PANEL I DAY TWO OF THE EIGHTH PUBLIC HEARING OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

RE: INTELLIGENCE POLICY AND NATIONAL POLICY COORDINATION
CHAIRED BY: THOMAS KEAN, FORMER GOVERNOR (R-NJ)
WITNESS: CIA DIRECTOR GEORGE TENET

216 HART SENATE OFFICE BUILDING, WASHINGTON, D.C.
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MR. KEAN: I'd like to call today's hearing to order. Yesterday we looked at the diplomatic and military aspects of national counterterrorism policy leading to September 11th 2001. We heard from the current and the former secretaries of state and defense. Today we'll hear about intelligence policy and national policy coordination.

Our first panel will investigate the CIA's efforts to disrupt al Qaeda operations and bin Ladin in the Afghanistan sanctuary. Shedding light on all this with Director of Central Intelligence George Tenet.

Before we hear from him, we'll begin as we did yesterday with the staff statement. These statements are informed by the work of the Commissioners as well as the staff, and represent the staff's best effort to reconstruct the factual record. Judgments and recommendations are for commissioners and the Commission to make, which we will do during the course of our work, and most importantly in our final report.

Delivering the statement on the role of intelligence policy and national counterterrorism policy will be our executive director, Dr. Philip Zelikow and our deputy executive director, Chris Kojm.

MR. ZELIKOW: Thank you, Mr. Chairman. Members of the Commission, with your help, your staff has developed initial findings to present to the public on the use of our intelligence agencies in countering terrorism. These findings may help frame some of the issues for these hearings and inform the development of your judgments and recommendations.

Today we will focus on the role of the Central Intelligence Agency as an instrument of national policy. The issues -- I want to emphasize this -- the issues related to the collection of intelligence, analysis and warning, and the management of the intelligence community will be taken up at the Commission's

hearing next month, by the way in which we expect to hear from DCI Tenet again. This report reflects the results of our work so far. We remain ready to revise our understanding of events are our investigation progresses.

This staff statement represents the collective effort of a number of members of our staff. Alexis Albion, Michael Hurley, Dan Marcus, Lloyd Salvetti and Steve Dunne did much of the investigative work reflected in this statement. For this area of our work, we were fortunate in being able to build upon a great deal of excellent work already done by the congressional Joint Inquiry. The Central Intelligence Agency has cooperated fully in making available both the documents and interviews we've needed so far on this topic.

I'd now like to turn to our deputy executive director and former deputy assistant secretary of State for intelligence, Christopher Kojm.

MR. KOJM: Thank you. The CIA plays a dual role in counterterrorism. Like other members of the intelligence community, the CIA is an intelligence producer. It collects and analyzes foreign intelligence and provides this information to policymakers. When directed by the President, the CIA is also responsible for executing policy through the conduct of covert action.

The director of central intelligence, from whom you will hear this morning, also has dual responsibilities. He is the President's senior intelligence advisor. He is also the head of an agency, the CIA, that executes policy. In speaking with the Commission, DCI Tenet was blunt, quote, "I am not a policymaker," end of quote. He presents intelligence and offers operational judgments, but he says it is ultimately up policymakers to decide how best to use that intelligence. Quote, "It is their job to figure out where I fit into their puzzle," end of quote, Tenet said.

Both the DCI and the deputy director for operations, James Pavitt, invoked lessons learned from the Iran-contra scandal: The CIA should stay well behind the lines separating policymaker from policy implementer. "The CIA does not initiate operations unless it is to support of policy directive," said Tenet. For Pavitt, the lesson of Iran-contra was, quote, "We don't do policy from out here, and you don't want us to," end of quote.

Yet, as a member of the National Security Council, the DCI is one of a handful of senior officials who advises the President on national security. The DCI's operational judgments can and did influence key decisions on the U.S. government's policy toward al Qaeda. In the case of al Qaeda, the line between policymaker and policy implementer is hard to discern.

Renditions. Under the presidential directives in the Clinton administration, Presidential Decision Directive 39 and PDD 62, the CIA had two main operational responsibilities for combating terrorism, rendition and disruption. We will first discuss the CIA's support with renditions. In other words, if a terrorist suspect is outside of the United States, the CIA helps to catch and send him to the United States or a third country. Overseas officials of CIA, the FBI and the State Department may locate the terrorist suspect, perhaps using their own sources. If possible, they seek help from a foreign government. Though the FBI is often part of the process, the CIA is usually the main player, building and defining the relationships with the foreign government intelligence agencies and internal security services.

The CIA often plays an active role, sometimes calling upon the support of other agencies for logistical or transportation assistance. Director Tenet has publicly testified that 70 terrorists were rendered and brought to justice before 9/11.

These activities could only achieve so much. In countries where the CIA did not have cooperative relationships with local security services, the rendition strategy often failed. In at least two such cases when the CIA decided to seek the assistance of the host country, the target may have been tipped off and escaped. In the case of bin Ladin, the United States had no diplomatic or intelligence officers living or working in Afghanistan. Nor was the Taliban regime inclined to cooperate. The CIA would have to look for other ways to bring bin Ladin to justice.

Disruptions. Under the relevant directive of the Clinton administration, foreign terrorists who posed a credible threat to the United States were subject to, quote, "preemption and destruction," end of quote, abroad, consistent with U.S. laws. The CIA had the lead.

Where terrorists could not be brought to justice in the United States or a third country, the CIA could try to disrupt their operations, attacking the cells of al Qaeda operatives or affiliated groups. The CIA encouraged foreign intelligence

services to make creative use of laws already in place to investigate, detain and otherwise harass known or suspected terrorists.

Disruptions of suspected terrorist cells thwarted numerous plots against American interests abroad, particularly during high threat periods. After the embassy bombings of 1998, the U.S. government disrupted planned attacks against at least one American embassy, in Albania. In late 1999, preceding the Millennium celebrations, the activities of 21 individuals were disrupted in eight countries. In two subsequent phases of intensive threat reporting, the Ramadan period in late 2000 and the summer prior to 9/11, the CIA again went into what the DCI described as Millennium threat mode, engaging a foreign liaison and disrupting operations around the world.

At least one planned terrorist attack in Europe may have been successfully disrupted during the summer of 2001. Rendition and disruptions continued as an important component of U.S. counterterrorism policy throughout the period leading up to 9/11. They are still widely used today.

Using covert action in Afghanistan. To disrupt bin Ladin himself or his base in Afghanistan, a very different strategy of disruption would have to be developed. In 1996, as an organizational experiment, undertaken with seed money, the Counterterrorism Center at the CIA created a special issues station devoted exclusively to bin Ladin. Bin Ladin was then still in Sudan, and was considered by the CIA to be a terrorist financier. The original name of the station was TFL, standing for "terrorist financial links." The bin Ladin station was not a response to new intelligence, but reflected interest in and concern about bin Ladin's connections.

The CIA believed that bin Ladin's move to Afghanistan in May 1996 might be a fortunate development. The CIA knew the ground in Afghanistan, as its officers had worked with indigenous tribal forces during the war against the Soviet Union. The CIA definitely had a lucky break when a former associate of bin Ladin walked into a U.S. Embassy abroad and provided an abundance of information about the organization. These revelations were corroborated by other intelligence.

By early 1997, the UBL station knew that bin Ladin was not just a financier but an organize of terrorist activity. It knew that al Qaeda had a military committee, planning operations against U.S. interests worldwide, and was actively trying to

obtain nuclear material. Although this information was disseminated in many reports, the unit's sense of alarm about bin Ladin was not widely shared or understood within the intelligence and policy committees. Employees in the unit told us they felt their zeal attracted ridicule from their peers.

In 1997, CIA headquarters authorized U.S. officials to begin developing a network of agents to gather intelligence inside Afghanistan about bin Ladin and his organization -- and prepare a plan to capture him. But 1998, DCI Tenet was giving considerable personal attention to the bin Ladin threat.

Since its inception, the UBL station had been working on a covert action plan to capture bin Ladin and bring him to justice. The plan had been elaborately developed by the spring of 1998. Its final variant in this period used Afghan tribal fighters recruited by the CIA to assault a terrorist compound where bin Ladin might be found, capture him if possible, and take him to a location where he could be picked up and transported to the United States.

