaining people ahead of time before they can do their attacks is logical and sensible, the problem with it is that it undermines one of the fundamental principles of the legal system and democracy: the ability to prove one's innocence. People are locked up on the basis of future crimes, in other

[195][Solomon 2002]

[196][Solomon 2002]

words, things that haven't even happened. Those who have been detained find it impossible to disprove this because there is no proof in a policy of preemption.

Following the detentions, the government claimed to find terrorist “sleeper cells.” But in reality, there was very little evidence that any of those arrested had anything at all to do with terrorist plots. “*The evidence was flimsy and often bizarre,*”¹⁹⁷ e.g. in Detroit a video of a tourist trip to Disneyland by teenagers. Two convictions obtained were cited by officials as successes, but were eventually overturned. In the Buffalo case, six young Yemeni-Americans traveled to Afghanistan in early 2001 and spent weeks in an Islamist training camp, then returned to Lackawanna, a suburb of Buffalo, and did nothing. When one of them, Mukhtar al-Bakri, sent an e-mail from Bahrain, it was interpreted as a coded message and led to arrests. But in fact it was merely a truthful report of al-Bakri’s upcoming marriage. Other cases were even more pitiful. “*It’s a fantasy that it was politically expedient to sell (...) We projected our own worst fears. (...) We have an exaggerated perception of the possibility of terrorism that is quite disabling; we have only to look at the evidence to understand that the figures simply don’t bear out the way that we have responded as a society.*”¹⁹⁸ But the simplistic fantasy served the interests of so many powerful groups that it went unquestioned in media and government discourse.

Some opponents of the secret detentions imply that such detentions are contrary to American democratic principles of openness and freedom. They also criticized the detentions for singling out Arabs, Muslims or foreigners, as an the worst example of racial **profiling**. They claimed that the government had no valid grounds for such a massive number of detentions, especially without any evidence. Several accounts, such the one of a US resident with Egyptian origin, Hady Hassan Omar presented in Matthew Brzezinski's book *Fortress America: On the Front Lines of Homeland Security – An Inside Look at the Coming Surveillance State*, point out to abuses involved in detentions, such as holding detainees for prolonged periods without charges, impeding their access to counsel, coercive interrogations, overriding judicial orders to release them on bond during immigration proceedings. Brzezinski claims, that of the 762 people like Omar detained during the 9/11 investigation on immigration violations, not a single one turned out to have any links to terrorism. There would be human cost to the new counter-terror effort.

“A June 2003 report by the Justice Department's own inspector general, Glenn A. Fine, found Ashcroft's enforcement of immigration laws 'indiscriminate, and haphazard'. The report noted

[197][Curtis 2004]

[198][Curtis 2004]

*'significant problems' in the way the INS and FBI arrested and treated the detainees, a number of whom, it said, were physically and verbally abused. The report also criticized the Justice Department for making no effort to distinguish between legitimate terrorist suspects and innocent individuals who simply got caught up in the sweep.*¹⁹⁹

Although the numbers are decreasing, the polls have shown that a large number of Americans were willing to give up some civil liberties for the sake of security. The Gallup Poll results from January 2002, show that 47% of Americans wanted their government to stop terrorism even if it reduced civil liberties.²⁰⁰ The problem, however, was that citizens did not know much about the long detentions, as they were done in secret. So it was not actually their own freedoms they had been sacrificing. Although this can quickly change, history has shown that many repressive regimes begin by targeting immigrant outsiders, then minorities, and in time the general population. From the invoking of the 1798 Enemy Alien Act during the 1941 internment of Japanese American citizens to Senator Joseph McCarthy's use of the tools of 1919 Palmer Raids in the red witch-hunts of the 1950s, *"the Feds have repeatedly sharpened their teeth on immigrants before closing their repressive jaws on all dissidents and undesirables."*²⁰¹ Indeed, many of the post-9-11 provisions swept into place by Ashcroft – such as those for the tracking and eventual punishment of would-be perpetrators of domestic terrorism, focused primarily on citizens.

3. Surveillance and Privacy

The Orwellian Nightmare

*"Before 9/11 we were fighting with 20th Century tools. Our national security surveillance activities were governed by a law that had been enacted in 1978 – before anyone knew what email was. It did not permit the speed and flexibility needed to identify, and quickly survey, previously unknown threats. We paid a price: in thousands of American lives. (...) America in 2001 said that had to change, so we designed a program to intercept our enemy's international communications, including those that crossed into or out of our country."*²⁰²

In 2002, as a part of ongoing anti-terrorist operations, President Bush secretly authorized the **National Security Agency (NSA)** to spy on Americans and others in the United States making contact with persons in other nations. The NSA monitored the international telephone calls and

[199][Brzezinsky 2004] p. 104

[200][Gallup Poll]

[201][Solomon 2002]

[202][Santorum 2006]

international e-mail messages of hundreds, and perhaps thousands of people inside the US over the past three years without warrants. The authorization, however, was kept secret until December 2005, when it was reported in *The New York Times*²⁰³, immediately sparking a serious controversy over both the legality of the blended international/domestic wiretaps and the revelation of this highly-classified program in a time of war. According to the *Times*, the White House asked them not to publish this article, resulting in the fact that it was delayed for a year in order not to jeopardize investigations.

Traditionally, the FBI conducts most domestic eavesdropping after obtaining warrants for it, while the NSA is limited to the surveillance of foreign nationals and embassies. The Bush's 2002 authorization for the NSA's domestic eavesdropping went even far beyond the jurisdiction granted to the NSA through the Patriot Act.²⁰⁴ Under the Act, it's necessary to seek a FISA warrant every time law enforcement eavesdrops within the US. In this regard, the warrantless spying could be considered unlawful and possibly unconstitutional. Ashcroft's successor, Attorney General Alberto Gonzales, argued in his statement that there was no need to notify Congress because Congress had already implicitly authorized the wiretaps with the Authorization for Use of Military Force (AUMF) *“to use all necessary and appropriate force (...) in order to prevent further attacks on the United States.”*²⁰⁵ On the other hand, Gonzales partly contradicted himself, when he said that the Bush administration chose not to ask Congress for an amendment to FISA to allow such wiretaps more explicitly, because Congress would have rejected the amendment. Instead, President Bush decided only to inform a set of leaders of the Congress colloquially called the Gang of Eight.²⁰⁶ Bush himself, insisted that he has not compromised civil liberties, and fought back saying that revealing classified information is illegal.

3.1 Total Information Awareness

The criticism which sprung up after the late 2005 revelations about the NSA's domestic surveillance, was a culmination of the discontent which was slowly building up ever since the adoption of the Patriot Act. As I have already discussed, the Act was seen as largely disrupting many privacy protections for communications and personal data mainly due to its provisions on

[203][Risen 2005]

[204][Economist 2005]

[205][Gonzales 2006]

[206]The Gang of Eight includes the leaders of each of the two parties from each of the two houses of Congress and the chairs and ranking members of the intelligence committees of each of the two houses of Congress. The current members include J. Dennis Hastert, Nancy Pelosi, Bill Frist, Harry Reid, Peter Hoekstra, Jane Harman, Pat Roberts and John D. Rockefeller IV. [Wikipedia]

National Security Letters (NSL), that authorized the FBI to demand records without prior court approval. But the main attack on privacy was still to come.

In January 2002, the Defense Department established the Information Awareness Office (IAO) in order to bring together several projects of its Defense Advanced Research Projects Agency (DARPA) focused on applying information technology to counter transnational threats to national security. The IAO mission was to *"imagine, develop, apply, integrate, demonstrate and transition information technologies, components and prototype, closed-loop, information systems that will counter asymmetric threats by achieving total information awareness."*²⁰⁷ John Poindexter, former National Security Adviser under President Reagan was named to be IAO's first director.

In 2003, the IAO began funding research and development of the Total Information Awareness (TIA) Program, aim of which was to integrate information technologies into a prototype system to provide tools for better detection, classification, and identification of potential foreign terrorists. In other words, TIA's goal was the creation of a counter-terrorism information architecture that would aggregate all sources of data, thus enabling to follow subject-oriented link analysis through data mining. It was to eventually develop computer dossiers on all Americans, if given the appropriate budget. The civil libertarians, however, rang the bell as they saw its potential for the development of an Orwellian mass surveillance system. The involvement of Poindexter also raised concerns among some, since he had been earlier convicted of lying to Congress in the Iran-Contra Affair.

As a consequence of the public outcry, several law makers, including Senators Feingold and Wyden, introduced legislation to suspend the activity of the IAO and the TIA program until the privacy issues were reviewed. The Pentagon had to prepare a report to Congress assessing the impact of IAO activities on individual privacy and civil liberties, which it did on May 20, 2003. In this report, IAO changed the name of the program to the Terrorism Information Awareness Program and emphasized that the program was not designed to compile dossiers on US citizens, but rather to research and develop the tools that would allow authorized agencies to gather information on terrorist networks.²⁰⁸ Despite the name change and these assurances, the critics still perceived the system as prone to potential abuse. In the end, Congress prohibited the further use of funds for the TIA program and directed that the IAO be terminated immediately.

[207][TIA Program]

[208][Webb 2003]

3.2 National Security Letters

Another feature of the domestic War on Terror that supposedly infringes on citizens' privacy rights, are the National Security Letters. The source of its criticism does not originate merely from the fact that it allows the FBI to demand records without prior court approval, the problem is wider, as anyone who receives an NSL is forbidden, or gagged, from telling anyone about the record demand. Moreover, since the adoption of the Patriot Act in 2001, the number of NSLs issued has seen a hundred-fold increase to 30,000 annually.²⁰⁹ The American Civil Liberties Union has challenged this Patriot Act statute in court with two cases: one involving an Internet Service Provider; the second a group of librarians. In both cases, the judges ruled that the gags were unconstitutional.

The NSLs were created in the 1970s for espionage and terrorism investigations as narrow exceptions in consumer privacy law, enabling the FBI to review in secret the customer records of suspected foreign agents. The Patriot Act, and Bush administration guidelines for its use, permitted NSLs to be used in the investigations of US residents and visitors who are not alleged to be terrorists or spies. The administration, however, has not so far offered any example in which the use of a national security letter helped disrupt a terrorist plot. The explanation for the burgeoning use of NLS can be most probably found in “*an unannounced decision to deposit all the information they yield into government data banks -- and to share those private records widely, in the federal government and beyond.*”²¹⁰ In late 2003, the administration reversed a long-standing policy, which required agents to destroy their files on innocent American citizens, companies and residents once the investigations are over. Prior to this, already in 2002, Attorney General Ashcroft canceled a 1995 guideline directing that information obtained through NSL about a US citizen or resident should be destroyed if it were no longer relevant. Ashcroft's new order was that the FBI retains all records it collects and that it may disseminate them freely among federal agencies. Recently, in October 2005, President Bush signed an executive order,²¹¹ expanding access to those files for “state, local and tribal” governments and for “appropriate private sector entities,” which are not defined.

Although NLS cannot be used to authorize eavesdropping or to read the contents of e-mail, as for this purpose President Bush authorized the NSA, it does permit investigators to trace revealing paths through the private affairs of a modern digital citizen, that is all kinds of records

[209]Figures provided by ACLU www.aclu.org

[210][Gellman 2005]

[211]Executive Order 13388

about where a person “*makes and spends money, with whom he lives and lived before, how much he gambles, what he buys on-line, what he pawns and borrows, where he travels, how he invests, what he searches for and reads on the Web, and who telephones or e-mails him at home and at work.*”²¹² In times before the Patriot Act, the FBI had to have “*specific and articulable*” reasons to believe the records it gathered in secret belonged to a terrorist or a spy. Now the bureau needs only to certify that the records are “*sought for*” or “*relevant to*” an investigation “*to protect against international terrorism or clandestine intelligence activities.*”²¹³ This new procedure enables investigators to look for conspirators by sifting the records of nearly anyone who crosses a suspect's path.

In January 2004, the FBI's office of intelligence began operating a new Investigative Data Warehouse, based on the same Oracle technology used by the CIA. (Though the CIA is generally forbidden to keep such files on Americans.) With this new tool available, the process of data mining intensifies the impact of National Security Letters, because anyone's personal files can be scrutinized again and again, recalling the Total Information Awareness Program. And the data keep piling, as the resistance to NSLs is rare.²¹⁴ Most of the requests aim at large companies in highly regulated industries, with business interests that favor cooperation.

In this regard, it becomes clear that the change in the reauthorization of the Patriot Act, which no longer forces libraries to hand over client information in response to NSLs, only appeased the American Library Association, that was being too loud in its cries for privacy of the reading public. That is not to say that this small win was not important, but in the light of the above revelations, it is obvious that it is no more than a drop in the bucket. The NSLs are neither the only tools the government has found to bore into people's privacy. The Patriot Act authorized, as we know, among other intrusive instruments, roving wiretaps and “sneak-and-peak searches” – covert snooping in people's homes or offices that people might not even get to know about for 90 days. “*In the meantime, the FBI could plant a 'Magic Lantern' on their computers, recording all their keystrokes for the snoop's next visit.*”²¹⁵

[212][Gellman 2005]

[213][Bazan 2004]

[214]Among the few who resisted administration's call for consumers data was the IT giant Google.

[215][Solomon 2002]

B. Checks and Balances

Thinking of the Future

In this chapter, I will not look only at checks and balances in the traditional Montesquieuan sense, referring to a system of government with competing sovereigns (such as a multi-branch government or a federal system), thus checks referring to the ability, right, and responsibility of each power to monitor the activities of the other(s); and balances referring to the ability of each entity to use its authority to limit the powers of the others, whether in general scope or in particular cases.²¹⁶ Rather, I will try to embrace it more broadly. Checks can be conducted also by the non-governmental sector, such as civil rights groups in our case. Moreover, the press can provide substantial checks. It has sometimes been called the fourth branch, or **fourth power**, because of its considerable influence over public opinion, which it wields by widely distributing facts and opinions about the various branches of government. Public opinion, in turn, can affect the outcome of elections, as well as indirectly influence the branches of government by, for example, expressing public sentiment with respect to pending legislation. Concerning balances, I will try to tackle the issue of *balance* between national security and democratic liberties. Let us start with that.

It has now been almost five years since the 9/11 terrorist attacks. As I tried to outline in previous chapters, fundamental changes in domestic law have occurred, new institutions have been created, and unprecedented practices have been adopted. It seems like it is high time to assess many of these changes, perhaps not judging whether these changes were either wise or necessary in the aftermath of the attacks, but to determine whether these changes will be wise for the future. Those found as being excessive, should be abandoned, while the reasonable ones should be kept permanent. Following the attacks, US government has made choices that could permanently alter long accepted US traditions and precedents regarding separation of powers or the rights of citizens, initiating concerns about democratic liberties and lawfulness. These concerns, however, compete with concerns about national security and government's ability to prevent another potential terrorist attacks. Recognizing and, moreover, honoring both sets of concerns simultaneously, might be an almost impossible job to do.