Though the plan had dedicated proponents in the bin Ladin unit, and was discussed for months among top policymakers, all of the CIA's leadership and the key official in the field agreed that the odds of failure were too high. They did not recommend it for approval by the White House.

After the East Africa bombings, President Clinton signed successive authorizations for the CIA to undertake offensive operations in Afghanistan against bin Ladin. Each new document responded to an opportunity to use local forces from various countries against bin Ladin himself, and later his principal lieutenants. These were authorizations for the conduct of operations in which people on both sides could be killed. Policymakers devoted careful attention to crafting these sensitive and closely-held documents.

In accordance with these authorities, the CIA developed successive covert action programs using particular indigenous groups or proxies who might be able to operate in different parts of Afghanistan. These proxies would also try to provide intelligence on bin Ladin and his organization, with an eye to finding bin Ladin and then ambushing him if the opportunity arose.

The CIA's Afghan assets reported on about a half a dozen occasions before 9/11 that they had considered attacking bin

Ladin, usually as he traveled in his convoy along the rough Afghan roads. Each time the operation was reportedly aborted. Several times the Afghans said that bin Ladin had taken a different route than expected. On one occasion security was said to be too tight to capture him. Another time they heard women and children's voices from inside the convoy, and abandoned the assault for fear of killing innocents, in accordance with CIA guidelines.

The Plan. As time passed, morale in the bin Ladin unit sagged. The former deputy chief told the Joint Inquiry that they felt like they were buying time, trying to stop bin Ladin and disrupting al Qaeda members until military force could be used.

In June 1999, National Security Adviser Berger reported to President Clinton that covert action efforts against bin Ladin had not been fruitful.

In the summer of 1999, new leaders arrived at the Counterterrorism Center in the bin Ladin unit. The new director of that center was Cofer Black. He and his aides worked on a new operational strategy for going after al Qaeda. The focus was on getting better intelligence. They proposed a shift from reliance on the Afghan proxies alone to an effort to creating the CIA's own sources. They called the new strategy simply "the plan." The plan also proposed increasing contacts between the CIA and the Northern Alliance rebels fighting the Taliban.

The Predator. The plan resulted in increased reporting on al Qaeda. Still, going into the year 2000, the CIA had never laid American eyes on bin Ladin in Afghanistan. President Clinton prodded his advisers to do better. National Security Council counterterrorism coordinator Richard Clarke helped assistant DCI for collection, Charles Allen, and Vice Admiral Scott Fry of the Joint Staff work together on the military's ongoing efforts to develop new collection capabilities inside Afghanistan. With the NSC staff's backing, the Counterterrorism Center and the military came up with a proposal to fly an unmanned drone, called the Predator, over Afghanistan to survey the territory below and relay video footage. That information, the White House hoped, could either boost U.S. knowledge of al Qaeda or be used to kill bin Ladin with a cruise missile.

Assistant DCI Allen said that the CIA's senior management was originally reluctant to go ahead with the Predator program, adding that, quote, "It was a bloody struggle," end of quote. But the NSC staff was firm, and the CIA agreed to fly the Predator as

a trial concept. Drones were flown successfully over Afghanistan 16 times in fall 2000. At least twice the Predator saw a security detail around a tall man in a white robe whom some analysts determined was probably bin Ladin. The Predator was spotted by Taliban forces. They were unable to intercept it, but the Afghan press service publicized the discovery of a strange aircraft that it speculated might be looking for bin Ladin.

When winter weather prevented the Predator from flying during the remainder of 2000, the Counterterrorism Center looked forward to resuming flights in 2001.

The *U.S.S. Cole*. When the American destroyer, the *U.S.S. Cole*, was bombed in Yemen in October 2000, al Qaeda was immediately suspected of having struck again. The Counterterrorism Center developed an offensive initiative for Afghanistan, regardless of policy or financial constraints. It was called the Blue Sky Memo. In December 2000, the CIA sent this to the NSC staff. The memo recommended increased support to anti-Taliban groups and to proxies who might ambush bin Ladin. The Counterterrorism Center also proposed a major effort to back Northern Alliance forces in order to stave off the Taliban army and tie down al Qaeda fighters, thereby hindering terrorist activities elsewhere.

No action was taken on these ideas in the few remaining weeks of the Clinton administration. The Blue Sky Memo itself was not apparently discussed with the incoming top Bush administration officials during the transition. The Counterterrorism Center began pressing these proposals after the new team took office.

The Bush administration. The CIA briefed President-elect George W. Bush and the incoming national security officials on covert action programs in Afghanistan. Deputy DCI McLaughlin said that he walked through the elements of the al Qaeda problem with National Security Adviser Condoleezza Rice, including an explanation of the special authorities signed by President Clinton. DCI Tenet and Deputy Director for Operations Pavitt gave an intelligence briefing to President-elect Bush, Vice President-elect Cheney and Dr. Rice, which included the topic of al Qaeda. Pavitt recalled conveying that bin Ladin was one of the gravest threats to the country. President-elect Bush asked whether killing bin Ladin would end the problem. Pavitt said he and the DCI answered that killing bin Ladin would have an impact, but not stop the threat.

The CIA later provided more formal assessments to the White House, reiterating that conclusion. It added that the only long-term way to deal with the threat was to add al Qaeda's ability to use Afghanistan as a sanctuary for its operations.

Arming Predator. During fall of 2000, Clarke and other counterterrorism officials learned of a promising and energetic Air Force effort that was already trying to arm the Predator with missiles. Clarke and Assistant DCI Allen urged flying the reconnaissance version of the Predator in the spring as soon as the weather improved, and using the armed Predator against bin Ladin as soon as possible.

DCI Tenet, supported by military officers and the Joint Staff balked at this plan. They did not want to go ahead with reconnaissance flights alone, and argued for waiting until the armed version was ready before flying Predator again. Given the experience in the fall of 2000, they worried that flying the reconnaissance version would forfeit the element of surprise for the armed Predator. They also feared one of these scarce aircraft might be shot down, since Taliban radar had previously tracked it, forcing it into a more vulnerable flight path. They also contended that there were not enough Predators to be able to conduct reconstruction flights over Afghanistan and still have aircraft left over for the testing then underway in the United States to develop the armed version.

Clarke believed that these arguments were stalling tactics by CIA's risk-averse directorate of operations. He wanted the reconnaissance flights to begin on their own, both for collection and to allow for possible strikes with other military forces. He thought the reconnaissance flights could be conducted with fewer aircraft than had been used in 2000, so that testing on the armed version might continue.

DCI Tenet's position prevailed--the reconnaissance flights were deferred while work continued on the armed version.

The armed Predator was being readied at an accelerated pace during 2001. The Air Force officials who managed the program told us that the policy arguments, including quarrels about who would pay for the aircraft, had no effect on their timetable for operations. The timetable was instead driven by a variety of technical issues. A program that would ordinarily have taken years was, they said, finished in months. They were, quote, "throwing out the books on the normal acquisition process just to press on and get it done," end of quote.

In July, Deputy National Security Adviser Stephen Hadley ordered that the armed Predator be ready by September 1st. CIA officials supported these accelerated efforts. The Air Force program manager told us that they were still resolving technical issues as of 9/11 and, quote, "We just took what we had and deployed it," end of quote.

Meanwhile, policymakers were arguing about the unprecedented step of creating a missile system for use by an agency outside of the Department of Defense. DCI Tenet was concerned. At a meeting of NSC principals on September 4th, National Security Adviser Rice summarized a consensus that the armed Predator was not ready but that the capability was needed. The group left often issues related to command and control. In the meantime, the principals committee agreed that the CIA should consider going ahead with flying reconnaissance missions with the Predator. Shortly after the meeting, DCI Tenet agreed to proceed with such flights.

Developing a new strategy. The new Administration's policy review apparently began in March, and continued throughout the spring and summer of 2001. At the end of May, National Security Adviser Rice met with DCI Tenet and their counterterrorism experts. She asked about, quote, "taking the offensive," end of quote, against al Qaeda, and asked Clarke and the Counterterrorism Center chief, Cofer Black, to develop a full range of options. A plan for a larger covert action effort was a major component of the new al Qaeda strategy codified in a draft presidential directive that was first circulated in early June.

The emerging covert action built upon the ideas that the CIA and Clarke had been working on since December 2001. A noticeable change was that Rice and Hadley wanted to place less emphasis on the Northern Alliance and more on anti-Taliban Pashtuns.

Clarke was impatient to get at least some money to the Northern Alliance right away in order to keep them in the fight. Meanwhile, the intelligence community began to receive its greatest volume of threat reporting since the Millennium plot.

By late July, there were indications of multiple, possibly catastrophic terrorist attacks being planned against American interests overseas. The Counterterrorism Center identified 30 possible overseas targets and launched disruption operations around the world.

Some CIA officials expressed frustration about the pace of policymaking during the stressful summer of 2001. Although Tenet

said he thought the policy machinery was working in what he called a rather orderly fashion, Deputy DCI McLaughlin told us he felt a great tension, especially in June and July 2001, between the new Administration's need to understand these issues and his sense that this was a matter of great urgency.

Officials, including McLaughlin, were also frustrated when some policymakers, who had not lived through such threat surges before, questioned the validity of the intelligence or wondered if it was disinformation, though they were persuaded once they probed it.

Two veteran Counterterrorism Center officers who were deeply involved in bin Ladin issues were so worried about an impending disaster that one of them told us that they considered resigning and going public with their concerns.

DCI Tenet, who was briefing the President and his top advisers daily, told us that his sense was that officials at the White House had grasped the sense of urgency he was communicating to them.

By early August, DCI Tenet said that intelligence suggested that whatever terrorist activity might have been originally planned had been delayed. At the same time, the deputies committee reached a consensus on a new Afghan policy, paving the way for Northern Alliance aid.

NSC principals apparently endorsed the new presidential directive on al Qaeda at their meeting on September 4th. On September 10th, Deputy National Security Adviser Hadley formally tasked DCI Tenet to draw up new draft authorities for the broad covert action program envisioned in that directive, including significant additional funding and involving Pashtun elements as well as the Northern Alliance.

Events would, of course, overtake this tasking. Within days of the September 11th attacks, a new counterterrorism policy was in place.

Key issue areas. The story of CIA activities before 9/11 brings up a number of key issues for considering how policymakers made use of covert capabilities for attacking bin Ladin. Many CIA officers, including Deputy Director for Operations Pavitt, have criticized policymakers for not giving the CIA authority to conduct effective operations against bin Ladin.

This issue manifested itself in a debate about the scope of the covert actions in Afghanistan authorized by President Clinton. NSC staff and CIA officials differ starkly here.

Senior NSC staff members told us they believed the President's intent was clear: He wanted bin Ladin dead. On successive occasions, President Clinton issued authorities instructing the CIA to use its proxies to capture or assault bin Ladin and his lieutenants in operations in which they might be killed. The instructions, except in one defined contingency, were to capture bin Ladin if possible.

Senior legal advisers in the Clinton administration agreed that, under the law of armed conflict, killing a person who posed an imminent threat to the United States was an act of self-defense, not an assassination. As former National Security Adviser Berger explained, "If we wanted to kill bin Ladin with cruise missiles, why would we not want to kill him with covert action?" Clarke's recollection is the same.

But if the policymakers believed their intent was clear, every CIA official interviewed on this topic by the Commission, from DCI Tenet to the official who actually briefed the agents in the field, told us they heard a different message.

"What the United States would let the military do is quite different," Tenet said, "from the rules that govern covert action by the CIA." CIA senior managers, operators and lawyers uniformly said that they read the relevant authorities signed by President Clinton as instructing them to try to capture bin Ladin, except in the defined contingency.

They believed that the only acceptable context for killing bin Ladin was a credible capture operation. Quote: "We always talked about how much easier it would have been to kill him," end of quote, a former chief of the bin Ladin station said.

Working-level CIA officers said they were frustrated by what they saw as the policy restraints of having to instruct their assets to mount a capture operation. When Northern Alliance leader Massoud was briefed on the carefully-worded instructions for him, the briefer recalls that Massoud laughed and said, quote, "You Americans are crazy. You guys never change." End of quote.

To further cloud the picture, two senior CIA officers told us they would have been morally and practically opposed to getting

CIA into what might look like an assassination. One of them, a former Counterterrorism Center chief, said that he would have refused an order to directly kill bin Ladin.

Where NSC staff and CIA officials agree is that no one at CIA, including Tenet and Pavitt, ever complained to the White House that the authorities were restrictive or unclear. Berger told us, quote, "If there was ever any confusion, it was never conveyed to me or the President by the DCI or anybody else." End of quote.

The trouble with proxies. Senior CIA officials were cautious about engaging U.S. personnel within Afghanistan. CIA officers faced enormous dangers in Afghanistan, a large, desolate country in the midst of a civil war, where there were no reliable means for either inserting or extracting personnel. They did, however, take on significant risk. CIA teams penetrated deep into Afghanistan on numerous occasions before 9/11; for example, to evaluate air fields suitable for capture operations.

These were hazardous missions. Officers flew through mountainous terrain on rickety helicopters, exposed to missile attack from the ground. CIA personnel continued these missions over the course of the next year, and on each occasion risked their lives.

But reluctance to authorize direct action by CIA personnel against bin Ladin inside the Afghanistan sanctuary led policymakers to rely on local forces, or proxies. For covert action programs, proxies meant problems. First, proxies tend to tell those who pay them what they want to hear. The CIA employs many means to test and verify the truth of the intelligence its agents provide, but these tests are not foolproof.

Second, a strategy emphasizing proxies takes significant time to produce the desired results. Proxy forces invariably need training and instruction to carry out operations.

Both these factors bedeviled the CIA's use of proxy forces in Afghanistan before 9/11. The most widely-used forces were tribal fighters with whom CIA officers had established relations dating back over a decade to the jihad against Soviet occupation.

CIA officers dealing with these tribal fighters had some confidence in their ability to target bin Ladin. These agents collected valuable intelligence at great personal risk. Yet when

it came to their ability to conduct paramilitary operations, senior CIA officials had their doubts.

As was mentioned, senior CIA officials did not go forward with the spring 1998 plan to use Afghan forces to capture bin Ladin. This was in part because they were not convinced that the Afghans could carry out the mission successfully.

There's little evidence that the CIA leadership ever developed greater faith in the operational skills of these proxy forces for paramilitary action. Deputy Director for Operations Pavitt said he does not know if the attempted ambushes against bin Ladin that the tribal fighters reported ever actually occurred.

CIA employed proxy forces other than the Afghan tribal groups against bin Ladin, but with no more confidence in their abilities. DCI Tenet thought the most able proxies were the hardened warriors of Massoud's Northern Alliance, who had been at war with the Taliban for years.

Though there was continuing disagreement within the agency about relying on the Northern Alliance, CIA leaders put more and more weight behind this option through 2000 and 2001. They were always aware that the primary objective of Massoud's forces was to defeat the Taliban, not to find bin Ladin or attack al Qaeda.

By deciding to use proxies to carry out covert actions in Afghanistan before 9/11, both administrations placed the achievement of policy objectives in the hands of others.

In conclusion, before 9/11, no agency did more to attack al Qaeda, working day and night, than did the CIA. But there were limits to what the CIA was able to achieve by disrupting terrorist activities abroad and using proxies to try to capture bin Ladin and his lieutenants in Afghanistan.

CIA officers were aware of these limitations. One officer recognized as early as mid-1997 that the CIA alone was not going to solve the bin Ladin problem. In a memo to his supervisor, he wrote, quote, "All we're doing is holding the ring until the cavalry gets here," closed quote.

Deputy Director for Operations Pavitt told commission staff that doing stuff on the margins was not the way to get this job done. If the U.S. government was serious about eliminating the al

Qaeda threat, it required robust offensive engagement across the entire U.S. government.

DCI Tenet also understood the CIA's limitations. He told staff that the CIA's odds of success in Afghanistan before 9/11 were between 10 and 20 percent. This was not because the CIA lacked the capabilities to attack the target, he said, but because the mission was extremely challenging.

Covert action was not a silver bullet, but it was important to engage proxies and to build various capabilities so that, if an opportunity presented itself, the CIA could act on it. "You could get really lucky on any given day," Tenet said.

Indeed, serendipity had led to some of the CIA's past successes against al Qaeda, but, absent a more dependable government strategy, CIA senior management relied on proxy forces to get lucky for over three years, through both the late Clinton and early Bush administrations.