It has mainly been the executive branch gaining powers on behalf of the remaining branches of the US political system. From the **national security** viewpoint, a successful war on terrorism requires giving the President the power and flexibility to respond quickly and effectively to terrorist

[216][Wikipedia]

threats. Historically, the executive branch traditionally exercises broad powers during wartime, and as we know, the war on terrorism is not treated different. It is the President and the executive branch, who have the information necessary to detect and infiltrate terrorist networks. And this information is of course secret. Trying to exercise oversight without knowing facts that must be kept secret would be ineffective at best. Courts and legislatures move too slowly and need information that they cannot safely be given. Oversight of executive actions, “*therefore, should lie exclusively within the operating arms of the executive branch.*”²¹⁷ From the viewpoint favoring **democratic freedoms**, broad, unchecked and largely secretive executive power violates the core principle of separation of powers and is a recipe for abuse, as was the case of Nixonian manipulation in the early 1970s. In many instances, the courts that normally protect individual rights will lack the information, responsibility or expertise necessary for meaningful oversight. So it should be Congress, the so called informed voice of the people, that would review and check any extraordinary executive practices, which might endanger citizens' constitutional freedoms or privacy. All executive actions in these categories should be reviewed periodically. Judicial review would thus be substituted by congressional review.

Can these two competing concerns of national security and democratic freedom be reconciled by any use of legislative and judicial processes to both *support and constrain* executive branch authority? The authors of the project for Preserving Security and Democratic Freedoms in the War on Terrorism would solve the issue in a following way. In their view, the congressional leadership should establish a nonpartisan commission to make findings and recommendations regarding the continuing need for all extraordinary measures. The assessments should “*examine the case for and against the efficacy of new extraordinary measures in light of: the use, or lack thereof, of the measure; the success attained in its use; if such evidence is lacking, the likelihood of the assumptions (in light of history and experience) under which the measure would either be effective or would fail; and the experience of other democracies in utilizing similar measures.*”²¹⁸ The results of the review, would be stripped of the classified information that was made available to the commission, and could be published. Congress should also require each Inspector General (IG) to conduct systematic **reviews** of the usage of extraordinary powers granted to his agency, possibly on an annual basis, for no less than five years. Actually, periodical assessment of particular measures adopted to deal with the dangers of catastrophic terrorism should always be conducted before any trade-offs between liberty and security are made.

[217][Heymann 2004] p. 122

[218][Heymann 2004]

1. Civil Liberties

Freedoms at Stake

Most of the criticism the US government earned from the groups involved in protecting civil liberties, centered on the Patriot Act, which was passed with very little debate and no public discourse only 45 days after 9/11, when emotions ran high and lawmakers were under pressure to do something, pass anything, in response. Some Members of Congress reportedly had less than an hour to read the extensive changes in the law before voting.²¹⁹ Critics claim that some portions of the Act are unnecessary and allow the law enforcement authorities to infringe upon citizens' freedom of speech, freedom of the press, freedom of association, due process protection, human rights, and right to privacy. The strongest controversy is associated with the National Security Letters, which can be issued on the basis of being “relevant for an ongoing investigation concerning international terrorism or clandestine intelligence activities”, thus contradicting the institute of probable cause as it was outlined in the Bill of Rights (specifically the fourth amendment).²²⁰ Government investigators can under these circumstances look into personal records (including financial, medical, phone, Internet, or student records). So far, the libertarians have not succeeded in their quest to repeal the controversial parts of the Patriot Act (except for the exclusion of library records in the reauthorization of the Act), but they did manage to avert the new Patriot Act II with its sharp criticism after it was leaked. According to a Georgetown law professor David Cole:

*“The Bush Administration’s draft Domestic Security Enhancement Act of 2003 would radically expand law enforcement and intelligence gathering authorities, reduce or eliminate judicial oversight over surveillance, authorize secret arrests, create a DNA database based on unchecked executive ‘suspicion,’ create new death penalties, and even seek to take American citizenship away from persons who belong to or support disfavored political groups.”*²²¹

Regardless of the partial success mentioned above, there remains to be a number of other instances when civil rights and liberties are being curtailed. Of the latest date, it concerns the disclosed eavesdropping by the NSA. Libertarians, however, are fighting back, even with lawsuits against the executive power. On the other hand, minds of ordinary people have changed as to what they accept as reasonable trade-off in the balancing between public safety and private freedoms.

[219]According to ACLU sources at www.aclu.org

[220][Connell 2002]

[221][Aden 2003]

They are more tolerant of the government's intrusions now than they were in, let's say 2000, but less than in the months following the attacks. The further the calendar moves from 9/11 without major terrorist incident, the less tolerant people may become of the intrusive measures that impinge on their privacy. The pendulum is swinging. The first victims of the back-swing were e.g. the Patriot Act II or the Pentagon's Total Information Awareness Program mentioned earlier.

If we look back in American **history**, we can find several pieces of legislation that severely curtailed liberties of certain groups of US residents, be it the 1798 Enemy Alien Act, 1917 Espionage Act, 1918 Sedition Act, or 1940 Smith Act.²²² When these acts are looked upon from today's perspective, we can say with Ronald Reagan²²³, that they were acts of war hysteria. Who knows how people will judge the post-9/11 era with the advantage of having a time perspective. (Perhaps as a period of limited, but still some personal freedom?) The important lesson from the history, if it can teach anything, is that although balanced against security concerns at a time of war, civil liberties spring back to full force when danger has passed. The question is, however, if the war on terrorism is not endless. With the prolonging War in Iraq, "*those springs could get mighty rusty.*"²²⁴ Moreover, Americans also have a history of fighting for their freedom and independence. Starting from the colonial times, the founders had a strong sense of the old English maxim "*a man's house is his castle.*" And they hated the government's "*knock at the door.*"²²⁵ So they fought a war to stop it. Once free of that government, they created a new one based on laws to protect liberty, and this time they were determined to put a short, tight leash on government's inherently abusive search powers. That is why they enacted the Fourth Amendment. The American political system was set up on the assumption that you can't rely on the good will of people with power.

2. The Fourth Branch

Mediacracy And Mediocrity

I already suggested that the fourth branch, that is the media, exerts large influence upon public opinion, and thus it can exercise some checks on the power of the government. It can and in the past, it did as for example in the Watergate scandal; where two Washington Post reporters exposed government *corruption* and cover-up at the highest levels of government. This exposure caused many individuals to either resign, be fired, or prosecuted. The situation changed in the last

[222][Tindall - Shi 1994]

[223][Goldberg 2003]

[224][Solomon 2002]

[225][Hightower 2006]

two decades after the large Media Conglomerates took over the television, radio, newspapers, magazines, music, publishing and film, leading to unprecedented corporate **media consolidation**. The US media was already fairly homogeneous in the early 1980s, when around fifty media conglomerates dominated all media outlets, but in the year 2000, just six corporations dominated.²²⁶ It is well known that Media Conglomerates are staunch supporters of various government officials and patterns of past performance have indicated that the conglomerate editorializing have usually been in favor of such officials.²²⁷ The coverage of the War on Terrorism was not any different. In this War, the media fought their Battle to Shape Opinion.

*“Something very strange happened to the US media in the wake of September 11. It became deeply emotionalized for entirely understandable reasons, but out of this came an inability to discuss all of this except in emotional terms. People on US television adopt positions on the left or right, and shout at each other. I find this reaction to the new terror threat astonishing, because in the 80s we in London lived with IRA bombings all the time. That was a frightening time, and we took it calmly and boldly. Now, if an Islamist attack went off on a similar scale to an IRA bombing, there would be mass panic. What’s so fascinating is why we’ve become so emotionalized.”*²²⁸

The media, just like the politicians, contributed to spreading of fear. Actually, they worked in cooperation, since war is often the BIG story. While it brings devastation and death to some people, it delivers ratings and, ironically, it brings life to TV. Soon after the initial attacks, TV retorted to something which might be called terror-tainment with slogans and titles I mentioned in the first chapter. The media, somehow failed to bring a broader picture of the whole issue. Instead, it *“stuck like a needle on a record, in the A's (Airplane attacks, Anthrax, and Afghanistan), never reaching the rest of the alphabet, except for a few O's (Osama, Omar).”*²²⁹ Besides, a period of patriotic correctness began, resulting in corporate censorship as well as *self-censorship*. Several editorial writers were fired and cartoonists dropped. In the *New Yorker*, for instance, the question was raised whether it is more cowardly to commandeer a commercial airliner and pilot it into the World Trade Center, bomb Serbians from 15,000 feet, or direct a cruise missile attack against bin Laden from several thousand miles away.²³⁰ The official response came from Ari Fleischer, White House Press Secretary, saying people like the the author of the question *“should watch what they*

[226]Based on the findings of a largely independent news program Democracy Now! www.democracynow.org

[227][Wikipedia]

[228][Curtis 2004]

[229][Goldberg 2003] p. 165

[230][Der Derian 2001]

say, watch what they do.” Attorney General Ashcroft then added: *“To those who scare peace-loving people with phantoms of lost liberty, my message is this: Your tactics only aid terrorists.”*²³¹

The government evidently used the media to promote its actions. Starting with the first Gulf War, the politicians realized it pays off to bring the press on board. During the Operation Desert Storm, the media managers boasted about the great job they did. At the same time, Jimmy Carter's former PR manager noted: *“If I were the government, I'd be paying the press for the coverage it's getting.”*²³² The situation with the new War on Terror is not any different. The same tactics was being used, getting press on board and keeping the critics off the air. Some even regretted that this censorship *“effectively deprived most Americans of the opportunity to hear bin Laden and to improve their regrettably slim and shallow understanding of this man: his grievances, goals, dreams and delusions, his relative degree of rationality, as compared to the genuinely monstrous qualities of his resentment.”*²³³ But the media were allocating little space not only to videos of bin Laden, or al-Jazeera, that would still be understandable, but to the domestic critics, much less to harder-line opponents of the government's policy. This became obvious especially when compared with the more colorful coverage of the War on Terror in Europe.

3. Presidential Powers

Another Imperial President

Republican George W. Bush was elected President in late 2000, winning over former Clinton's Vice President Al Gore in one of the closest Presidential elections in US history, with the final result being reached after numerous court challenges and recounts, only by 537 votes separating the candidates in the swing state of Florida, making the elections highly controversial. It was only the fourth time in US history, and the first time in over 100 years, that a candidate had won the Presidency while losing the nationwide popular vote. Upon taking the oath of office, George Bush thus became President to all the American citizens, most of whom did not vote for him. On September 10, 2001, he held among the lowest ratings of any modern president for that point in a first term. (Only Gerald Ford, his popularity reeling after his pardon of Nixon, had comparable numbers.)²³⁴ The attacks the following day transformed Bush's presidency, giving him an extraordinary opportunity to become great through the governmental reform.

[231][Solomon 2002]

[232][Goldberg 2003] p. 167

[233][Lincoln 2002]

[234][Wilentz 2006]

The Bush administration did not achieve many of its aims prior to 9/11, not only on the counter-terrorist agenda. The ensuing crisis, however horrifying, quickly became an issue Bush could *exploit for political gain*, not only in battling Congress over his previously unachieved agenda, but also in preparation for the 2002 midterm elections. Bush's strategists must have realized that homeland security could become a key Bush legacy and an issue on which the president could define himself. The establishment of the Office of Homeland Security (OHS) then became the tool for this transformation, enabling the White House to hammer out and then control the national strategy for fighting terrorism. Given the old rivalries among individual intelligence agencies and the Pentagon, the White House rightly predicted that it will be the OHS to become a platform for any future reconciliation and coordination. Through OHS, the Bush Administration could stay ahead of the other agencies and thus receive full *credit* for the national security effort.²³⁵

Bush and his administration had long been opposed to the idea of creating a new department out of the OHS, but when Senator Lieberman's bill was gaining momentum in the Congress, Bush made an opinion switch and the White House began orchestrating its own DHS. In the meantime, the war on terrorism became the centerpiece of the Republican strategy to win back the Senate and keep control of the House in the November 2002 midterm elections. Eventually, with re-branding of the Lieberman's bill, the Republicans retook control of both houses, receiving credit for the anticipated Department of Homeland Security. Although this could be taken as a brilliant political move, which it in fact was, if we look at it from the citizen's point of view, the creation of the new department was highly *irresponsible*. Especially since it was neglected right after its conception. The result, as it was described in earlier chapters, is that the DHS became largely dysfunctional and unresponsive to its the homeland security mandate.

Cashing on the above actions together with initially successful campaign abroad, Bush's popularity was soaring. With the first problems in Iraq, however, it began going down again. George W. Bush still managed to win re-election in late 2004, but the number of his critics keeps rising. The current US President is often being accused of usurping too much power for the executive branch, specifically for his office, which reminds of the “imperial presidency”, term used to referring to the expanded role of the office that Franklin D. Roosevelt maintained during his term. If we let one of the many Bush's critics speak, it can go like that:

“There are many reasons to impeach Bush. His flagrant disregard for international law, US civil liberties, the separation of powers, public opinion, and human rights associate Bush

[235][Gillies 2005]

with the worst tyrants of the 20th century. It is true that Bush has not yet been able to subvert all the institutions that constrain his executive power, but he and his band of Federalist Society lawyers have been working around the clock to eliminate the constraints that the US Constitution and international law place on executive power.”

The above statement is of course, highly exaggerated, but it does have a point that President Bush sometimes exercises his power at the expense of the remaining two branches. As to the **judicial power**, Bush tried to bypass its review.²³⁶ In the past, he has authorized the NSA to perform warrantless eavesdropping. He has also issued several controversial executive orders, among them being one to create military tribunals in which 'enemy combatants' could be arrested, tried, convicted, and sentenced to death entirely in secret and with no opportunity for judicial review. Another rescinded the planned release of the papers of former presidents, effectively closing the public record.²³⁷ Civil liberties activists, joined by congressional Democrats, suggest the president has pushed the envelope too far – he is usurping authority from **Congress**, too. Bush has been making greater use than any other president of adding 'signing statements' to bills passed by Congress that he intends not to follow, thus making law makers' work in vain. Opponents of this instrument argue, that the President should express his concerns to Congress prior to signing, or he should use a veto.²³⁸ Similarly, more than any of his predecessors, Bush has invoked the 'state secrets privilege' to block lawsuits that would supposedly harm national security. He used it e.g. in relation to the disclosed NSA's eavesdropping, when he blocked a suit by the American Civil Liberties Union, or he used it to block a case brought by Khalid el-Masri, the German who claims to have been mistakenly tortured under the CIA's clandestine 'rendition' program.²³⁹

Although Americans have a strong system of **checks and balances** in place, in the course of their history, presidents have tried to annul citizens' basic right to be left alone. John Adams imposed the infamous Alien and Sedition Acts; Abraham Lincoln suspended habeas corpus during the Civil War; Woodrow Wilson conducted the Palmer Raids; Franklin Delano Roosevelt interned Japanese-Americans and others; Lyndon B. Johnson and Richard Nixon used the COINTEL program to spy on war protesters and civil rights activists.²⁴⁰ As a result of presidential abuse during the Watergate era, legal fire walls were erected. The Patriot Act enacted shortly after 9/11, effectively tore them down in the name of fighting terrorists. In each of the previous cases, the

[236][Biskupic 2004]

[237][Solomon 2002]

[238]On July 19, 2006, President Bush exercised his veto power for the first time in his presidency, blocking federal funding for stem cell research.