There was growing frustration within this counterterrorist center and in the NSC staff with this lack of results. The development of the Predator and the push to aid the Northern Alliance were certainly products of this frustration. The Commission has heard numerous accounts of the tireless activity of officers within the counterterrorist center and the UBL station, trying to tackle al Qaeda before 9/11.

DCI Tenet was also clearly committed to fighting the terrorist threat. But if officers at all levels questioned the effectiveness of the most active strategy the policymakers were employing to defeat the terrorist enemy, the Commission needs to ask why that strategy remained largely unchanged throughout the period leading up to 9/11.

MR. KEAN: Thank you very much. We will now hear from the senior official most involved in the formation and implementation of intelligence activities in support of counterterrorism policy, the distinguished and long-serving director of the Central Intelligence Agency, George Tenet. He will be joined by the distinguished deputy director of central intelligence, John McLaughlin.

Director Tenet, by the way, has informed us that he believes it inappropriate for a director of central intelligence to discuss at a public hearing certain sensitive operational and matters and authorities, and this we certainly understand. We

agree with the director and would not want anything said here which would hurt American intelligence in any way whatsoever. I'm a little unhappy that some of the things that went on five years ago, that we can't discuss some of those that have already been printed in books, but we certainly will respect the director's judgment on those -- on those matters.

Our staff statement does include a number of things that are unclassified. We've also had the opportunity to interview Director Tenet extensively in private on these subjects, and he has said that any time we need any further questions on these subjects, he would be very happy to accommodate us. I do urge my fellow commissioners to defer to the director's judgments on some of these very sensitive -- very sensitive areas.

Director Tenet, Deputy Director McLaughlin, I would to ask you to raise your right hands: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

MR. TENET: I do.

MR. JOHN MCLAUGHLIN: I do.

MR. KEAN: Thank you very much. Your written remarks -- I guess you'll hopefully summarize those in 10 minutes or so and so we can get into questions.

Vice Chairman Hamilton.

MR. LEE HAMILTON: Thank you very much, Mr. Chairman. I just wanted to kind of reiterate what the chairman said because of the importance of it.

I think the director is always in a difficult spot when he testifies in public. This commission has a mandate to develop a full and complete accounting of the events of 9/11, and the Commission should press for all of the information that we need to fulfill that mandate. The director has a responsibility to carry out some of the most sensitive matters in the United States government. He has an obligation to find out information people don't want to give us, to carry out a lot clandestine operations, to protect the lives of a lot of people who carry out those missions, and, of course, to inform policymakers.

There is obviously a tension between the mandate of the Commission and the responsibilities of the director. And it behooves both of us to try to be sensitive to the

responsibilities of the other. For myself, I've spent decades handling top secret information, and I've been informed at least about scores it not hundreds of covert operations. And I do think that we on the Commission have to be very, very careful, and we have to realize what is at stake, and we have to respect the judgment of those who really do carry awesome responsibilities.

Now, that respect does not mean that we accept without scrutiny what intelligence is given to us. That's not our responsibility. We should scrutinize it. But it does mean, it seems to me, that we not press excessively or too hard in public session when the director advises us that questions create risks to U.S. operations and to U.S. national security.

Thank you, Mr. Chairman.

MR. KEAN: Mr. Director.

MR. TENET: Governor, thank you. I've submitted a very long statement, and it is not my intention to read that statement, and I want to get -- stay under the 10-minute deadline so we can get to questions, which is probably more productive in any event.

MR. KEAN: Thank you, sir.

MR. TENET: I welcome this opportunity to testify before you and the American people on the intelligence community's decisive role in the war on terrorism. What I will offer today both in my statement and in my answers to your questions is a personal perspective. Nothing I have worked on is more important or more personal. I'm a New Yorker. And like many others in our country, I have friends who were killed in the World Trade Center, the Pentagon, and in Pennsylvania. The fight against this enemy has shaped my years as director of central intelligence.

September 11th is a tragedy that we will all carry with us for the rest of our lives. The community that I am privileged to lead and represent has also lost officers in this war. Those who now fight this battle through long days and nights are devoted to a single mission, trying to ensure that the terrorists who committed these atrocities will never live in peace.

I have worked for two different administrations, two different political parties. Both sets of policymakers care deeply about the challenge of terrorism. The first group lived through the terrorist phenomenon and wrestled with difficult issues thoughtfully and diligently. The second group, this

Administration, was working hard before September 11th to devise a comprehensive framework to deal with al Qaeda, based on the best knowledge that we in the intelligence community could provide. And during this time, the intelligence community did not stand still.

You, as the Commission, must evaluate all this. I, as the director of central intelligence, must tell you, clearly, that there was no lack of care of focus in the face of one of the greatest dangers our country has ever faced.

The recent years of this war are well publicized, but the early years are not. For us, the conflict started long ago, after we witnessed the emergence of Bin Ladin and al Qaeda in the early '90s. Bin Ladin was only just starting to expand his reach when we saw him as an emerging threat during his time in Sudan. In 1996, he moved to Afghanistan. We characterized him as one of the most active financial sponsors of Islamic fundamental terrorism.

During his years in Sudan, Bin Ladin was not yet the center for terrorist operational planning that he became in Afghanistan, but we were concerned enough about him that in January of 1996, we created a dedicated component in the Counterterrorism Center, the Bin Ladin Issue Station, that was staffed by officers from multiple agencies, with the mission of disrupting his operations. We also issued the earliest of what turned out to be a long series of warnings about Bin Ladin and al Qaeda, and I believe those warnings were heeded.

This terrorism problem changed fundamentally after Bin Ladin moved to Afghanistan in 1996. The country had become a haven of where terrorists could disseminate their ideology, plot, fund-raise, and train for attacks around the world. In 1998, Bin Ladin issued a fatwa, telling all Muslims it was their duty to kill Americans and their allies, civilian and military, wherever they may be.

We recognized, through our collection analysis and disruption efforts of the '90s, that we had to change to meet this evolving threat. We had captured and rendered terrorists for years, but we knew we needed to go further to penetrate the sanctuary Bin Ladin found in Afghanistan. We knew that because our technical coverage was slipping, al Qaeda's operational security was high. We were taking terrorists off the street, but the threat level persisted. And finally we had to operate against a target that was buried deep in territory controlled by the Taliban, an area where we needed to expand our on-the-ground presence.

Standoff operations required predictive intelligence -- knowing precisely where a target would be many hours in advance. That, we did not have. We needed close in access to understand the target and maximize our chances for success. And while we were collecting, we continued to build a coalition of friendly services around the world that would expand our regional access.

So, we did change. We developed a new baseline strategy in 1999. Simply, we called it "the plan." We worked on the plan through the summer. We told our customers and counterparts in Washington all about it. Under this plan, we developed a broad array of both human and technical sources. Our efforts were designed to disrupt the terrorists and their plots, collect information, recruit terrorist spies, all to support new operational initiatives.

To penetrate Bin Ladin's sanctuary, we also worked with Central Asian intelligence services and with the Northern Alliance and its leader, Ahmad Shah Masood, on everything from technical collection to building an intelligence capability to potential renditions. And we developed a network of agents inside Afghanistan who were directed to track bin Ladin. We worked with friendly tribal partners for years to undertake operations against him. Our human intelligence rose markedly from 1999 through 2001. By September 11th, the map of Afghanistan would show that these collection programs, human networks, were in place in numbers to nearly cover the country.

The array meant that when the military campaign to topple and destroy the Taliban began in October of 2001, we were able to support it with an enormous body of information and a large stable of assets. These networks gave us the platform from which to launch the rapid takedown of the Taliban.

The worldwide coalition we built allowed us to respond during periods of high threat. The Millennium period was the first of a series of major coordinated operations among a coalition of countries. I told the President to expect between five and 15 attacks against the United States. We disrupted terrorist attacks that saved lives. There were actions in 50 countries involving dozens of suspects, many of whom were followed, arrested, or detained. During the same time period we conducted multiple arrests in East Asia, leading to the arrest or detention of 45 members of the Hezbollah network in a totally separate operation.

During the Ramadan period in the fall of 2000, we helped break up cells planning attacks against civilian targets in the

Gulf. These operations netted anti-aircraft missiles and hundreds of pounds of explosives and brought a bin Ladin facilitator to justice. We began to fly the Predator in reconnaissance mode in this time period. Finally, during the summer of 2001, reacting to a rash of intelligence reports, I personally contacted a dozen of my foreign counterparts. This intense period, and thanks to our partners' work, led to arrest and detentions in Bahrain, in Yemen, in Turkey. It led to disruptions in two dozen countries. We helped halt, disrupt, or uncover weapons caches and plans to attack U.S. diplomatic facilities in the Middle East and Europe.

In a few minutes, I have described what thousands of people did over the course of years in this country and overseas, but despite these efforts we still did not penetrate the plot that led to the murder of 3,000 men and women on that Tuesday morning. Since September 11th, we have worked hard to enhance intelligence but also improve the integration of this government. We have strengthened our ties to law enforcement from having officers work jointly in the field in this country to breaking down walls that impeded cooperation, thanks to the PATRIOT Act. We have a new terrorist threat integration center. We have made much more comprehensive and integrated effort to fill critical gaps we had in our process of watch listening potential terrorists. We have a Department of Homeland Security. All of this is to make a final key point -- as a country, you must be relentless on offense, but you must have a defense that links visa measures, border security, infrastructure protection, and domestic warnings in a way that increases security, closes gaps, and serves a society that demands high level of both safety and freedom. We collectively did not close those gaps rapidly or fully enough before September 11th. We have learned and are doing better in an integrated environment that allows us to respond faster and more comprehensively than three years ago, and much more work needs to be done.

Mr. Chairman, the war ahead is going to be complicated and long. You need an intelligence community, you need a Homeland Security Department, and we need stamina to continue in this fight, because it's going to go on for many years. Thank you very much, Mr. Chairman.

MR. KEAN: Thank you very much, sir. Commissioner Fielding and I are going to lead our questioning followed by Commissioner Gorelick.

MR. FIELDING: Thank you, Mr. Chairman. Everybody bear with me, I don't know how long my voice is going to last this morning.

Mr. Director, Mr. Deputy Director, thank you very much for coming and let us all express our appreciation to you both for the awesome task that you have and for the loyal service you have given to your country. We really appreciate your cooperation with our Commission and its work.

I would like to start today by trying to put into context the testimony you have given and the written testimony you have given us. And in that regard, I would be appreciative if you would explain to us and describe to us how you communicated intelligence to President Clinton and to his national security advisors.

MR. TENET: The principal method of communication obviously is -- went through our president's daily brief every morning, which we provided for the President for his reading; through the National Security Advisor Sandy Berger and on issues of terrorism, as you all know, there was a consolidated group called the CSG on terrorism at the NSC that funneled its way up. We participated to Mr. Berger and then onward to the President.

In periods of high threat or in periods particularly subsequent to the East Africa bombings, in particular, we met with the President directly and in other time periods as well. So that was principally the way we interacted with him.

MR. FIELDING: And what would be the role of the National Security Advisor?

MR. TENET: The National Security Advisor's role is -- obviously, he runs the -- he ran the principals committee meetings that I sat at. He saw the President every day; he discussed the intelligence with him. The National Security Advisor and I met once a week and talked daily or a number of times a week on these kinds of matters, and so there was an intimate interaction with him during this time period.

MR. FIELDING: Now, I think all of us were a little surprised to find out that Osama bin Ladin was actually being followed by you, even to the point of setting up a unit as early as 1997.

MR. TENET: '96, sir.

MR. FIELDING: '96 -- I'm sorry. But would you also explain to us what -- not just the UBL station was but what the Watch Fax was? Or at least it's been described to us as Watch Fax, I'm sorry. It was a UBL situation report?

MR. TENET: Well, first of all, the unit we created -- obviously, the thought process behind it was we saw a phenomenon here that we were quite worried about, and we wanted to take a group of people offline to focus on this exclusively, grow it, over time, and help us understand how to drive operations and analysis against this phenomenon. The Watch Fax -- I don't know what you call it -- I guess there was almost a daily report. I guess this is what the Watch Fax is, that we sent to senior policymakers during different time periods and obviously there was constant communication in both administrations with the CSG, a terrorist group at the NSC.

MR. FIELDING: See, that's what I was really trying to define, because we'd heard about this report and that it was prepared four or five times a week for most of the Clinton administration, but I'm trying to determine to whom it went.

MR. TENET: I believe that was something we sent to Sandy Berger. Is that correct, John?

MR. MCLAUGHLIN: That's my recall, yes.

MR. FIELDING: Okay, and is our information correct with four, five, six days a week?

MR. MCLAUGHLIN: My recall is it was about five days a week.

MR. TENET: That’s my recollection. Yeah.

MR. FIELDING: Thank you. Now, during the period of transition, what was your specific role Mr. Director, in the transition to the new Administration in regard to the President and to his National Security Team?

MR. TENET: First, I was trying to figure out whether I was going to keep my job. But that’s a separate issue. (Laughter) Second—-

MR. FIELDING: Who did you consult on that? (Laughter)

MR. TENET: It’s classified sir. (Laughter)

MR. FIELDING: I accept that sir. (Laughter)

MR. TENET: During the time period there was a transition team, and obviously we prepared transition books and lots of papers for the transition team. I believe your staff statement

even indicates that the Deputy Director of Operations and I met with the President and talked about Bin Ladin. I will be candid with you, the Deputy Director for Operations has a clear recollection of this session. I don't have nearly as clear a recollection. We talked about terrorism in this time period. And obviously as the new Administration was formed up, early on Dr. Rice and Steve Hadley came out and thoroughly reviewed the authorities that we had on terrorism and the basis from which we were proceeding. So there was a fair discussion about this phenomenon, even early on.

MR. FIELDING: Were there any marked changes in your relationship with the White House?

MR. TENET: The principal difference is that I would see the President every day to conduct the daily brief with our briefer-— usually six days a week. So this president wanted a face-to-face contact, and so I was in the Oval Office with him or at Camp David every day of the week.

MR. FIELDING: How did that come about? Was that his specific request?

MR. TENET: He expressed a distinct preference that that's the way we were going to work, and that's the way we did it.

MR. FIELDING: Okay. Did that task you a little harder on the -- on a daily basis?

MR. TENET: Well, it gets your adrenaline flowing early in the morning, sir. And obviously it's important. It's important because there's an active dialogue with the President on not only what we're writing but what we're thinking. And since I had been around for a while, I could give him some perspective on some of these issues.

MR. FIELDING: Right. What was your interaction in the new Administration with the national security adviser?

MR. TENET: Well, as in the previous administration, we would have weekly meetings, a regular meeting with the national security adviser. Obviously, some weeks, for scheduling purposes, it doesn't happen. But the same kind of relationship -- daily phone contact, weekly meetings. The national security adviser, of course, would be in the morning brief with the President, so I would see her there as well.

MR. FIELDING: I was interested, in your prepared statement, when you described the interest that was a continuum, as I believe you said, between the administrations. But was there any change in attitude that you sense in regard to threat analysis or the acceptance of this threat that you were talking about?

MR. TENET: No, sir, I think that both groups and both sets of policymakers -- obviously, one set lived through a period -- a much longer time period. But the new group also immediately understood what we were talking about here, and bin Ladin and al Qaeda became an agenda item early on with the national security adviser and the President.

MR. FIELDING: I certainly respect your position on authorities and will observe your request and -- you know, we do have a dilemma with our commission, in that we have had witnesses who have testified different views of authorities. But I think that the public should be aware that you have -- we've also discussed this with you in closed session and will be able to, I'm sure, sort out the discrepancies before our final report is prepared.

Then I'd like to talk about capabilities if my time doesn't run out and my voice doesn't run out.

But before that, what was your working arrangement or your relationship with Mr. Clarke? In both periods of time.

MR. TENET: Well, Mr. Clarke ran the CSG in both periods of time. At the working level, our chief CTC and our terrorism experts had almost daily contact with Mr. Clarke, and I'd have periodic contact with him as I bumped into him as meetings.

MR. FIELDING: Was that pretty much a continuum, again?

MR. TENET: Yeah. I believe that we pretty much maintained the same type of relationship, sir.

MR. FIELDING: Let me just ask you a couple of specific questions before we get into capabilities. And this is really kind of important because there are some things that have been floating around that we're trying to come to ground on.