[239][Seattle Post 2006]

[240][Tindall - Shi 1994]

abuses were but temporary, because Americans rebelled and gradually brought the government back in line with the country's traditional belief that privacy, a basic human right, is a cornerstone of democracy. As somebody wise pointed out, “*if privacy is outlawed, only outlaws will have privacy.*” Time has come and the public, as well as the media, begin to seriously question the consequences of the new legislation enacted after 9/11. If similar issues such as the NSA's secret eavesdropping authorized by President Bush prove in the future to have violated the civil liberties of mainstream peace groups or members of the press, the outcry might produce an overreaction like the one following the Watergate Scandal.²⁴¹ If not, then only time will tell if the Bush's power expansion will become **permanent** or remain **transitory**. Just like in the past, however, people can decide what they wish and act accordingly. The next elections are due this fall.

[241][Thomas 2006]

V. Summary and Conclusion

Recapitulation

On September 11, 2001, the United States experienced a tremendous shock after the terrorists attacked it on the American soil, destroying several buildings and killing 3,000 mostly civilian people. The terrorists targeted the Pentagon – the embodiment of American military might, and the World Trade Center – the symbol of US unmatched prosperity. These fatal attacks reminded ordinary Americans as well as their leaders, that their country was not immune to the terrorist threat and America's *superiority* in the world was seriously put into question. First then it was realized that the United States failed to adapt to the new situation following the end of the Cold War, since it did not identify and invest in the prevention of the main security problems of the new era, such as to *catastrophic terrorism*. This is rather surprising, as there was a slow but certain build-up in the terrorist activity aimed against the United States up to the 9/11, when the *security bubble* eventually burst. The primary reason for this failure can be found in the *political climate* then hostile to big government, which did not favor any substantial investment into defense and security. Instead, American people in the 1990s preferred to enjoy the so called Cold War *peace dividend*, which allowed them to experience a period of unprecedented prosperity – up to 9/11.

On the infamous day, America was not ready. Its emergency system, which should have set certain protective mechanisms into motion, simply failed. The terrorists defeated all the civil aviation security layers without facing any major obstacles, because the individual layers did not meet the demands of the 21st century threats. The agencies designed to respond to the state of emergency, that is the FAA and the NORAD, did not follow the existing protocols for such situations; they improvised instead. The result was that the terrorists succeeded in hitting their targets. Part of the blame went to the National Chain of Command, too, which stayed out of the loop, practically making the fulfillment of several protocols impossible. Immediately following the attacks, the country was put on hold as to prevent next possible attack. The process of identifying the terrorists began, soon pointing to Osama bin Laden and al-Qaeda. The Congress, just three days after 9/11, adopted a joint resolution authorizing the President to use all necessary and appropriate force against terrorists and their harborers. In accordance with Congress' joint resolution, President Bush declared national emergency. An interim regulation was announced, allowing non US citizens suspected of terrorism to be detained without charge, leading to detention of hundreds.

It became obvious, however, that the terrorists' success was not merely a consequence of the failures of the particular agencies and people involved in protection of the American airspace on that tragic day. The problem was also structural. The attacks should have been prevented or stopped long before the terrorists' feet descended on the airports' ground on 9/11. It was time for the US policy-makers to rethink the security issues and develop instruments to protect the homeland virtually from scratch. The dust had barely settled before the White House announced the creation of a new Office of Homeland Security, making it responsible for the coordination of the overall national response. Director of the OHS became the President's National Homeland Security Adviser. The administration also asked the Congress to furnish it with the tools to fight terrorism, which was provided in the form of the USA PATRIOT Act. This hurried piece of legislation then gave broad and almost unprecedented powers to the Justice Department and increased the authority of several agencies within the Intelligence Community. The FAA took action to strengthen airport security, the FBI was re-oriented to focus on prevention rather than investigation, and the Department of Defense restored defense of the homeland as its main priority, though later stretching the defense lines overseas, so that it would not have to fight terrorism in the United States. The key changes, however, were still to come.

The major reorganization step came with the establishment of a new Cabinet-level Department of Homeland Security in late 2002. Initially, the White House opposed the creation of a new department, which would synthesize intelligence, secure borders, protect infrastructure and prepare for the next catastrophe, but it soon embraced the idea, presenting it as the administration's answer to the *urgent and overriding* mission of securing the homeland. The new department, which combined twenty two existing agencies and more than 180,000 federal employees in the largest federal governmental overhaul since WW2, was designed in secrecy and haste in the White House basement. As a result, the detailed issues had to be fought out after the DHS began operating, leading to bureaucratic battles over turf and making the department slow and ineffective. Another problem arose from the fact that the DHS was assigned the responsibility of defending the homeland without the investigative, intelligence and military powers of the FBI, CIA and the Pentagon. Moreover, not long after establishing the department, the White House withheld its support from the DHS and began undermining its mission, which might inspire speculations that the department was used only as a topic for the 2002 congressional elections campaign in order to take the wind out of the Democrats' sails. All in all, more than three years after its creation, the Department of Homeland Security still has not come up to expectations.

The investigations into the failures to prevent 9/11 attacks have shown, that the Intelligence Community's noncooperation was largely responsible. Its various parts – the individual agencies, did not share information, each following its own set of entrenched interests. But this was about to change soon. First improvement in sharing came with the establishment of the Terrorist Threat Integration Center (TTIC) in May 2003, though it still left many former deficiencies in intelligence unaddressed. The long-expected significant overhaul happened with the Intelligence Reform and Terrorism Prevention Act in late 2004, which instituted the National Counter-terrorism Center (NCTC) and the position of Director of National Intelligence (DNI) with the aim to mend two widely acknowledged problems. The first was the Intelligence Community's pre-9/11 failure to collect and share information, the second problem was the confusion and competition produced by post-9/11 attempts to fix the first problem. While many experts welcomed the new post of the DNI, they pointed out, that his or her powers were too weak to adequately lead and improve the performance of the Intelligence Community. DNI still has to fight over competence with the Defense Department, although unlike in the Cold War, the Secretary of Defense does not need to own the most intelligence assets. Also, the US has 16 intelligence agencies and many with seemingly overlapping missions, but for the unity of effort, fewer agencies are needed.

The efforts to enhance the US homeland protection capabilities have had some side effects, and they are serious indeed. There are various ways in which the new laws, regulations, and acts threaten various constitutional protections. Most of the criticism is centered on the Patriot Act, portions of which are supposedly unnecessary, allowing the law enforcement authorities to infringe upon citizens' rights, freedoms and liberties. Huge controversies surround the National Security Letters, which contradict the constitutionally guaranteed institute of probable cause. Passionate debate was lit up by the disclosure of the President's 2002 authorization for the National Security Agency's domestic eavesdropping, which went even further beyond the jurisdiction granted to the NSA through the Patriot Act. First now, almost five years after the attacks, the general public and the media begin to question the trade-offs between security and civil liberties. Civil libertarians, however, have called for a broader debate on the issue of balancing the two values from the very days following the 9/11 attacks. Another outcome of the post-9/11 changes is the system of checks and balances being deflected toward executive power. The executive branch has in many cases circumvented the judicial, as well as the legislative branch in pursuing its counter-terrorist and protective activities. The President, as most of his predecessors during war-time periods, has usurped a big share of power. But as history teaches us, the pendulum is swinging.

Conclusion

*“In wartime, government calls for greater powers, and then the need for those powers recedes after the war ends. This struggle will go on. Therefore, while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.”*²⁴²

In the beginning of this paper, I have stated my objectives as follows: firstly, to analyze the issue of security versus liberty in connection to the changes carried out on the homeland security field, and secondly, to determine whether these changes are likely to become permanent. I have tried to examine all the major changes as thoroughly as possible, and these are my answers:

Has the US government gone too far in limiting the rights and freedoms of its citizens, while trying to protect them from another attack? In my opinion, given the knowledge from the various sources of information I researched, the government has *overreacted*. It might be understandable that the government employed stricter measures in the light of the tragic events, but it should have done it after some kind of public *discourse*, neither hastily, nor secretly. The concept of preventive detentions, which the DOJ used in the first weeks after 9/11, is *untenable*, because it does not provide for any form of defense. The use of National Security Letters (NSLs) is faulty at least, since it does not honor the principle of *probable cause*. The collection of information collected through NSLs and the subsequent data mining, largely *infringes* upon people's privacy, also building a considerable potential for *abuse*. Similar applies to eavesdropping. The only check that these practices do not cross a certain line, is an independent judicial review. In many cases, this has been circumvented. The line of other governmental intrusions is much longer. It appears that the Bush Administration has gambled unnecessarily with the balance of powers and the respect for individual rights that have shaped American democracy for more than two hundred years.

Are Americans any safer now? I would say yes, but very little. Various reports suggest that some important steps in securing American homeland have been taken. They add, however, that still much remains to be done. If America is to stay an *open society*, it can never protect all of its assets all of the time. It should, certainly, protect those elements of the society, that enable it to function. Any country, not only the United States, can strive for security, but not for *immunity*. America is building a layered defense, which should increase the chances of interdicting any future attacks, and it attempts to improve the resilience of the society if attacks are not interdicted. Unfortunately, the progress is very slow. One of the reasons is that it heavily invests in the wars it

[242][9/11 Commission Report 2004] p. 394

wages abroad, leaving the defense of homeland relatively underfunded. At the same time, the remaining resources are *misallocated*. In other words, Americans are not much safer, as that is almost impossible, but they are at least aware of the threats, which thus become lesser.

Was the trade-off necessary? Considering the Americans did receive only very little safety for the mostly involuntary cut into their liberties, the answer is obvious. They have only experienced infringements of their rights without getting much in return, so it cannot even be called a trade-off. Many argue that some of the measures put in place to enhance the fight against terrorists are unnecessary, the same goals could be reached with the previously existing instruments, without undermining the democratic norms. Another thing is, that a good deal of the newly applied measures does not produce the expected results, thus putting their very use into question. It may happen soon, that instead, we will be examining the trade-off between governmental intrusion and government's popularity. The more intrusion, the lower approval of the government, and vice-versa.

What should be the proper balance between security, liberty and democracy like? First of all, I should note that in my view, not entirely insignificant shift in balance among legislative authority, judicial powers, individual rights and executive authority has occurred. It was the consequence of a national security viewpoint being applied after the 9/11. Equally important, however, there is the democratic freedoms viewpoint as a counterweight to the former. These two concerns compete, but I believe that they can be reconciled, if necessary. In any case, the Congress should enact rules and standards for the exercise of executive power, such as establishing nonpartisan commissions to review the extraordinary measures. Periodical assessment of such measures should always be conducted before any trade-offs between liberty and security are made, because otherwise the practices developed in the face of an immediate threat may stay in the system for decades, long after the dangers have passed. Moreover, the public should not be left out. In a perfect democracy trying to strike a balance between civil liberties and national security, there would be a reasoned, open debate between representatives of the different branches of the government, including the public and the *independent* media. Unfortunately, politics does not work that way.

Are these changes likely to become permanent? This question goes beyond the scope of my thesis, as it would require a prophet. Based on the historical evidence, I can only try to make an educated guess: If the history can teach, then the governmental intrusions will sooner or later produce backlashes. Ironically, it can end up with another overreaction.

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B. Bibliography

- ABRAMOWITZ, Morton 2001. So Quiet at the Top. *Washington Post*. September 11, 2001. . ISSN: 0033-3697.
- ADEN, Steven H 2003. *Taking Liberties in the War on Terror: The Justice Department's "Patriot Act II"* [online]. February 26, 2003. [cit. 2006-05-03]. URL: <http://rutherford.org/articles_db/legal_features.asp?article_id=36>.
- ARONSON, Barton 2001. *SAFETY FIRST: The Law Governing Our Borders And Skies* [online]. 2001. [cit. 2006-04-18]. URL: <<http://writ.news.findlaw.com/aronson/20010927.html>>.
- BABINGTON, Charles 2006. Patriot Act Compromise Clears Way for Senate Vote. *Washington Post*. February 10, . . . ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/wp-dyn/content/article/2006/02/09/AR2006020902140.html>>.
- BARR, Stephen 2006. Security Won Out Over Workers, Study Says. *Washington Post*. July 25, 2006. . ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/wp-dyn/content/article/2006/07/24/AR2006072401089.html>>.
- BAZAN, Elizabeth B 2004. *Intelligence Reform and Terrorism Prevention Act of 2004: "Lone Wolf" Amendment to the Foreign Intelligence Surveillance Act* [online]. December 29, 2004. [cit. 2006-05-12]. URL: <<http://www.fas.org/irp/crs/RS22011.pdf>>.
- BISKUPIC, Joan 2004. High Court Protected Liberties By Limiting Presidential Power. *USA Today*. July 2, 2004. p. 4A. ISSN: 0161-7389.