Did you ever suggest actions to either president to respond to threats that were ever disapproved?

MR. TENET: Actions that we would take, sir?

MR. FIELDING: Yes, sir.

MR. TENET: No, I don't believe so, no.

MR. FIELDING: Has the President -- has either president ever denied a request from you for either enhanced legal authority or operational approval?

MR. TENET: Sir, the approval process of authorities is something I don't want to get into in this session.

MR. FIELDING: I'm sorry.

MR. TENET: But in terms of both administrations, because of my relationship with the national security adviser and certainly in this environment with direct contact with the President, I gave the President very intimate understanding of what we were doing operationally around the world, particularly as we got into a high- threat period, in terms of disruption operations, countries I was contacting, things I might need from other policymakers to aid and abet my efforts. So there was a clear understanding of what we were doing around the world to deal with this problem.

MR. FIELDING: And I'm sure you'd be respectful, but you wouldn't be shy if you felt you needed something from either president; is that correct?

MR. TENET: No, sir.

MR. FIELDING: That's not correct?

MR. TENET: No, sir; that is correct.

MR. FIELDING: Right.

I guess let me -- was there any predictable intelligence against bin Ladin that -- against him personally in 2001?

MR. TENET: No, sir, I don't believe so, not in the 2001 time period. There were periods -- you talked about these yesterday.

MR. FIELDING: Yeah.

MR. TENET: There were these three particular instances where there was -- were there were --

MR. FIELDING: Yeah, but that was pre-2001.

MR. TENET: That was '98 and 1999, sir.

MR. FIELDING: Yeah, I want to get into those in just a second, but I just -- there have been so many questions about that, I thought that we just should come to ground on it. Without -- do you think -- again, the question that keeps coming up, do you think if you had gotten, in any way, shape or form, bin Ladin in the year 2001 you would have prevented the two 9/11 attacks?

MR. TENET: Mr. Fielding, I don't believe so. I believe that this plot line was off and running; Khalid Sheikh Mohammed was in the middle of it, operators were moving into this country. Any understanding of this -- we certainly understand that they had the operational flexibility to decide what to do, but this plot was well on its way. Decapitating one person -- even bin Ladin in this context -- I do not believe we would have stopped this plot.

MR. FIELDING: Yesterday, if you followed the hearings at all, the phrase du jour was "actionable intelligence," and we heard DOD officials contend that the CIA was unable to provide actionable intelligence and that somehow limited their abilities to undertake military actions in Afghanistan. I guess, just kind of a generic -- I'd like you to discuss that a little. How would you explain that reaction and that position? Do you think it's valid? And if you do, was there ever an attempt between you and the DOD to enhance the abilities?

MR. TENET: Let me answer that question a couple ways. First of all, there's a difference between intelligence and actionable intelligence. That there was intelligence in a number of instances was a fact, to be sure. Now the question is how do you evaluate the data. And in thinking about this last night, because these were interactive conversations among people thinking about specific scenarios -- here are the kind of criteria that occurred in phone calls and meetings to discuss this.

Was the reporting single threaded? Could we maintain continuous eyes on the target without regard for compromise, given a tough security environment? What was the track record, reliability and certainty of this reporting? What did we know about the reporting source? Will the target be there long enough to take action, since launching a cruise missile is four or six hours away, it's not retargetable on the way in? What are the implications for collateral damage? Where is the target? If it's

in a complex of buildings, is the target -- can the source data specifically tell you what building the target is in?

Now, we -- it's interesting. In this time period we also created a book for principals with the imagery that we laid in about all the potential target sets that we might encounter so that -- the situations were obviously unpredictable, so that we could at least have people visualize what we were talking about as we were talking about whether or not we believed we had enough data to go forward in any of these instances.

These -- you know, in most -- and I think most of these instances, decision-making had to be fairly rapid. We had to come to conclusions, and we all came out at the same place. The Pentagon would have views about collateral damage because they're firing a weapon, and we would have views about the quality of intelligence, and I must tell you that we all ended up at the same place. I would state my judgment about whether we had enough to meet these criteria. They would reflect on it from the perspective of collateral damage and other issues. But in no case did we disagree about a final decision or an outcome.

MR. FIELDING: Well, who's "we?" Please help me with that a little.

MR. TENET: Well, director of Central Intelligence, secretary of Defense, chairman of the Joint Chiefs, sometimes joined by his J-2, who -- his chief intelligence officer and the national security advisor. So this was an integrated discussion, and we tried to make sure that everybody had the same data to the extent that we could. And I'd inform them of new data and give them a sense of what I believed the quality of the intelligence was.

MR. FIELDING: Well, yesterday we talked about the three events in '98 and '99 where there were occasions that it looked like there might be an opportunity, which then in each instance was deemed not to be operational. And the one that I find the most intriguing and the one that's been labeled as perhaps the lost opportunity more than any was the February '99 hunting camp, I guess it's been described, and the desert camp. And yesterday in the staff statement that was read, we were told about that and we were told that the intelligence seemed pretty strong, and that the preparations were made and then the strike was called off, and -- although the lead CIA agent in the field felt that it was very reliable intelligence. I guess, was there anything unique about the intelligence or the circumstances that necessitated that decision, and who made that decision?

MR. TENET: I don't have a recollection of the uniqueness of the intelligence in question at the time. I'm going to go back and provide that for you. In fact, I'd like to go back and try and package up all the data at my disposal when we were thinking about these issues.

I believe this was a collective decision. I also believe this target went away because the camp was ultimately dismantled. So in reading through your staff inquiry, your staff notes on this, I can't recall who made the call, but I know we were all in the same place about it, Mr. Fielding.

MR. FIELDING: Yeah. Well, I would appreciate that on behalf of the Commission if you could do that because it seemed that this -- when the intelligence was so good, and that by the time the camp was dismantled days and days had passed.

So I would appreciate --

MR. TENET: There's also a question, I believe, as to whether bin Ladin was inside or outside the camp --

MR. FIELDING: Of course.

MR. TENET: -- it was a complicating issue in this whole thing -- and whether he was there or not. So there's a second complicating factor here.

The third complicating factor here is, you might have wiped out half the royal family in the UAE in the process, which I'm sure entered into everybody's calculation in all this.

But in any event, I would like -- I will try and reconstruct the data as best I can, in terms of what I had in my possession at the time.

MR. FIELDING: I would appreciate it. Thank you. And thank you for your testimony.

I see that little red light is on. Thank you, Mr. Chairman.

MR. KEAN: Thank you.

Commissioner Gorelick.

JAMIE S. GORELICK: Thank you, Mr. Chairman.

Director Tenet, I would note at the outset that while other individuals in both administrations in our testimony have been referred to as "the secretary" or "the director" or by their last names, everyone who talks about you refers to you as "George." And I think that there's a reason for that. I think that you have developed strong personal relationships with all of the key players. That has served you and has served your agency very well. There's evident affection for you across two administrations, which is a hard thing to pull off.

I do want to talk about covert authorities, consistent with the guidelines that you have laid down.

MR. TENET: Sure.

MS. GORELICK: And I will note for the record that while we are in agreement with the position that you've taken, we have these public charges that have been made in a book, through information provided, evidently, through the CIA. And we will want to address them privately with you. And I know you have indicated your availability to do that.

MR. TENET: Absolutely.

MS. GORELICK: But I just want to be very clear that if you felt that an authority that you had been given was insufficient, our staff statement says that your obligation was to seek clarity or to seek a new authority. Is that correct?

MR. TENET: Yes.

MS. GORELICK: The second issue I'd -- I'm sorry. Did you want to elaborate --

MR. TENET: Can I just give you a little perspective on this? Without going into specific covert actions, if I can just give you a little bit of a perspective a bout how you arrive at -- a covert action is an enormously sensitive tool that the President uses, and covert action authorities are the culmination of three separate streams of thinking: operational proposals, legal determinations and policy determinations.

In the democracy that we live in, all three become vital in the way authorities are presented to the President of the United States.

In the case that we're talking about, without getting into all this, obviously very sensitive issues were discussed with regard to the provision of specific lethal authorities. And we won't go beyond that.

My job is essentially -- I would say a couple of things to you about this issue, Commissioner Gorelick. One, I never went back and said, "I don't have all the authorities I need."