- Bremer Commission 2000. *Countering the Changing Threat of International Terrorism* [online]. June 2000. [cit. 2006-05-11]. URL: <<http://www.mipt.org/bremerreport.asp>>.
- BROOK, Douglas - KING, Cynthia - ANDERSON, David - BAHR, Joshua 2006. *Legislating Civil Service Reform: The Homeland Security Act of 2002* [online]. June 22, 2006. [cit. 2006-06-30]. URL: <<http://www.nps.navy.mil/gsbpp/CDMR/pdf/Legislating%20Civil%20Service%20Reform%20--%20The%20Homeland%20Security%20Act%20of%202002.pdf>>.
- BROOKES, Peter 2004. *Spook Shakeup* [online]. April 19, 2004. [cit. 2006-04-23]. URL: <http://www.military.com/NewContent/0,13190,Brookes_041904,00.html?loc=OPED>.
- BRUBAKER, Bill 2006. Bush Signs New Version of Patriot Act. *Washington Post*. March 9, 2006. . ISSN: 0033-3697. Available from: <<http://www.washingtonpost.com/wp-yn/content/article/2006/03/09/AR2006030901307.html>>.
- BRZEZINSKY, Matthew. *Fortress America: On the Front Lines of Homeland Security*. First Edition. New York: Bantam Books, 2004. xxiv, 243 p. ISBN 0-553-80366-2.
- BUSH, George 2003. *State of the Union Address* [online]. January 28, 2003. [cit. 2006-04-18]. URL: <<http://www.usa-presidents.info/union/gwbush-3.html>>.
- BUSH, George 2003. *Remarks by the President at Swearing-In of Tom Ridge* [online]. January 24, 2003. [cit. 2006-04-13]. URL: <<http://www.whitehouse.gov/news/releases/2003/01/20030124-5.html>>.
- BUSH, George 2002. *Message to the Congress of the United States* [online]. July 18, 2002. [cit. 2006-04-12]. URL: <<http://www.whitehouse.gov/news/releases/2002/06/20020618-5.html>>.
- BUSH, George 2002. *State of the Union Address* [online]. January 29, 2002. [cit. 2006-03-15]. URL: <<http://www.usa-presidents.info/union/gwbush-2.html>>.
- BUSH, George 2001. *Remarks by the President* [online]. September 16, 2001. [cit. 2006-05-03]. URL: <<http://www.whitehouse.gov/news/releases/2001/09/20010916-2.html>>.
- BUSH, George 2001. *Statement by the President in His Address to the Nation* [online]. September 11, 2001. [cit. 2006-04-25]. URL: <<http://www.whitehouse.gov/news/releases/2001/09/print/20010911-16.html>>.
- CARAFANO, James Jay 2005. *Top Homeland Security Priorities for the Next Four Years* [online]. January 11, 2005. [cit. 2006-04-30]. URL: <<http://www.heritage.org/Research/HomelandDefense/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=73508>>.
- CARTER, Ashton B. 2001. The Architecture of Government in the Face of Terrorism. *International Security*. Winter, 2001, Vol. 26, Iss. 3. p. 5. ISSN 0162-2889.
- Center for Democracy and Technology 2001. *Anti-Terrorism Legislation Gutting Privacy Standards Becomes Law* [online]. October 26, 2001. [cit. 2006-04-25]. URL: <http://www.cdt.org/publications/pp_7.11.shtml>.
- CLARKE, Richard A. *Against All Enemies: Inside America's War on Terror*. First Edition. New York: Free Press, 2004. 316 p. ISBN 0-7432-6045-7.
- CLINTON, Bill 1995. *State of the Union Address* [online]. January 24, 1995. [cit. 2006-05-09]. URL: <<http://www.usa-presidents.info/union/clinton-3.html>>.
- CLINTON, Hillary 2003. *"To Provide for the Common Defense" As Prepared Speech* [online]. January 24, 2003. [cit. 2006-04-15]. URL: <<http://clinton.senate.gov/news/statements/details.cfm?id=233779>>.
- CONNELL, Christopher 2002. *Homeland Defense and Democratic Liberties. An American Balance in Danger?*

- [online]. July 2, 2002. [cit. 2006-04-05]. URL: <<http://www.carnegie.org/sub/pubs/homeland.pdf>>.
- COOK, Robin 2005. The struggle against terrorism cannot be won by military means. *The Guardian*. July 8th, 2005. . ISSN: 0017-5021. Also available from: <<http://www.guardian.co.uk/terrorism/story/0,12780,1523838,00.html>>.
- CULLEN, Kevin - RANALLI, Ralph 2001. Flight School Says FBI Trailed Suspect Prior to Hijackings. *Boston Globe*. September 18, 2001. . ISSN: 0276-3583.
- CURTIS, Adam 2004. *The Power of Nightmares: The Rise of the Politics of Fear* [online]. 2004. [cit. 2006-07-15]. URL: <<http://video.google.com/videoplay?docid=-1002626006461047517>>.
- DAALDER, Ivo - LAKE, Anthony 2004. Smart Choices About Intelligence Reform. *Boston Globe*. August 19, 2004. p. A17. ISSN: 0276-3583.
- DALGAARD-NIELSEN, Anja. *Homeland Security: American and European Responses to September 11th* in Thomas Jäger, Alexander Höse and Kai Oppermann (eds.) *Transatlantische Beziehungen*. First Edition. Wiesbaden: VS Verlag für Sozialwissenschaften, 2005. 540 pages ISBN 3-5311-4579-7.
- DER DERIAN, James 2001. *9-11: Before, After, and In Between* [online]. 2001. [cit. 2006-04-16]. URL: <http://www.ssrc.org/sept11/essays/der_derian.htm>.
- DeYOUNG, Karen 2006. A Fight Against Terrorism -- and Disorganization. *Washington Post*. August 9, 2006. A01. ISSN: 1064-4326. Also available from: <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/08/AR2006080800964_pf.html>.
- DWYER, Jim 2004. Families Forced a Rare Look at Government Secrecy. *New York Times*. July 22, 2004. p. A14. ISSN:0028-7822.
- Editorial Board 2006. The Presidency: Abuse of power. *Seattle Post Intelligencer*. June 26, 2006. . ISSN: 0745-970X. Also available from: <http://seattlepi.nwsourc.com/opinion/275153_secretse.asp>.
- EGGEN, Dan 2006. 9/11 Panel Suspected Deception by Pentagon. *Washington Post*. August 2, 2006. . ISSN: 0033-3697. Also available from: <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/01/AR2006080101300_pf.html>.
- European Commission 2001. *EU Action Plan to Combat Terrorism* [online]. September 21, 2001. [cit. 2006-04-13]. URL: <http://europa.eu.int/comm/justice_home/news/terrorism/documents/concl_council_21sep_en.pdf>.
- FAINARU, Steve - GRIMALDI, James 2001. FBI Knew Terrorists Were Using Flight Schools. *Washington Post*. September 23, 2001. A 24. ISSN: 1064-4326. Also available from: <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A10840-2001Sep22>>.
- FEINGOLD, Russ 2001. *Senate Hearing on Protecting Constitutional Freedoms in the Face of Terrorism* [online]. October 4, 2001. [cit. 2006-05-03]. URL: <<http://www.videoactivism.org/Feingold.html>>.
- FIORILL, Joe 2004. *U.S.-Style Antiterrorism Changes Floated for European Union Amid Chafing at U.S. Policies* [online]. October 28, 2004. [cit. 2006-04-02]. URL: <http://www.nti.org/d_newswire/issues/2004/10/28/aadc3808-fd5c-49c7-b6cd-be65bc2f2b9b.html>.
- FREEDMAN, Lawrence 2002. *Out of Nowhere?* [online]. 2002. [cit. 2006-04-11]. URL: <http://www.bbc.co.uk/history/recent/sept_11/build_up_01.shtml>.
- GELLMAN, Barton 2005. The FBI's Secret Scrutiny. *Washington Post*. November 6, 2005. A01. ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/wp-dyn/content/article/2005/11/05/AR2005110501366.html>>.

- GETTER, Lisa - MEHREN, Elizabeth - SLATER, Eric 2001. FBI Chief Raises New Doubts Over Hijackers' Identities. *Los Angeles Times*. September 21, 2001. . ISSN: 0458-3035.
- GILLIES, James 2005. *The Creation of the DHS: Lessons Learned Two Years On* [online]. June 4, 2005. [cit. 2006-04-20]. URL: <<http://www.cpsa-acsp.ca/papers-2005/Gillies.pdf>>.
- GLASSER, Susan B. - GRUNWALD, Michael. 2005. Department's Mission Was Undermined From Start. *The Washington Post*. December 22nd, 2005. . ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/wp-dyn/content/article/2005/12/21/AR2005122102327.html>>.
- GOLDBERG, Danny - GOLDBERG, Victor - GREENWALD, Robert (editors). *It's a Free Country: Personal Freedom in America after September 11*. First Edition. New York: TMouth Press, 2003. 335 p. ISBN 1-56025-522-6.
- GONZALES, Alberto R 2006. *Prepared Statement of Hon. Alberto R. Gonzales* [online]. February 6, 2006. [cit. 2006-04-18]. URL: <http://www.usdoj.gov/ag/speeches/2006/ag_speech_060206.html>.
- GRUNWALD, Michael - GLASSER, Susan B 2005. Brown's Turf Wars Sapped FEMA's Strength. *Washington Post*. December 23, 2005. . ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/wp-dyn/content/article/2005/12/22/AR2005122202213.html>>.
- HALL, Mimi 2006. Brain drain hits Homeland Security. *USA Today*. March 28, 2006. . ISSN: 0161-7389. Also available from: <http://www.usatoday.com/news/washington/2006-03-28-homeland-security_x.htm>.
- HAM, Shane 2003. Homeland Failure. *Blueprint Magazine*. November 20, 2003, No. 5. . ISSN 0268-4926.
- HEISBOURG, Francois 2004. *European Homeland Security Post-March 11 and Transatlantic Relations* [online]. October 2004. [cit. 2006-04-22]. URL: <http://shop.ceps.be/downfree.php?item_id=1164>.
- HEYMANN, Philip B. - KAYYEM, Juliette N 2004. *Preserving Security and Democratic Freedoms in the War on Terrorism* [online]. November 16, 2004. [cit. 2006-04-15]. URL: <http://bcsia.ksg.harvard.edu/BCSIA_content/documents/LTLS_final_5_3_05.pdf>.
- HIGHTOWER, Jim 2006. *Bush's Imperial Presidency* [online]. April 26, 2006. [cit. 2006-04-23]. URL: <<http://www.alternet.org/columnists/story/35040/>>.
- HOLLANDER, Paul 2002. The Resilience of the Adversary Culture. *The National Interest*. Summer, 2002. p.. ISSN 0884-9382. Also available from: <http://www.findarticles.com/p/articles/mi_m2751/is_2002_Summer/ai_87720938>.
- HOMELAND SECURITY ACT OF 2002 (An Act to Establish the Department of Homeland Security, and for Other Purposes). H.R.5005. Jan. 23, 2002.
- House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence 2002. *The Joint Inquiry* [online]. February 2002. [cit. 2006-05-03]. URL: <<http://www.gpoaccess.gov/serialset/creports/911.html>>.
- HSU, Spencer S 2006b. Homeland Security Slow to ID Targets Needing Protection. *Washington Post*. July 16, 2006. . ISSN: 1064-4326. Also available from: <<http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2006/07/16/MNGAFK059I1.DTL&type=politics>>.
- HSU, Spencer S 2006a. Katrina Report Spreads Blame. *Washington Post*. February 12, 2006. A01. ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/wp-dyn/content/article/2006/02/11/AR2006021101409.html>>.
- INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT (An act to reform the intelligence community

- and the intelligence and intelligence related activities of the US Government, and for other Purposes). S.2845. December 17, 2004.
- ISIKOFF, Michael 2004. The Dots Never Existed. *Newsweek*. . . ISSN: 0163-7053. Also available from: <http://www.msnbc.msn.com/id/5412317/site/newsweek>.
- JANSEN, Bart 2004. Intelligence Failures Begin With CIA. *Maine Sunday Telegram*. August 22, 2004. p. C2. ISSN: 0017-5404.
- KATOVSKY, Bill 2006. Flying the Deadly Skies: Whistle-blower thinks the state of U.S. aviation security invites another attack. *San Francisco Chronicle*. July 9th, 2006. Page E-1. . Also available from: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/07/09/INGIVJPJR91.DTL>.
- KOSIAK, Steven 2005. *Funding for Defense, Military Operations, Homeland Security, And Related Activities Since 9-11* [online]. December 20, 2005. [cit. 2006-04-18]. URL: <http://www.csbaonline.org/4Publications/Archive/U.20051220.Post911Funds/U.20051220.Post911Funds.pdf>.
- LANCE, Peter - MINITER, Richard 2003. *Transcript of the Debate on the Roots of 9/11* [online]. September 23, 2003. [cit. 2006-03-16]. URL: <http://www.democracynow.org/static/911debate.shtml>.
- LEBL, Leslie B 2005. Security Beyond Borders. *Policy Review*. April - May, 2005, No. 130. . ISSN 01465945. Also available from: <http://www.policyreview.org/apr05/lebl.html>.
- LINCOLN, Bruce 2002. *The Rhetoric of Bush and Bin Laden* [online]. 2002. [cit. 2006-04-17]. URL: <http://www.fathom.com/feature/190152/index.html>.
- MacDONALD, Heather 2003. *Straight Talk on Homeland Security* [online]. Summer, 2003. [cit. 2006-04-18]. URL: http://www.city-journal.org/html/13_3_straight_talk.html/.
- McFAUL, Michael 2002. The Liberty Doctrine. *Policy Review*. April - May, 2002, No. 112. . ISSN 01465945. Also available from: <http://www.policyreview.org/apr02/mcfaul.html>.
- McGEE, Jim 2001. An Intelligence Giant in the Making. *Washington Post*. November 4, 2001. A04. ISSN: 0033-3697. Available from: <http://www.washingtonpost.com/wp-yn/content/article/2005/11/04/AR2005110401362.html>.
- McKENNA, George. *The Drama of Democracy: American Government and Politics*. Second Edition. Guilford, Connecticut: Dushkin Publishing Group, 1994. 718 p. ISBN 1-56134-236-X.
- MURPHY, Jarrett 2005. Open and Shut. *The Village Voice*. December 5, 2005. . ISSN: 0042-6180. Also available from: <http://www.villagevoice.com/news/0549,murphy,70685,6.html>.
- National Commission on Terrorist Attacks Upon the United States 2004. *9/11 and Terrorist Travel* [online]. August 21, 2004. [cit. 2006-03-27]. URL: http://www.9-11commission.gov/staff_statements/911_TerrTrav_Monograph.pdf.
- PIKNA, Bohumil. *Vnitřní bezpečnost a veřejný pořádek v evropském právu*. Second Revised Edition. Praha: Linde, 2004. 471 p. ISBN 80-7201-489-7.
- POSNER, Gerald L. *Why America Slept : The Failure to Prevent 9/11*. First Edition. New York: Random House, 2003. 256 pages ISBN 0-3755-0879-1.
- POSNER, Richard A. 2005. *Remaking Domestic Intelligence* [online]. June 16, 2005. [cit. 2006-05-02]. URL: http://media.hoover.org/documents/oped_2821821.pdf.
- POWELL, Colin 2001. *Interview by ABC News* [online]. September 12, 2001. []. URL: <http://www.state.gov/secretary/former/powell/remarks/2001/4864.htm>.

- Progressive Policy Institute July 23rd, 2003. *America at Risk: A Homeland Security Report Card* [online]. 2003. [cit. 2006-04-05]. URL: <http://www.ppionline.org/documents/HomeSecRptCrd_0703.pdf>.
- REAGAN, Ronald 1985. *Remarks at the Annual Convention of the American Bar Association* [online]. July 8, 1985. [cit. 2006-04-17]. URL: <<http://www.reagan.utexas.edu/archives/speeches/1985/70885a.htm>>.
- REAGAN, Ronald 1981. *Executive Order 12333 - United States Intelligence Activities* [online]. December 4, 1981. [cit. 2006-04-20]. URL: <<https://www.cia.gov/cia/information/eo12333.html>>.
- RIDGEWAY, James 2005. *Running From the Truth* [online]. December 6, 2005. [cit. 2006-05-08]. URL: <http://villagevoice.com/news/0549_ridgeway_70692_6.html>.
- RIND, Ali Ahmed 2001. *Unholy Ends. Los Angeles Weekly*. November 7, 2001. . ISSN: 0192-1940. Also available from: <<http://www.laweekly.com/news/new-world-disorder/unholy-ends/10781/>>.
- RISEN, James - LICHTBLAU, Eric 2005. *Bush Lets U.S. Spy on Callers Without Courts. New York Times*. December 16, 2005. . ISSN:0028-7822. Available from: <<http://www.nytimes.com/2005/12/16/politics/16program.html>>.
- ROSENZWEIG, Paul - CARAFANO, James. *Winning the Long War: Lessons from the Cold War for Defeating Terrorism and Preserving Freedom*. First Edition. Washington DC, 2005. 300 pages ISBN 0-9743-6654-4.
- RUSSELL, Richard L 2004. *Intelligence Failures: The Wrong Model for the War on Terror. Policy Review*. February-March, 2004, No. 123. . ISSN 01465945. Available from: <<http://www.policyreview.org/feb04/russell.html>>.
- SANTORUM, Rick 2006. *The Great Test of This Generation* [online]. July 20, 2006. [cit. 2006-07-02]. URL: <<http://article.nationalreview.com/?q=ODk3NWI3ZmFiMWU3ZjMzNDI2MWE1Nzk0OGFhMjZiNTI=>>.
- SHENON, Philip 2004. *Rumsfeld Wary About Shuffling Spy Duties. New York Times*. August 18, 2004. . ISSN:0028-7822.
- SOLOMON, Alisa 2002. *Things We Lost in the Fire. Village Voice*. September 11, 2002. . . Also available from: <http://www.villagevoice.com/news/0237_solomon_38225_1.html>.
- SQUITIERI, Tom 2004. *General: Hijacked Jets Can Be Shot Down. USA Today*. August 27, 2004. p. 13A. ISSN: 0161-7389.
- STEVENSON, Jonathan 2003. *How Europe and America Defend Themselves. Foreign Affairs*. March - April, 2003, vol. 82, No. 2. p. 78-90. ISSN 0015-7120.
- STOLBERG, Sheryl Gay 2005. *Once-Lone Foe of Patriot Act Has Company* [online]. 2005. [cit. 2006-03-01]. URL: <<http://www.commondreams.org/headlines05/1219-05.htm>>.
- The Economist 2005. *Homeland Security: Look Who's Listening. The Economist*. December, 2005. p. 69-70. ISSN 0013-0613.
- The Gilmore Commission 2003. *Forging America's New Normalcy: Securing Our Homeland, Preserving Our Liberty* [online]. December 15, 2003. [cit. 2006-04-18]. URL: <http://www.rand.org/nsrd/terrpanel/volume_v/volume_v_report_only.pdf>.
- The National Commission on Terrorist Attacks Upon the United States. *The 9/11 Commission Report*. First Edition. New York: W.W. Norton, 2004. xxviii, 567 p. ISBN 0-393-32671-3.
- The U.S. Commission on National Security (Hart Rudman) 2001. *New World Coming: American Security in the 21st Century* [online]. February, 2001. [cit. 2006-04-20]. URL: <<http://www.fas.org/man/docs/nwc/>>.
- THIEUX, Laurence 2004. *European Security and Global Terrorism: The Strategic Aftermath of Madrid Bombings. Perspectives*. Summer, 2004. pages 59-74. ISSN: 1210-762X. Also available from:

- <<http://www.nira.go.jp/ice/libe/prw/dat/1141.html>>.
- THOMAS, Evan - KLAIDMAN, Daniel 2006. Full Speed Ahead. *Newsweek*. January 9, 2006, vol. CXLVII, No. 2. p. 10-18. ISSN 0163-7053.
- THOMPSON, James R 2005. Terrorists Will Strike Again. *Chicago Tribune*. December 16, 2005. . ISSN: 1085-6706.
- THOMPSON, Paul 2003. *The Failure to Defend the Skies on 9/11* [online]. 2003. [cit. 2006-04-18]. URL: <<http://www.cooperativeresearch.org/essay.jsp?article=essayairdefense>>.
- TIA 2003. *Report to Congress regarding the Terrorism Information Awareness Program* [online]. May 20, 2003. [cit. 2006-04-18]. URL: <<http://www.eff.org/Privacy/TIA/TIA-report.html#DocumentBody>>.
- TIME Magazine 2001. *Day of Infamy* [online]. September 12, 2001. [cit. 2006-04-15]. URL: <<http://www.time.com/time/nation/article/0,8599,174502,00.html>>.
- TINDALL, George Brown - SHI, David E. *USA*. Translated by Alena Faltyskova, et al. First Edition. Praha: NLN, 1994. 897 p. ISBN 80-7106-088-7.
- Transcript of a Presidential Debate 2000. *NewsHour with Jim Lehrer* [online]. October 11, 2000. [cit. 2006-03-22]. URL: <http://www.pbs.org/newshour/bb/politics/july-dec00/for-policy_10-12.html>.
- USA PATRIOT ACT OF 2001 (Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism Act). Public Law 107-56. Oct. 26, 2001.
- USA Today / CNN 2005. *Gallup Poll Results* [online]. . [cit. 2006-05-03]. URL: <<http://www.usatoday.com/news/polls/tables/live/2004-02-25-patriot-act-poll.htm>>.
- VANDEHEI, Jim - EGEN, Dan 2006. Cheney Cites Justifications For Domestic Eavesdropping. *Washington Post*. January 5, 2006. Page A02. ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/wp-dyn/content/article/2006/01/04/AR2006010400973.html>>.
- WARNER, Michael 2001. *Central Intelligence: Origin and Evolution* [online]. 2001. [cit. 2006-04-10]. URL: <http://www.cia.gov/csi/books/cia_origin/Origin_and_Evolution.pdf>.
- WEBB, Cynthia L 2003. The Pentagon's PR Play. *Washington Post*. May 21. 2003. . ISSN: 0033-3697. Also available from: <<http://foi.missouri.edu/totalinfoaware/pentagonspr.html>>.
- WECHSLER, William 2002. Law in Order: Reconstructing U.S. National Security. *The National Interest*. Spring, 2002. p. 17-28. ISSN 0884-9382. Also available from: <http://www.findarticles.com/p/articles/mi_m2751/is_2002_Spring/ai_85132079>.
- WERMUTH, Michael A. 2005. *The Department of Homeland Security: The Road Ahead* [online]. . [cit. 2006-04-17]. URL: <<http://www.rand.org>>.
- WHITE, Josh - GLASSER, Susan B. 2005. Storm Exposed Disarray at the Top. *Washington Post*. September 4th, 2005. . ISSN: 0033-3697.
- WIKIPEDIA. *Free Encyclopedia* [online]. . [cit. 2006-04-16]. URL: <<http://en.wikipedia.org/wiki>>.
- WILENTZ, Sean 2006. *The Worst President in History?* [online]. May 4, 2006. [cit. 2006-06-03]. URL: <http://www.rollingstone.com/news/coverstory/worst_president_in_history>.
- WRIGHT, Robin 2004. Top Focus Before 9/11 Wasn't on Terrorism. *Washington Post*. April 1, 2004. . ISSN: 0033-3697. Also available from: <<http://www.washingtonpost.com/ac2/wp-dyn/A40697-2004Mar31>>.
- ZAKARIA, Fareed 2001. The End of the End of History. *Newsweek*. September 24, 2001. . ISSN: 0163-7053. Also available from: <<http://www.fareedzakaria.com/articles/newsweek/092401.html>>.

C. Governmental Institutions and Agencies

- [The US Government's Official Web Portal](#)
- [Air Force](#)
- [Air Intelligence Agency](#)
- [Army Intelligence Center](#)
- [Army of the United States of America](#)
- [Bureau of Alcohol, Tobacco, & Firearms](#)
- [Bureau of Intelligence & Research](#)
- [Center for Study of Intelligence](#)
- [Central Intelligence Agency](#)
- [Citizenship and Immigration Services](#)
- [Coast Guard](#)
- [Commission on Civil Rights](#)
- [Council of Economic Advisers](#)
- [Customs and Border Protection](#)
- [Defense Intelligence Agency](#)
- [Department of Defense](#)
- [Department of Defense – DefenseLINK](#)
- [Department of Education – Office for Civil Rights](#)
- [Department of Energy Security Office](#)
- [Department of Homeland Security](#)
- [Department of Homeland Security – Preparing Makes Sense](#)
- [Department of Justice](#)
- [Department of Justice – Preserving Life and Liberty](#)
- [Department of State – Counter-terrorism Office](#)
- [Drug Enforcement Administration](#)
- [Federal Bureau of Investigation](#)
- [Federal Emergency Management Agency](#)
- [General Accounting Office](#)
- [Government Accountability Office - Homeland Security](#)
- [Government Printing Office](#)
- [Homeland Security: National Terror Alert News](#)
- [House Armed Services Committee](#)
- [House Committee on Homeland Security](#)
- [House Committee on International Relations](#)
- [House Permanent Select Committee on Intelligence](#)

- [Intelligence Community](#)
- [Library of Congress – 9/11](#)
- [Marine Corps](#)
- [Marine Corps Intelligence](#)
- [National Archives and Records Administration](#)
- [National Commission on Terrorism \(Bremer Commission\)](#)
- [National Commission on Terrorist Attacks upon the United States](#)
- [National CounterIntelligence Executive](#)
- [National Guard](#)
- [National Imagery and Mapping Agency](#)
- [National Intelligence Council](#)
- [National Nuclear Security Administration](#)
- [National Memorial Institute for the Prevention of Terrorism](#)
- [National Security Agency/Central Security Service](#)
- [National Reconnaissance Office](#)
- [National Security Agency](#)
- [National Security Council](#)
- [Naval Criminal Investigative Service](#)
- [Navy of the United States of America](#)
- [Office of Coordinator for Counterterrorism, State Department](#)
- [Office of Intelligence Policy and Review-Justice Dept.](#)
- [Office of Naval Intelligence](#)
- [President's Foreign Intelligence Advisory Board](#)
- [Secret Service](#)
- [Senate Committee on Armed Services](#)
- [Senate Committee on Foreign Relations](#)
- [Senate Select Committee on Intelligence](#)
- [Supreme Court](#)
- [Transportation Department Office of Intelligence and Security](#)
- [US Mission to the EU](#)
- [The White House - Homeland Security](#)

D. Think Tanks and Non-Governmental Institutions

- [American Civil Liberties Union](#)
- [American Immigration Lawyers Association](#)
- [Amnesty International](#)
- [Belfer Center for Science and International Affairs](#)
- [The Brookings Institution](#)
- [Carnegie Corporation of New York](#)
- [Center for Democracy & Technology](#)
- [Center for Transatlantic Relations](#)
- [Center for the Study of the Presidency](#)
- [Center for Strategic & International Studies](#)
- [Commonwealth Institute – Project on Defense Alternatives](#)
- [Council on Foreign Relations - Defense/Homeland Security](#)
- [Electronic Frontier Foundation](#)
- [Electronic Privacy Information Center](#)
- [The Heritage Foundation: Homeland Security](#)
- [Homeland Security Group](#)
- [Homeland Security Institute](#)
- [Homeland Security Policy Institute](#)
- [Hoover Institution Homepage](#)
- [Human Rights Watch](#)
- [Lawyers Committee for Human Rights](#)
- [Lexington Institute](#)
- [Markle Foundation: National Security](#)
- [Miller Center of Public Affairs](#)
- [The National Memorial Institute for the Prevention of Terrorism](#)
- [The Nixon Center: The National Interest](#)
- [Office of Management and Budget Watch](#)
- [Progressive Policy Institute: National Defense & Homeland Security](#)
- [Project on Defense Alternatives](#)
- [RAND Corporation: Terrorism and Homeland Security](#)
- [Rockefeller College - Center for Policy Research](#)
- [Social Science Research Council](#)
- [The Rutherford Institute](#)
- [The Terrorism Research Center](#)

Appendix I: DHS Organization

Who Became Part of the Department of Homeland Security on November 25, 2002?²⁴³

The agencies slated to become part of the Department of Homeland Security will be housed in one of four major directorates: Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, and Information Analysis and Infrastructure Protection.

The Border and Transportation Security directorate will bring the major border security and transportation operations under one roof, including:

- * The US Customs Service (Treasury)
- * The Immigration and Naturalization Service (part) (Justice)
- * The Federal Protective Service
- * The Transportation Security Administration (Transportation)
- * Federal Law Enforcement Training Center (Treasury)
- * Animal and Plant Health Inspection Service (part)(Agriculture)
- * Office for Domestic Preparedness (Justice)

The Emergency Preparedness and Response directorate will oversee domestic disaster preparedness training and coordinate government disaster response. It will bring together:

- * The Federal Emergency Management Agency (FEMA)
- * Strategic National Stockpile and the National Disaster Medical System (HHS)
- * Nuclear Incident Response Team (Energy)
- * Domestic Emergency Support Teams (Justice)
- * National Domestic Preparedness Office (FBI)

The Science and Technology directorate will seek to utilize all scientific and technological advantages when securing the homeland. The following assets will be part of this effort:

- * CBRN Countermeasures Programs (Energy)
- * Environmental Measurements Laboratory (Energy)
- * National BW Defense Analysis Center (Defense)
- * Plum Island Animal Disease Center (Agriculture)

The Information Analysis and Infrastructure Protection directorate will analyze intelligence and information from other agencies (including the CIA, FBI, DIA and NSA) involving threats to homeland security and evaluate vulnerabilities in the nation's infrastructure. It will bring together:

- * Federal Computer Incident Response Center (GSA)
- * National Communications System (Defense)
- * National Infrastructure Protection Center (FBI)
- * Energy Security and Assurance Program (Energy)

The Secret Service and the Coast Guard will also be located in the Department of Homeland Security, remaining intact and reporting directly to the Secretary. In addition, the INS adjudications and benefits programs will report directly to the Deputy Secretary as the US Citizenship and Immigration Services.

[243]Available from DHS website www.dhs.gov

Appendix II: Conspiracy Theories

The Top 40 Reasons to Doubt the Official Story of September 11th, 2001²⁴⁴

1) AWOL Chain of Command

- a. It is well documented that the officials topping the chain of command for response to a domestic attack - George W. Bush, Donald Rumsfeld, Richard Myers, Montague Winfield - all found reason to do something else during the actual attacks, other than assuming their duties as decision-makers.
- b. Who was actually in charge? Dick Cheney, Richard Clarke, Norman Mineta and the 9/11 Commission directly conflict in their accounts of top-level response to the unfolding events, such that several (or all) of them must be lying.

2) Air Defense Failures

- a. The US air defense system failed to follow standard procedures for responding to diverted passenger flights.
- b. Timelines: The various responsible agencies - NORAD, FAA, Pentagon, USAF, as well as the 9/11 Commission - gave radically different explanations for the failure (in some cases upheld for years), such that several officials must have lied; but none were held accountable.
- c. Was there an air defense standdown?

3) Pentagon Strike

How was it possible the Pentagon was hit 1 hour and 20 minutes after the attacks began? Why was there no response from Andrews Air Force Base, just 10 miles away and home to Air National Guard units charged with defending the skies above the nation's capital? How did Hani Hanjour, a man who failed as a Cessna pilot on his first flight in a Boeing, execute a difficult aerobatic maneuver to strike the Pentagon? Why did the attack strike the just-renovated side, which was largely empty and opposite from the high command?