And here is a key, fundamental point that everybody needs to understand about covert action. You need foreign intelligence to create operational opportunities that lead you to enhanced authorities and enhanced covert action. In part, one of the principal focus of changing our plan to get inside the sanctuary and develop greater access was so that we could enhance our operations and our access in order to prepare ourselves to have better covert action opportunities.

The capability to do what you're asked to do is actually a lot more important than the authorities that you're granted. It's a very key point people have to understand. If I had ever felt that my capabilities grew -- and in fact when you look at the authorities that were granted in some cases based on intelligence, additional authorities were provided. If I felt that I had developed access or capability that required dramatically different authorities, I would have gone in and said, "This is what I have, this is what I think I can do; please give me these authorities," and I don't doubt that they would have been granted.

MS. GORELICK: Thank you for that elaboration. And because of -- we have sort of left in your hands, actually, the degree to which you talk about this.

MR. TENET: And I think this is the right way to talk about it.

MS. GORELICK: Fine. And we will pursue it in private. But I appreciate both your answer and the elaboration on the answer.

You in your statement make -- in both your written statement, which, with all due respect, we haven't had a chance to read, since we just received it and it's about an inch thick -- but in your oral statement you have a very impressive description of your activities in disrupting and trying to -- disrupting terrorist activities and trying to preempt terrorist activities from 1996 on.

MR. TENET: Right.

MS. GORELICK: And that also comes through in the intelligence that we have seen in your reporting.

And I think two things would be news to the American people, and should be news to the American people, and one is how engaged the CIA was and how engaged its foreign counterparts were on a daily basis checking and parrying and disrupting the activities of terrorists, particularly al Qaeda; and second, that the CIA and its foreign partners were in fact effective in disrupting many terrorist plots. Is that a fair summary?

MR. TENET: It is. And let me just say, just as the secretary of State builds a diplomatic coalition and the military has foreign -- we systematically built a coalition of the willing with key regional partners who had the right access. And we did a lot of things to help them improve their capability. But here's something people have to understand; you can't do this alone. You need nations willing to take responsibility to help you in this fight. And that's what we recognized through authorities and other things we could do. So -- and this has grown steadily over the '90s and into the time period we are now. But there is a coalition of people that work this issue together.

MS. GORELICK: And the CIA itself was active in these disruptions. And the point I'm trying to make here is that our nation was not simply responding via law enforcement, if you will, to the threat that was faced. You were out there very active, and in many cases successful, is that correct?

MR. TENET: Ms. Gorelick, we used all the tools at our disposal. There were -- you know, I've testified there were over 80 renditions. But renditions in and of themselves doesn't stop this. Active penetrations, disruptions of the kind you talked about were also being aggressively pursued through intelligence channels.

MS. GORELICK: Thank you.

Now, from April through August of '01, the intelligence that you were providing to senior policymakers in both the number of reports and in their content was hair-raising, similar, and maybe even more so than the reports during the Millennium, a very significant spike. And you have told us, "Our collection sources lit up during this intense period. They indicated that multiple spectacular attacks were planned, some of them in the final

stages. The reports suggested that the targets were American, though some reporting simply pointed to the West or to Israel. The reporting by itself stood as a dramatic warning of imminent attack." And you noted that these warnings were widely disseminated in the government.

Your agency has been faulted for not predicting that the attack would come in the United States and via an airplane.

First of all, did you limit your reporting of threats to say that this event, whatever might be happening, was only going to possibly happen overseas?

MR. TENET: The predominant focus and thread of the reporting took us overseas, but we could not discount the possibility of an attack on the homeland, although the data just didn't exist with any specificity to take you there. I mean, that was what was maddening about this. You see in my long testimony all the disruption efforts were things where people were actually getting wrapped up about to do things. We did not have the same kind of granularity inside the country, nor did the reporting take us, in a tactical sense, to give us the kind of specificity we needed to give us opportunities to do things that would have led us to conclude that the plot was inside the United States now.

MS. GORELICK: But we will get -- if time permits me, in any event -- to the relationship with the FBI and the gaps in reporting in the United States and how that might have limited your ability to pinpoint what was happening -- what was happening here. But it's -- my view of the reporting is that it talked about threats to American interests. And while the specifics that you had were abroad, by no means did you say don't worry about the domestic United States. Is that correct?

MR. TENET: Can I give you -- is it okay to give you some historical perspective on this?

MS. GORELICK: As long as it's short. (Laughter.) I'm watching that light because my chairman -- (laughter) -- is going to give my colleagues a chance --

MR. TENET: I'm sorry, go ahead. It's okay. (Laughter.)

MS. GORELICK: I've never seen you so easily intimidated George. (Laughter.) I would like to ask how your colleagues in the Administration responded. My colleague Mr. Fielding asked you about the briefings that you did of the President, and I was

struck by the comment in the -- that the President made in "Bush at War," that bin Ladin was not the focus of his national security team. He said: "I didn't feel that sense of urgency. My blood was not nearly as boiling." And I think that's a fairly candid comment on his part. Did he evidence that he was seized with the urgent nature?

MR. TENET: Look, by the spring and summer, everybody was seized with the urgency of this nature by virtue of what I was telling them, and by this time period the CSG is meeting every day. We're taking actions to undertake disruptions. The Defense Department is taking security precautions at its facilities, the State Department is taking security precautions at facilities overseas. The CSG is issuing advisories to the FAA. So this period of time saw an enormous amount of activity, typical to the kind of activity we saw in previous threat periods. And all I can tell is the policymakers got it because I talked to all of them about it and they understood the nature of what we were dealing with.

MS. GORELICK: Let me follow up on that because you have said, and this is a quote from you, "I went into Millennium threat mode" --

MR. TENET: Right.

MS. GORELICK: -- your phrase, meaning what was done at the end of 1999. But in the Millennium threat mode, all of the principals were summoned to the NSC table to ensure that their departments could do everything they could. Now, while in the Administration in 2001 there were policy meetings, there were not deputies committee meetings and/or principals committee meetings around the threat. And to be sure the CSG was meeting, but as we will hear later today, the CSG operates at a different level.

Now as it turns out, you didn't know what was inside the FBI. For goodness sakes, the FBI didn't know what was inside the FBI. Eighteen of the 19 hijackers entered this country after April 2001. In the Millennium, Attorney General Reno, we have been told, literally turned the FBI upside down and shook it and got information out of it that it might not have been able -- it might not, in some way, disgorged. I mean, the NSC didn't know that al Midhar and al Hamzi were the subject of an FBI search; or that the FBI had found Arab men trying to take flying lessons but not to learn how to take off or land; or that the FAA didn't have the benefit of the State Department watchlist; or that there was this really sleepy response, I have to say, from the FAA -- a

couple of, in my view, feckless advisories; and the Secretary of Transportation told us he didn't even know about the threats.

When we interviewed Steve Hadley, he actually expressed surprise that there had been these daily meetings during the Millennium. So my question to you is, did you say, Steve, when we've had these spikes before we all got together so that we could find out what each other knew and to bring some intensity to this process?

MR. TENET: Well, my sense -- no, I didn't say that. My sense of it -- my sense at the time was I was talking to the national security advisor and the President and the Vice President every day. I know that she was talking to her colleagues and principals. I know she had a meeting of domestic agencies sometime in July. I know the CSG was meeting. You know, maybe the method of communication was different. I did not see any less attention to what we were trying to do, and I certainly didn't get a sense that anybody was not paying attention to what I was doing and what I was briefing and what my concerns were and what we were trying to do.

But can I -- I'm going to come back to my historical point because it's an important point, even if it takes a little bit of time.

MS. GORELICK: I didn't -- my colleagues are telling me I didn't actually intimidate you! (Laughter.) Go right ahead, George.

MR. TENET: One of the -- what is one of the most important systemic lessons for all this? I'll tell you what I think it is, okay? For a period of how many years -- go back to the mid-'90s all the way through 2001, what did we do relentlessly? We raced from threat to threat to threat. We resolved the threat; it either happened or it didn't happen. And from the homeland perspective, what was the galvanizing mechanism that forced real defensive preparation and measures to be put in place?