4) Wargames

- a. US military and other authorities planned or actually rehearsed defensive response to all elements of the 9/11 scenario during the year prior to the attack - including multiple hijackings, suicide crashbombings, and a strike on the Pentagon.
- b. The multiple military wargames planned long in advance and held on the morning of September 11th included scenarios of a domestic air crisis, a plane crashing into a government building, and a large-scale emergency in New York. If this was only an incredible series of coincidences, why did the official investigations avoid the issue? There is evidence that the wargames created confusion as to whether the unfolding events were "real world or exercise." Did wargames serve as the cover for air defense sabotage, and/or the execution of an "inside job"?

5) Flight 93

Did the Shanksville crash occur at 10:06 (according to a seismic report) or 10:03 (according to the 9/11 Commission)? Does the Commission wish to hide what happened in the last three minutes of the flight, and if so, why? Was Flight 93 shot down, as indicated by the scattering of debris over a trail of several miles?

- 6) Did cell phones work at 30,000 feet in 2001? How many hijackings were attempted? How many flights were diverted?

7) Demolition Hypothesis

What caused the collapse of a third skyscraper, WTC 7, which was not hit by a plane? Were the Twin Towers and WTC 7 brought down by explosives? (See "The Case for Demolitions," the websites wtc7.net and 911research.wtc7.net, and the influential article by physicist Steven Jones. See also items no. 16 and 24, below.)

8) What did officials know? How did they know it?

- a. Multiple allied foreign agencies informed the US government of a coming attack in detail, including the manner and likely targets of the attack, the name of the operation (the "Big Wedding"), and the names of certain men later identified as being among the perpetrators.

[244] Available at www.911truth.org

b. Various individuals came into possession of specific advance knowledge, and some of them tried to warn the US prior to September 11th.

c. Certain prominent persons received warnings not to fly on the week or on the day of September 11th.

9) Able Danger, Plus - Surveillance of Alleged Hijackers

a. The men identified as the 9/11 ringleaders were under surveillance for years beforehand, on the suspicion they were terrorists, by a variety of US and allied authorities - including the CIA, the US military's "Able Danger" program, the German authorities, Israeli intelligence and others.

b. Two of the alleged ringleaders who were known to be under surveillance by the CIA also lived with an FBI asset in San Diego, but this is supposed to be yet another a coincidence.

10) Obstruction of FBI Investigations prior to 9/11

A group of FBI officials in New York systematically suppressed field investigations of potential terrorists that might have uncovered the alleged hijackers - as the Moussaoui case once again showed. The stories of Sibel Edmonds, Robert Wright, Coleen Rowley and Harry Samit, the "Phoenix Memo," David Schippers, the 199i orders restricting investigations, the Bush administration's order to back off the bin Laden family, the reaction to the "Bojinka" plot, and John O'Neil do not, when considered in sum, indicate mere incompetence, but high-level corruption and protection of criminal networks, including the network of the alleged 9/11 conspirators. (Nearly all of these examples were omitted from or relegated to fleeting footnotes in The 9/11 Commission Report.)

11) Insider Trading

a. Unknown speculators allegedly used foreknowledge of the Sept. 11th events to profiteer on many markets internationally - including but not limited to "put options" placed to short-sell the two airlines, WTC tenants, and WTC re-insurance companies in Chicago and London.

b. In addition, suspicious monetary transactions worth hundreds of millions were conducted through offices at the Twin Towers during the actual attacks.

c. Initial reports on these trades were suppressed and forgotten, and only years later did the 9/11 Commission and SEC provide a partial, but untenable explanation for only a small number of transactions (covering only the airline put options through the Chicago Board of Exchange).

12) Who were the perpetrators?

a. Much of the evidence establishing who did the crime is dubious and miraculous: bags full of incriminating material that happened to miss the flight or were left in a van; the "magic passport" of an alleged hijacker, found at Ground Zero; documents found at motels where the alleged perpetrators had stayed days and weeks before 9/11.

b. The identities of the alleged hijackers remain unresolved, there are contradictions in official accounts of their actions and travels, and there is evidence several of them had "doubles," all of which is omitted from official investigations.

c. What happened to initial claims by the government that 50 people involved in the attacks had been identified, including the 19 alleged hijackers, with 10 still at large (suggesting that 20 had been apprehended)? <http://www.chicagotribune.com/news/nationworld/sns-worldtrade-50suspects,0,1825231.story>

13) Who Is Osama bin Laden?

a. Who judges which of the many conflicting and dubious statements and videos attributed to Osama Bin Laden are genuine, and which are fake? The most important Osama Bin Laden video (Nov. 2001), in which he supposedly confesses to masterminding 9/11, appears to be a fake. In any event, the State Department's translation of it is fraudulent.

b. Did Osama Bin Laden visit Dubai and meet a CIA agent in July 2001 (Le Figaro)? Was he receiving dialysis in a Pakistani military hospital on the night of September 10, 2001 (CBS)?

c. Whether by Bush or Clinton: Why is Osama always allowed to escape?

d. The terror network associated with Osama, known as the "data base" (al-Qaeda), originated in the CIA-sponsored 1980s anti-Soviet jihad in Afghanistan. When did this network stop serving as an asset to covert operations by US intelligence and allied agencies? What were its operatives doing in Kosovo, Bosnia and Chechnya in the years prior to 9/11?

14) All the Signs of a Systematic 9/11 Cover-up

Appendix II: Conspiracy Theories

- a. Airplane black boxes were found at Ground Zero, according to two first responders and an unnamed NTSB official, but they were "disappeared" and their existence is denied in The 9/11 Commission Report.
- b. US officials consistently suppressed and destroyed evidence (like the tapes recorded by air traffic controllers who handled the New York flights).
- c. Whistleblowers (like Sibel Edmonds and Anthony Shaffer) were intimidated, gagged and sanctioned, sending a clear signal to others who might be thinking about speaking out.
- d. Officials who "failed" (like Myers and Eberhard, as well as Frasca, Maltbie and Bowman of the FBI) were given promotions.

15) Poisoning New York

The White House deliberately pressured the EPA into giving false public assurances that the toxic air at Ground Zero was safe to breathe. This knowingly contributed to an as-yet unknown number of health cases and fatalities, and demonstrates that the administration does consider the lives of American citizens to be expendable on behalf of certain interests.

16) Disposing of the Crime Scene

The rapid and illegal scrapping of the WTC ruins at Ground Zero disposed of almost all of the structural steel indispensable to any investigation of the collapse mechanics. (See also item no. 23, below.)

17) Anthrax

Mailings of weapons-grade anthrax - which caused a practical suspension of the 9/11 investigations - were traced back to US military stock. Soon after the attacks began in October 2001, the FBI approved the destruction of the original samples of the Ames strain, disposing of perhaps the most important evidence in identifying the source of the pathogens used in the mailings. Were the anthrax attacks timed to coincide with the Afghanistan invasion? Why were the letters sent only to media figures and to the leaders of the opposition in the Senate (who had just raised objections to the USA PATRIOT Act)?

18) The Stonewall

- a. Colin Powell promised a "white paper" from the State Department to establish the authorship of the attacks by al-Qaeda. This was never forthcoming, and was instead replaced by a paper from Tony Blair, which presented only circumstantial evidence, with very few points actually relating to September 11th.
- b. Bush and Cheney pressured the (freshly-anthraxed) leadership of the Congressional opposition into delaying the 9/11 investigation for months. The administration fought against the creation of an independent investigation for more than a year.
- c. The White House thereupon attempted to appoint Henry Kissinger as the chief investigator, and acted to underfund and obstruct the 9/11 Commission.

19) A Record of Official Lies

- a. "No one could have imagined planes into buildings" - a transparent falsehood upheld repeatedly by Rice, Rumsfeld and Bush.
- b. "Iraq was connected to 9/11" - The most "outrageous conspiracy theory" of all, with the most disastrous impact.

20) Pakistani Connection - Congressional Connection

- a. The Pakistani intelligence agency ISI, creator of the Taliban and close ally to both the CIA and "al-Qaeda," allegedly wired \$100,000 to Mohamed Atta just prior to September 11th, reportedly through the ISI asset Omar Saeed Sheikh (later arrested for the killing of Wall Street Journal reporter Daniel Pearl, who was investigating ISI connections to "al-Qaeda.")
- b. This was ignored by the congressional 9/11 investigation, although the senator and congressman who ran the probe (Bob Graham and Porter Goss) were meeting with the ISI chief, Mahmud Ahmed, on Capitol Hill on the morning of September 11th.
- c. About 25 percent of the report of the Congressional Joint Inquiry was redacted, including long passages regarding how the attack (or the network allegedly behind it) was financed. Graham later said foreign allies were involved in financing the alleged terror network, but that this would only come out in 30 years.

21) Unanswered Questions and the "Final Fraud" of the 9/11 Commission:

- a. The September 11th families who fought for and gained an independent investigation (the 9/11 Commission) posed 400-plus questions, which the 9/11 Commission adopted as its roadmap. The vast majority of these questions were completely ignored in the Commission hearings and the final report.
- b. The membership and staff of the 9/11 Commission displayed awesome conflicts of interest. The families called for the resignation of Executive Director Philip Zelikow, a Bush administration member and close associate of "star witness" Condoleezza Rice, and were snubbed. Commission member Max Cleland resigned, condemning the entire exercise as a "scam" and "whitewash."
- c. The 9/11 Commission Report is notable mainly for its obvious omissions, distortions and outright falsehoods - ignoring anything incompatible with the official story, banishing the issues to footnotes, and even dismissing the still-unresolved question of who financed 9/11 as being "of little practical significance."

22) Crown Witnesses Held at Undisclosed Locations

The alleged masterminds of 9/11, Khalid Sheikh Mohamed (KSM) and Ramzi Binalshibh, are reported to have been captured in 2002 and 2003, although one Pakistani newspaper said KSM was killed in an attempted capture. They have been held at undisclosed locations and their supposed testimonies, as provided in transcript form by the government, form much of the basis for The 9/11 Commission Report (although the Commission's request to see them in person was denied). After holding them for years, why doesn't the government produce these men and put them to trial?

23) Spitzer Redux

- a. Eliot Spitzer, attorney general of New York State, snubbed pleas by New York citizens to open 9/11 as a criminal case (Justicefor911.org).
- b. Spitzer also refused to allow his employee, former 9/11 Commission staff member Dietrich Snell, to testify to the Congress about his (Snell's) role in keeping "Able Danger" entirely out of The 9/11 Commission Report.

24) NIST Omissions

After the destruction of the WTC structural steel, the official Twin Towers collapse investigation was left with almost no forensic evidence, and thus could only provide dubious computer models of ultimately unprovable hypotheses. It failed to even test for the possibility of explosives. (Why not clear this up?)

25) Radio Silence

The 9/11 Commission and NIST both allowed the continuing cover-up of how Motorola's faulty radios, purchased by the Giuliani administration, caused firefighter deaths at the WTC - once again showing the expendability, even of the first responders.

26) The Legal Catch-22

- a. Hush Money - Accepting victims' compensation barred September 11th families from pursuing discovery through litigation.
- b. Judge Hallerstein - Those who refused compensation to pursue litigation and discovery had their cases consolidated under the same judge (and as a rule dismissed).

27) Saudi Connections

- a. The 9/11 investigations made light of the "bin Laden Airlift" during the no-fly period, and ignored the long-standing Bush family business ties to the bin Laden family fortune. (A company in which both families held interests, the Carlyle Group, was holding its annual meeting on September 11th, with George Bush Sr., James Baker, and two brothers of Osama bin Laden in attendance.)
- b. The issue of Ptech.

28) Media Blackout of Prominent Doubters

The official story has been questioned and many of the above points were raised by members of the US Congress, retired high-ranking officers of the US military, the three leading third-party candidates for President in the 2004 election, a member of the 9/11 Commission who resigned in protest, a former high-ranking adviser to the George W. Bush administration, former ministers to the German, British and Canadian governments, the commander-in-chief of the Russian air force, 100 luminaries who signed the "9/11 Truth Statement," and the presidents of Iran and Venezuela. Not all of these people agree fully with each other, but all would normally be considered newsworthy. Why has the corporate-owned US mass media remained silent about these statements, granting due coverage only to

the comments of actor Charlie Sheen?

29) "The Great Game"

The Afghanistan invasion was ready for Bush's go-ahead on September 9, 2001, with US and UK force deployments to the region already in place or underway. This followed the failure earlier that year of backdoor diplomacy with the Taliban (including payments of \$125 million in US government aid to Afghanistan), in an attempt to secure a unity government for that country as a prerequisite to a Central Asian pipeline deal.

30) The Need for a "New Pearl Harbor"

Principals in US foreign policy under the current Bush administration (including Cheney, Rumsfeld, Wolfowitz, Perle and others) have been instrumental in developing long-running plans for worldwide military hegemony, including an invasion of the Middle East, dating back to the Ford, Reagan and Bush Sr. administrations. They reiterated these plans in the late 1990s as members of the "Project for a New American Century," and stated a clear intent to invade Iraq for the purpose of "regime change." After 9/11, they lost no time in their attempt to tie Iraq to the attacks.

31) Perpetual "War on Terror"

9/11 is supposed to provide carte-blanche for an open-ended, global and perpetual "War on Terror," against any enemy, foreign or domestic, that the executive branch chooses to designate, and regardless of whether evidence exists to actually connect these enemies to 9/11.

32) Attacking the Constitution

- a. The USA PATRIOT Act was written before 9/11, Homeland Security and the "Shadow Government" were developed long before 9/11, and plans for rounding up dissidents as a means for suppressing civil disturbance have been in the works for decades.
- b. 9/11 was used as the pretext to create a new, extra-constitutional executive authority to declare anyone an "enemy combatant" (including American citizens), to detain persons indefinitely without habeas corpus, and to "render" such persons to secret prisons where torture is practiced.

33) Legal Trillions

9/11 triggers a predictable shift of public spending to war, and boosts public and private spending in the "new" New Economy of "Homeland Security," biometrics, universal surveillance, prisons, civil defense, secured enclaves, security, etc.

34) Plundered Trillions?

On September 10, 2001, Donald Rumsfeld announced a "war on waste" after an internal audit found that the Pentagon was "missing" 2.3 trillion dollars in unaccounted assets. On September 11th, this was as good as forgotten.

35) Did 9/11 prevent a stock market crash?

Did anyone benefit from the destruction of the Securities and Exchange Commission offices at WTC 7, and the resultant crippling of hundreds of fraud investigations?

36) Resource Wars

- a. What was discussed in the Energy Task Force meetings under Dick Cheney in 2001? Why is the documentation of these meetings still being suppressed?
- b. Is Peak Oil a motive for 9/11 as inside job?

37) The "Little Game"

Why was the WTC privatized just before its destruction?

38) "Al-CIA-da?"

The longstanding relationship between US intelligence networks and radical Islamists, including the network surrounding Osama Bin Laden. (See also point 13d.)

39) Historical Precedents for "Synthetic Terror"

- a. In the past many states, including the US government, have sponsored attacks on their own people, fabricated the "cause for war," created (and armed) their own enemies of convenience, and sacrificed their own citizens for "reasons of state."

b. Was 9/11 an update of the Pentagon-approved "Project Northwoods" plan for conducting self-inflicted, false-flag terror attacks in the United States, and blaming them on a foreign enemy?

40) Secret Government

a. The record of criminality and sponsorship of coups around the world by the covert networks based within the US intelligence complex.

b. Specifically also: The evidence of crime by Bush administration principals and their associates, from October Surprise to Iran-Contra and the S&L plunder to PNAC, Enron/Halliburton and beyond.

Appendix III: Report Card 2005

RECOMMENDATION	STATUS	NEXT STEPS
THE INTELLIGENCE COMMUNITY		
Director of National Intelligence	Congress: Fulfilled Executive: Some Progress	Executive
National Counterterrorism Center	Congress: Fulfilled Executive: Some Progress	Executive
Create FBI national security workforce	Insufficient Progress Analytic capability: Minimal Progress Information Systems: Unsatisfactory	Executive
New missions for CIA Director	Some Progress	Executive
Incentives for information sharing	Minimal Progress	Executive
President should lead national security institutions into the information revolution	Minimal Progress	Executive
Homeland airspace defense	Some Progress	Executive
CIVIL LIBERTIES AND EXECUTIVE POWER		
Balance between security and civil liberties	Some Progress	Exec. & Congress
Privacy and Civil Liberties Oversight Board	Minimal Progress	Exec. & Congress
Set privacy guidelines for government sharing of personal information	Minimal Progress	Exec. & Congress
CONGRESSIONAL & ADMINISTRATIVE REFORM		
Intelligence oversight reform	Minimal Progress	Congress
Homeland Security committees	Some Progress	Congress
Declassify overall intelligence budget	Unsatisfactory	Congress
Standardize security clearances	Minimal Progress	Executive

Illustration 7: Report on the Status of 9/11 Commission Recommendation - October 20, 2005

Appendix IV: Report Card 2003

1. Improving Intelligence Gathering and Analysis	D
Coordinating Inter-Agency Intelligence	C-
Integrating Terrorist Watch Lists	F
Developing Counterterrorism Database Systems.....	D+
2. Improving Security at the State and Local Level.....	D-
Completing a National Threat Assessment	F
Sharing Information with State and Local Governments	D
Defining the Role of State and Local Officials	D
Providing Financial Support for State and Local Governments	D-
Boosting Citizen Preparedness.....	D+
3. Controlling the National Borders	D
Tracking Entry and Exit of Foreign Visitors and Students	D
Improving the Identification System	F
Improving Visa Issuance and Consular Services	D
Securing Ports of Entry.....	C
4. Protecting Critical Facilities	D+
Enhancing Aviation Security	C-
Passenger Security	B-
Baggage Security	C+
Personnel Security	D
Air Cargo Security	D-
Securing Nuclear Plants and Materials	C+
Nuclear Power Plant Security	A
Nuclear Material Security	D
Securing Chemical Production and Storage Facilities.....	D-
Boosting Cybersecurity.....	D+
5. Protecting Against Bioterror Attacks	C
Developing Bioterrorism Countermeasures	C-
Expanding Health Care Surge Capacity	C
Updating Public Health Laws	C
6. Defending Civil Liberties and Privacy	C-
Detaining Suspected Terrorists	C-
Protecting Privacy	C
7. Managing the Improvement of Homeland Security	D+
Reorganizing the Federal Government.....	C-
Launching the Department of Homeland Security	C
Learning Lessons from Previous Attacks	F
 OVERALL	 D

Illustration 8: Bush Administration Homeland Security Report Card, July 2003

Appendix V: Table of Names

US Officials

Addington, David - Chief of Staff to the Vice President

Albright, Madeleine - former Secretary of State under Clinton

Allen, Charles E. - Chief Intelligence Officer for the DHS's Office of Intelligence and Analysis

Allen, Thad W. - Commandant of the US Coast Guard

Armitage, Richard - former Deputy Secretary of State

Arnold, Larry - former First Air Force Commander and Commander of the NORAD Region

Ashcroft, John – former Attorney General

Aspin, Leslie – former Secretary of Defense under Clinton

Alexander, Keith B. - Director of the National Security Agency

Baker, Stewart A. - Assistant Secretary for Policy for the DHS, former General Counsel of the NSA

Bartlett, Dan - Counselor to the President

Basham, Ralph W. - Commissioner for US Customs and Border Protection, former Director of the US Secret Service

Beers, Rand - former Counter-terrorism adviser under Reagan, Bush Sr, Clinton and Bush Jr

Belger, Monte - former Acting Deputy Administrator of the Federal Aviation Administration

Berger, Sandy - former National Security Adviser under Clinton

Bernanke, Ben - Federal Reserve Chairman

Black, J. Cofer - former Director of the Central Intelligence Counter-terrorist Center

Blakey, Marion - Administrator of the Federal Aviation Administration

Bloomberg, Michael - Mayor of New York City

Bodman, Samuel W. - Secretary of Energy

Bolten, Joshua B. - Assistant to the President and White House Chief of Staff

Bolton, John R. - Ambassador to the United Nations

Bonner, Robert C. - Commissioner of Customs and Border Protection

Boswell, Eric J. - National Counterintelligence Executive

Bremer, L. Paul – former Director of Reconstruction and Humanitarian Assistance in Iraq, former Ambassador-at-Large

for Counter-terrorism under Reagan

Brzezinski, Zbigniew – former National Security Adviser under Carter

Brown, Dana A. - Director of Federal Air Marshal Service

Brown, Harold – former Secretary of Defense under Carter

Brown, Michael D. - former Undersecretary of Emergency Preparedness and Response within the DHS

Bryant, Robert "Bear" - Deputy Director of the Federal Bureau of Investigation under Clinton

Burgess, Ronald R., Jr - Principal Deputy Director of National Intelligence

Bush, George H.W. - 41st President of the United States, former Vice President under Reagan

Bush, George W. - 43rd President of the United States

Card, Andrew, Jr - former White House Chief of Staff

Carter, Ashton B. – former Assistant Secretary of Defense under Clinton

Casey, William – former Director of Central Intelligence under Reagan

Chao, Elaine - Secretary of Labor

Cheney, Dick – Vice President of the United States, former White House Chief of Staff under Ford

Chertoff, Michael – Secretary of Homeland Security, former Assistant Attorney General

Christopher, Warren - former Secretary of State under Clinton

Cino, Maria - Secretary of Transportation

Clark, John F. - Director of the US Marshals Service

Clark, Wesley - former Supreme Commander of NATO

Clarke, Richard A. - former National Counter-terrorism Coordinator in Bush Jr, Clinton, and Bush Sr Administrations

Clinton, Bill - 42nd President of the United States

Clinton, Hillary - Democratic Senator, former First Lady, potential Candidate for the 2008 Presidential Election

Cohen, William - Secretary of Defense under Clinton

Comey, James B. - former Deputy Attorney General

Connaughton, James L. - Chairman of the Council on Environmental Quality

Cressey, Roger - former National Security Council Counter-terrorism official

Crouch, Jack D. - Deputy National Security Adviser

Crumpton, Henry A. - Coordinator for Counter-terrorism

Daschle, Tom - Democrat, former Senate Floor Leader

DeLay, Tom - former House Majority Leader

Deutch, John M. - former Director of Central Intelligence under Clinton

Dinh, Viet D. - former Assistant Attorney General and chief architect of the Patriot Act

Dinkins, Carol E. - Chairwoman of the Privacy and Liberties Oversight Board

Downing, Wayne – Director of the Office of Combating Terrorism

Eberhart, Ralph - Commander in Chief of NORAD and US Space Command

Edwards, John - former Democratic Senator, potential Candidate for the 2008 Presidential Election

England, Gordon E. - former Secretary of the Navy

Falwell, Jerry - fundamentalist Baptist Pastor and Televangelist

Feingold, Russ - Democratic Senator, the only Senator to vote against the Patriot Act in 2001

Foresman, George W. - Under Secretary for Preparedness within the Department of Homeland Security

Fox, Mark I. - Director of the White House Military Office

Franks, Tommy - former Commander of the US Central Command (CENTCOM)

Freeh, Louis - former Director of the Federal Bureau of Investigation

Friedman, Stephen - Chairman of the President's Foreign Intelligence Advisory Board, former Director of the NEC

Frist, Bill - Republican, Senate Floor Leader

Frum, David - former Speech Writer for President George W. Bush

Fry, Scott - former Director of Operations for the Joint Chiefs of Staff

Fuerth, Leon – former Vice President's National Security Adviser under Clinton

Garvey, Jane - former Administrator of the Federal Aviation Administration

Gerson, Michael - Assistant to the President for Policy and Strategic Planning, chief Speech Writer

Giambastiani, Edmund - Vice Chairman of the Joint Chiefs of Staff

Gingrich, Newt - former Speaker of the House of Representatives

Giuliani, Rudy - former Mayor of New York City, potential Candidate for the 2008 Presidential Election

Gonzales, Alberto – Attorney General, former White House Counsel

Gonzalez, Emilio T. - Director of United States Citizenship and Immigration Services

Gordon, John – former Homeland Security Adviser, former Deputy Director of Central Intelligence under Clinton

Gore, Al - former Vice President of the United States under Clinton

Goss, Porter J. - former Director of the Central Intelligence Agency

Graham, Bob - former Chairman of the Senate Intelligence Committee

Gration, Scott - former Scott Fry's Chief Information Operations Officer

Greenspan, Alan - former Federal Reserve Chairman

Gutierrez, Carlos - Secretary of Commerce

Haass, Richard N. - President of the Council on Foreign Relations

Hadley, Stephen - National Security Adviser / Assistant to the President for National Security Affairs

Hagee, Michael W. - Commandant of the Marine Corps

Hagin, Joe - Deputy White House Chief of Staff for Operations

Harman, Jane – Ranking Member of the House Permanent Committee on Intelligence

Hastert, Dennis – Speaker of the House of Representatives

Hawley, Kip - Director of the Transportation Security Administration

Hayden, Michael - Director of Central Intelligence Agency

Hoekstra, Peter – Chair of the House Permanent Select Committee on Intelligence

Hubbard, Allan - Director of the National Economic Council / Assistant to the President for Economic Policy

Hughes, Karen - former Counselor to the President

Jackson, Alphonso - Secretary of Housing and Urban Development

Jackson, Michael P. - Deputy Secretary of Homeland Security, former Deputy Secretary of the DOT

Johanns, Mike - Secretary of Agriculture

Johnson, Stephen L. - Administrator of the Environmental Protection Agency

Kaplan, Joel - Deputy White House Chief of Staff for Policy

Kappes, Stephen R. - Deputy Director of Central Intelligence Agency

Kean, Thomas - Chairman of the National Commission on Terrorist Attacks Upon the United States

Kempthorne, Dirk - Secretary of the Interior

Kerr, Donald - Director of the National Reconnaissance Office

Kerrick, Donald - former Deputy National Security Adviser

Kerry, John - Democratic Senator, former Nominee for the 2004 Presidential Election

King, Peter – Chairman of the House Committee on Homeland Security

Kissinger, Henry – former National Security Adviser under Nixon and Ford

Krasner, Stephen D. - Director of Policy Planning

Lake, Anthony - former National Security Adviser under Clinton

Lazear, Edward P. - Chairman of the Council of Economic Advisers

Leahy, Patrick - former Chairman of the Senate Judiciary Committee

Leavitt, Michael - Secretary of Health and Human Services

Libby, Lewis "Scooter" - former Chief of Staff to the Vice President

Lieberman, Joe - Democratic Senator, sponsored the Bill to create the Department of Homeland Security

Lott, Trent - Republican, former Senate Floor Leader

Mankiw, N. Gregory - former Chairman of the Council of Economic Advisers

Maples, Michael D. - Director of the Defense Intelligence Agency

Matalin, Mary Joe - former Assistant to the President and Counselor to Vice President

McCain, John - Republican Senator, potential Candidate for the 2008 Presidential Election

McCarthy, Mary - former Senior Director for Intelligence of the National Security Council

McClellan, Scott - former White House Press Secretary

McFarlane – former National Security Adviser under Reagan

McLaughlin, John - former Deputy Director of Central Intelligence

Meissner, Doris – former INS Commissioner under Clinton

Meyerrose, Dale - Chief Information Officer of NORAD, US Space Command and Air Force Space Command

Miers, Harriet - White House Counsel

Mineta, Norman - former Secretary of Transportation

Moseley, Michael T. - Chief of Staff of the United States Air Force

Mueller, Robert S. III - Director of Federal Bureau of Investigation

Mullen, Michael G. - Chief of Naval Operations

Murrett, Robert B. - Director of the National Geospatial-Intelligence Agency

Myers, Julie L. - Assistant Secretary of Homeland Security for US Immigration and Customs Enforcement

Myers, Richard B. - former Chairman of the Joint Chiefs of Staff

Nader, Ralph - political Activist, former Candidate for the 1996, 2000 and 2004 Presidential Election

Negroponste, John – Director of National Intelligence, former Ambassador to the United Nations

Nicholson, James – Secretary of Veterans Affairs

North, Oliver – member of the US Marine Corps involved in the Iran-Contra Affair

Norton, Gale – former Secretary of the Interior

Oakley, Robert – former State Department' coordinator for counter-terrorism under Reagan

O'Neill, John – former FBI Special Agent in Charge for National Security, later Chief of Security of the WTC

O'Neill, Paul – former Secretary of the Treasury

Pace, Peter - Chairman of the Joint Chiefs of Staff

Pataki, George - Governor of New York State

Paulison, R. David - Under Secretary for Federal Emergency Management within the Department of Homeland Security

Paulson, Henry M. Jr - Secretary of the Treasury

Pavitt, James - former CIA Deputy Director of Operations

Pelosi, Nancy – Democratic House Leader

Perle, Richard - former Chairman of the Defense Policy Board, former Assistant Secretary of Defense under Reagan

Perry Philip J. - General Counsel of the Department of Homeland Security, former General Counsel of the White House
Office of Management and Budget

Pickard, Thomas - former Acting Director of the Federal Bureau of Investigation

Pickering, Thomas - former Under Secretary of State under Clinton

Podesta, John – former White House Chief of Staff under Clinton

Poindexter, John - Director of the Information Awareness Office, former National Security Adviser under Reagan

Portman, Rob - Director of the Office of Management and Budget

Powell, Colin – former Secretary of State, former Chairman of the Joint Chiefs of Staff under Bush Sr, former National
Security Adviser under Reagan

Reagan, Ronald - 40th President of the United States

Redd, John – Director of the National Counter-terrorism Center

Reid, Harry - Democrat, Senate Floor Leader

Reno, Janet - former Attorney General under Clinton

Rice, Condoleeza – Secretary of State, former National Security Adviser, potential Candidate '08 Presidential Candidate

Richardson, Bill - former Ambassador to the United Nations under Clinton

Ridge, Tom – former Director of the Office of Homeland Security and Secretary of Homeland Security

Rockefeller, John D. IV – Ranking Member of the Senate Intelligence Committee

Roberts, John - Chief Justice of the US Supreme Court

Roberts, Pat - Republican, Chairman of the Senate Intelligence Committee

Rolince, Michael - former FBI Section Chief of the International Terrorism Operations Section

Rove, Karl – Deputy White House Chief of Staff for Strategic Planning and Senior Adviser to the President

Rumsfeld, Donald H. – Secretary of Defense, former Secretary of Defense under Ford, former White House Chief of Staff under Ford

Schoomaker, Peter J. - Chief of Staff of the United States Army, former Commander of Special Operations Command

Schwab, Susan - US Trade Representative

Scowcroft, Brent - former Chairman of the President's Foreign Intelligence Advisory Board, former National Security Adviser under Ford and Bush Sr

Shalikashvili, John M. - former Chairman of the Joint Chiefs of Staff under Clinton

Sheehan, Michael - former Counter-terrorism Coordinator at the US Department of State

Shelton, Henry H. - former Chairman of the Joint Chiefs of Staff under Clinton

Shultz, George P. – former Secretary of State under Reagan, former Secretary of Treasury under Nixon

Skinner, Richard L. - Inspector General within the Department of Homeland Security

Slocombe, Walter - former Under Secretary of Defense for Policy

Snow, John W. - former Secretary of the Treasury

Snow, Tony - White House Press Secretary

Spellings, Margaret - Secretary of Education

Steinberg, James - former Deputy National Security Adviser under Clinton

Sullivan, Mark J. - Director of the US Secret Service

Summers, Lawrence H. - former Secretary of the Treasury under Clinton

Sutherland, Daniel W. - Officer for Civil Rights and Civil Liberties at the Department of Homeland Security

Talbott, Strobe - former Deputy Secretary of State under Clinton

Tandy, Karen - Administrator of the US Drug Enforcement Administration

Tenet, George John - former Director of Central Intelligence

Thompson, Larry - former Deputy Attorney General

Thompson, Tommy - former Secretary of Health and Human Services

Townsend, Frances Fragos - Homeland Security and Counter-terrorism Adviser to the President

Veneman, Ann - former Secretary of the Agriculture

Wallace, Nicolle - Assistant to the President for Communications

Walters, John P. - Director of the White House Office of National Drug Control Policy

Watson, Dale - former FBI Executive Assistant Director for Counter-terrorism and Counterintelligence

Weinberger, Caspar – former Secretary of Defense under Reagan

Winter, Donald C. - Secretary of the Navy

Witt, James Lee - former Director of Federal Emergency Management Agency

Wolf, Candi - Assistant to the President for Legislative Affairs

Wolfowitz, Paul - President of the World Bank, former Deputy Secretary of Defense, former Director of Policy Planning under Reagan

Woolsey, James R, Jr - former Director of Central Intelligence under Clinton

Zinni, Anthony - former Commander of the US Central Command (CENTCOM)

Zinsmeister, Karl - Director of the Domestic Policy Council / Assistant to the President for Domestic Policy

Zoellick, Robert - Deputy Secretary of State

Foreign Nationals

Sayf al Adl - Egyptian; high-ranking member of al-Qaeda military committee

Ali Abdul Aziz Ali (a.k.a. Ammar al Baluchi) - Pakistani; KSM's nephew; financial and travel facilitator for 9/11 plot

Mohamed Atta - Egyptian; tactical leader of 9/11 plot; pilot/hijacker (AA 11) (deceased)

Mohammed Atef (a.k.a. Abu Hafz al Masri) - Egyptian; al-Qaeda military commander (deceased)

Tawfiq bin Attash (a.k.a. Khallad, Waleed bin Attash) - Yemeni; senior al-Qaeda operative connected to the US Embassy bombings, the USS Cole attack, and the 9/11 attacks; currently in US custody

Jamal al Badawi - Yemeni; co-conspirator arrested in Yemen for the USS Cole attack

Said Bahaji - German son of Moroccan immigrant; Hamburg cell associate

Saeed al Baluchi - Saudi; candidate 9/11 hijacker

Fayez Banihammad - Emirati; 9/11 hijacker (UA 175) (deceased)

Abu Ubaidah al Banshiri - Egyptian; al-Qaeda military commander until 1996 (deceased)

Abu Bara al Yemeni (a.k.a. Abu al Bara al Ta'izi, Suhail Shurabi, and Barakat) - Yemeni; potential 9/11 suicide bomber

Ramzi Binalshibh - Yemeni; Hamburg cell member; coordinator for 9/11 plot; currently in US custody

Abu Bakar Bashir - Indonesian; spiritual leader and founder of Jemaah Islamiya, al-Qaeda affiliated terrorist group

Zakariya Essabar - Moroccan; Hamburg cell associate

Appendix V: Table of Names

Jamal Ahmed Mohamed al Fadl - Sudanese; al-Qaeda member who defected to the United States in 1996

Ahmed al Ghamdi - Saudi; 9/11 hijacker (UA 175) (deceased)

Ali Abd al Rahman al Faqasi al Ghamdi (a.k.a. Abu Bakr al Azdi) - Saudi; candidate 9/11 hijacker; in US custody

Hamza al Ghamdi - Saudi; 9/11 hijacker (UA 175) (deceased)

Saeed al Ghamdi - Saudi; 9/11 hijacker (UA 93) (deceased)

Saeed ("Jihad") al Ghamdi - Saudi; candidate 9/11 hijacker

Hassan Ghul - Pakistani; al-Qaeda facilitator; currently in US custody

Abu Hafis al Mauritani - Mauritanian; senior al-Qaeda theologian

Wadi al Hage - US citizen; al-Qaeda operative; Bin Laden's personal assistant; convicted in embassy bombings trial

Mushabib al Hamlan - Saudi; candidate 9/11 hijacker

Hani Hanjour - Saudi; 9/11 pilot/hijacker (AA 77) (deceased)

Mustafa al Hawsawi - Saudi; al-Qaeda media committee member; financial and travel facilitator for 9/11 plot

Nawaf al Hazmi - Saudi; 9/11 hijacker (AA 77) (deceased)

Salem al Hazmi - Saudi; 9/11 hijacker (AA 77) (deceased)

Ahmad al Haznawi - Saudi; 9/11 hijacker (UA 93) (deceased)

Zein al Abideen Mohamed Hussein (a.k.a. Abu Zubaydah) Palestinian; al-Qaeda associate; currently in US custody

Riduan Isamuddin (a.k.a. Hambali) - Indonesian; operational leader of Jemaah Islamiya; currently in US custody

Ziad Jarrah - Lebanese; 9/11 pilot/hijacker (UA 93) (deceased)

Abderraouf Jdey (a.k.a. Faruq al Tunisi) - Tunisian/Canadian; candidate 9/11 hijacker

Mohamed al Kahtani - Saudi; candidate 9/11 hijacker; currently in US custody

Mir Amal Kansi - Pakistani; extremist who killed two CIA employees at its headquarters in Virginia in 1993 (executed)

Wali Khan Amin Shah (a.k.a. Osama Asmurai) - Turkmen; associate of Usama bin Laden; convicted in Bojinka plot

Ibn al Khattab - Saudi; mujahid leader in Chechnya

L'Houssaine Kherchtou (a.k.a. Joe the Moroccan, Abu Talal) - Moroccan; former al-Qaeda member who broke with Bin Laden and became a US government informant

Usama Bin Laden (UBL) - Saudi; head of al-Qaeda

Ahmed al Nami - Saudi; 9/11 hijacker (UA 93) (deceased)

Sheikh Saeed al Masri - Egyptian; head of al-Qaeda finance committee

Khalid al Mihdhar - Saudi; 9/11 hijacker (AA 77) (deceased)

Khalid Sheikh Mohammed (KSM) (a.k.a. Mukhtar) - Pakistani; mastermind of 9/11 attacks; currently in US custody

Majed Moqed - Saudi; 9/11 hijacker (AA 77) (deceased)

Mounir el Motassadeq - Moroccan; Hamburg cell associate

Zacarias Moussaoui - French; arrested in the US in connection with the 9/11 attacks

Abdelghani Mzoudi - Moroccan; Hamburg cell associate

Qutaybah al Najdi - Saudi; candidate 9/11 hijacker

Abd al Rahim al Nashiri (a.k.a. Mullah Bilal) - Saudi; mastermind of USS Cole attack; currently in US custody

Abdul Aziz al Omari - Saudi; 9/11 hijacker (AA 11) (deceased)

Fahd al Quso - Yemeni; al-Qaeda co-conspirator arrested in Yemen for the USS Cole attack

Sayyid Qutb - Egyptian writer; member of Muslim Brotherhood (deceased)

Abd al Rahim Ghulum Rabbani (a.k.a. Abu Rahmah) - Saudi; al-Qaeda member who worked closely with KSM in Karachi and assisted many of the 9/11 hijackers

Sheikh Omar Abdel Rahman (a.k.a. the Blind Sheikh) - Egyptian cleric; convicted for crimes related to 1993 World Trade Center bombing and 1995 plots against other NY landmarks

Saud al Rashid - Saudi; candidate 9/11 hijacker

Ahmed Ressam (a.k.a. Benni Antoine Noris) - Algerian; convicted in millennium plot to bomb LAX Airport

Mamdouh Mahmud Salim (a.k.a. Abu Hajer al Iraqi) - Iraqi; chief procurement officer for al-Qaeda in Sudan; arrested in connection with 1998 embassy bombings

Abdul Rasul Sayyaf - Afghani; head of the Hizbul-Ittihad El-Islami, and KSM's mentor

Marwan al Shehhi - Emirati; 9/11 pilot/hijacker (UA 175) (deceased)

Mohand al Shehri - Saudi; 9/11 hijacker (UA 175) (deceased)

Wail al Shehri - Saudi; 9/11 hijacker (AA 11) (deceased)

Waleed al Shehri - Saudi; 9/11 hijacker (AA 11) (deceased)

Mohamedou Ould Slahi (a.k.a. Abu Musab) - Mauritanian; recruited 9/11 hijackers in Germany

Satam al Suqami - Saudi; 9/11 hijacker (AA 11) (deceased)

Madani al Tayyib - Saudi; former head of al-Qaeda finance committee

Zuhair al Thubaiti - Saudi; candidate 9/11 hijacker

Ramzi Yousef (a.k.a. Abdul Basit) - Pakistani; convicted mastermind of and conspirator in 1993 WTC + Bojinka plots

Khalid Saeed Ahmad al Zahrani - Saudi; candidate 9/11 hijacker

Mohammed Haydar Zammar - German citizen from Syria; jihadist; possible recruiter of Hamburg cell members

Ayman al Zawahiri - Egyptian; UBL's deputy and leader of Egyptian Islamic Jihad terrorist group

Appendix VI: Used Abbreviations

AAL - American Airlines	DNDO - Domestic Nuclear Detection Center
AFB - Air Force Base	DNI - Director of National Intelligence
AIA - Air Force Intelligence Agency	DOD - Department of Defense
ATF - Bureau of Alcohol, Tobacco, and Firearms	DOI - Department of the Interior
AUMF - Authorization for the Use of Military Force	DOJ - Department of Justice
AWACS - Airborne Warning and Control System	DOT - Department of Transportation
BATFE - former ATF and Explosives	DPC - Domestic Policy Council
CAP - Combat Air Patrol	EOP - Executive Office of the President
CAPPS - Computer Assisted Passenger Pre-Screening	EPA - Environmental Protection Agency
CBP - Customs and Border Protection	ESU - Emergency Service Unit (NYPD)
CENTCOM - Central Command	FAA - Federal Aviation Administration
CEA - Council of Economic Advisers	FAMS - Federal Air Marshal Service
CIA - Central Intelligence Agency	FBI - Federal Bureau of Investigation
CINC - Commander-in-Chief	FDNY - Fire Department of New York
CNCS - Corporation for National and Community Service	FEMA - Federal Emergency Management Agency
CNN - Cable News Television	FFTC - Florida Flight Training Center
COG - Continuity of Government	FISA - Foreign Intelligence Surveillance Act
CONR - Continental US NORAD Region	FISC - Foreign Intelligence Surveillance Court
CSG - Counter-terrorism Security Group	FLOTUS - First Lady of the United States
CSI - Container Security Initiative	FTTTF - Foreign Terrorist Tracking Task Force
CTC - Counter-terrorist Center	GAO - General Accounting Office
DAG - Deputy Attorney General	HHS - Health and Human Services
DCI - Director of Central Intelligence	HSAS - Homeland Security Advisory System
DEA - Drug Enforcement Administration	HSC - Homeland Security Council
DEFCON - Defense Condition	HUD - Housing and Urban Development
DHS - Department of Homeland Security	IAO - Information Awareness Office
DIA - Defense Intelligence Agency	ICE - Immigrations and Customs Enforcement

Appendix VI: Used Abbreviations

INR - Bureau of Intelligence and Research	OCS - Office of Combating Terrorism
INS - Immigration and Naturalization Service	OEM - Office of Emergency Management (NYC)
JCS - Joint Chiefs of Staff	OFAC - Office of Foreign Assets Control
JPMG - Joint Politico-Military Group	OHS - Office of Homeland Security
JSOC - Joint Special Operations Command	OIPR - Office of Intelligence Policy and Review
JTTF - Joint Terrorism Task Force	OMB - Office of Management and Budget
NACIC - National Counterintelligence Center	ONDCP - Office of National Drug Control Policy
NASA - National Aeronautics and Space Administration	ONI - Office of Naval Intelligence
NCIX - National Counterintelligence Executive	PANYNJ - Port Authority of New York and New Jersey
NCS - National Communications System	PAPD - Port Authority Police Department
NCTC - National Counter-terrorism Center	PEOC - Presidential Emergency Operations Center
NEADS - Northeast Air Defense Sector	PFIAB - President's Foreign Intelligence Advisory Board
NEC - National Economic Council	POTUS - President of the United States
NEST - Nuclear Emergency Support Team	ROE - Rules of Engagement
NGA - National Geo-spatial-Intelligence Agency	SEC - Securities and Exchange Commission
NIC – National Intelligence Council	SIOC - Strategic Information and Operations Center
NIMS - National Incident Management System	STRATCOM - Strategic Command
NMCC - National Military Command Center	TTIC - Terrorist Threat Integration Center
NORAD - North American Aerospace Defense Command	TSA - Transportation Security Administration
NRC - National Regulatory Commission	USAF - United States Air Force
NRO - National Reconnaissance Office	USCCR – United States Commission on Civil Rights
NRRC - Nuclear Risk Reduction Center	USCG - United States Coast Guard
NSA - National Security Agency	USCIS - US Citizenship and Immigration Services
NSC - National Security Council	USMC - United States Marine Corpse
NSCC - National Security Coordination Council	USMS - United States Marshals Service
NTC - National Targeting Center	USN - United States Navy
NTSB - National Transportation Safety Board	USSS - United States Secret Service
NYC - New York City	WHMO - White House Military Office
NYPD - New York Police Department	WTC - World Trade Center