So, you know, the question systemically is, if you go through the '90s and you're aware of hijackings, airline commissions -- and I'm not picking on a sector here. But my point is this, the country was not systemically protected because even in racing through all these threats, sometimes exhaustively -- we exhausted ourselves -- there was not a system in place to say, "You got to go back and do this and this and this." Okay? It's not criticizing anybody. But the moral of the story is, if you take

in those measures systemically over the course of time and closed seams, you might have had a better chance of succeeding stopping, deterring or disrupting.

So it's easy to go talk about what I didn't get them to do on day one, day two, or day three. That almost is the wrong way to talk about this from a historical perspective with a lot of experience, with a lot of mistakes we made and everybody else made -- no perfection in this deal; we didn't stop this attack. And so the question is looking forward, you know, how do you enhance your prospects of success? With respect to everybody, going to more meetings isn't necessarily going to help, okay? And different policymakers are going to basically communicate in different ways. So one size doesn't fit all, and you have to judge. I can only give you personal perspective from where I sat.

MS. GORELICK: Let me make a comment because my time is up.

First of all, not speaking for the Commission, but speaking for this commissioner, I completely agree with what you just said. The purpose of the meetings was to use essentially brute force to break through walls and barriers and seams and processes that were broken. That's not a solution. It is not a solution. And we will ask, particularly Dick Clarke, about this this afternoon, what are the mechanisms for seeing what the problems are systemically and fixing them.

I raised the issue of the meetings because in the absence of those systemic fixes, all you can do is use brute force to bring everyone to the table and say: What do you know? Have you turned over every rock? And that's why I raised that question.

But thank you very much for your comments and your testimony and your service.

MR. KEAN: Thank you. I have one question. Part of our job, as you know, is to make recommendations at the end of our report.

And nobody worked harder than the CIA. You were into this earlier. You tried to alert other people. You did all the right things in those areas. And yet we failed. We really failed. And the story is written up in books like "Ghost Wars" and so on, of the whole effort and the frustrating effort to try and penetrate that sanctuary in Afghanistan; to really find bin Ladin and to capture him and take him out or whatever is the story of one frustration after another.

And I guess my question is, looking back at that period, when we probably did have some opportunities to get him and didn't, in hindsight, what did you need and what could you -- what -- government have given you, what authorities, what resources, what change -- what could have been done to change that history? What should we be doing now? Because wilderness is where these people are going to hide. They're going to hide in the wild places of this world, and we're going to have this situation again of trying to get bin Ladin or the future bin Ladins.

MR. TENET: Governor, let me give you a big systemic answer that I feel pretty passionately about. You know, in about the mid-90s, at the time we were trying to take this all on, we started to rebuild the clandestine HUMINT operations capability that went away on this country. We were trying to recapitalize NSA. We're trying to get ourselves better imagery capability.

And on the HUMINT side, I'm still five years away from being able to look at you in the eye say -- because it's terribly -- you've got recruit the right people, have the right training. And I -- we built all those things.

There has to be -- you know, just like people talk about other instruments of power, there must be a relentless focus on ensuring that the intelligence capability this country has is allowed to grow in the critical areas that allow us to have capability inside sanctuaries where people are going to go hide.

The investment strategy's laid out. The strategic game plan is there. People have to sort of take a look at this from the perspective of how do we ensure -- on just the capability side, we ensure that the country gets the intelligence it deserves, no matter what it costs.

Now from the perspective of integration, the sharing of data, the relationship with -- on the domestic side, I mean, one of the things that obviously needs to be built here is seamless flows of data from your law enforcement community to your intelligence community that requires the law enforcement community to have -- and Bob Mueller is building a digital communications system that allows you to connect the dots of his empire in the United States, so all the data comes forward in a way that we can see it and feel it and touch it the same way, and understand its integrity.

And all of that data that we collect, sir -- ultimately, we have to treat the state and local governments and their police

forces as if they're part of this fight, in a way, because they're not really interested in how you did the operation; they need the data. Thousands of people who walk around our streets that can collect data need to be educated.

Now to be sure, we'll get into longer-term intelligence, systemic issues, in April, I suspect. And to be sure, we have to ask ourselves some pretty tough questions about: Are we organized the right way? Is this the structure you want for the next 50 years? It's been here for 57 years. What kinds of issues do we have to put on the table? All with the notion of fusing and integrating operations and data in a manner that's seamless, so that there's never the assertion that I didn't see this piece of information that could have saved lives.

MR. KEAN: Do you believe you're getting the support from the Administration and the Congress to do that?

MR. TENET: Yes, but we need to ensure that there's continuity in the approach over a long period of time. And this commission has to establish benchmarks and report cards and do-outs that the country has to have people come back and talk about every year, because as this thing fades, my fear is, people are going to say, "It's five years away, it's six" -- it's not. It's coming. They're still going to try and do it. And we need to sort of -- the men and women here who have lost their families have to know that we got to do a hell of a lot better.

MR. KEAN: Vice Chairman Hamilton.

MR. HAMILTON: Mr. -- (applause). Mr. Director, my questions may follow on from the two preceding ones, but maybe it'll help to elaborate.

And I think I'm probably taking you outside, a little bit, of your bailiwick, which is intelligence, but I think all of us would agree that the primary responsibility of government is to protect and secure the people. And the question that keeps coming back to me and the question I think this Commission has to answer is why we were unable to do it.

Now yesterday, I don't know if you had a chance to tune in to any of the proceedings here, but we had -- in both administrations they presented very long lists of things that they had done prior to 9/11 to keep the people secure. And I know those steps were taken with conviction and utter sincerity, and I don't believe there's any high- level public official that I've

ever met that would not act to protect the American people. But the overarching fact, of course, is that we did not do it. And we lost a lot of people. So the question that we have to address -- and here I need some help from you -- is why were we unable to do it.

MR. TENET: Three layers of answers.

We didn't steal the secret that told us what the plot was. We didn't recruit the right people or technically collect the data, notwithstanding enormous effort to do so. Macro-issue.

Second issue: We didn't integrate all the data we had properly, and probably we had a lot of data that we didn't know about that, if everybody had known about, maybe we would have had a chance. I can't predict to you one way or another. But you also had systemically a wall that was in place between the criminal side and the intelligence side. What's in a criminal case doesn't cross over that line. Ironclad regulations. So that even people in the Criminal Division and the Intelligence Divisions of the FBI couldn't talk to each other, let alone talk to us or us talk to them. Systemic issues like that; PATRIOT Act absolutely essential.

Three: Visa policies, watch list policies. We didn't watch-list them; the FBI didn't find them. And you know, you have to make a determination. But we can't walk away from telling that, and we have.

But there's a larger systemic question. Okay. Are we integrated in our watch lists? Is our visa policy commensurate? Do we know who's coming in and who's coming out? Are we getting the best data we possibly can? The truth is, is here's the unassailable fact: the terrorist is a smart operational animal. He's going to figure all this out. He's going to figure out your watchlist systems better and your visa systems better. He's going to infiltrate your country with phony documents and passports. And then the question's going to be, how good are you inside your country in understanding what these groups are doing; how good is your domestic intelligence capability -- precisely what Director Mueller is focused on.

So those are different layers of the same problem, sir. But, you know, there's obviously that tactical thing that didn't go right, the cost -- you know, we -- we -- you know, I can't -- never going to get out of my head. But there are some other things.

I think the deputy director would like to speak. He's getting restless here.

JOHN MCLAUGHLIN (deputy director, CIA): No, I'm just thinking about Chairman Kean's question and your question, Mr. Hamilton. It's obviously the key question. And there are many, many components to it. The director's talked about a number of them.

I think there are also issues of posture and resources. And while we were on the offensive prior to 9/11, and can document that in some of the ways that Commissioner Gorelick talked about with capture operations, and rendition operations, and relations with other services, the country, with all of its capabilities is now much more orchestrated into an offensive mix that is relentless.

One thing the American people need to understand is that we are still at war every single day; that the director and I and others gather in a room every day and go over operations around the world that have an offensive component to them; meaning we are acting on intelligence to take down terrorists across the world. So the posture is very important not just for the CIA, but for all of the agencies that are working with us, posture --

MR. HAMILTON: And that posture was not present prior to 9/11.

MR. MCLAUGHLIN: It wasn't present as a nation. And as the director said, this war is going to go on for a long time. We are not at the end of it. And we will have to stay in an offensive posture. And much of this will not be visible to the public. We will have to stay in an offensive posture 24/7.

Resources. The Congress has been very generous with resources with us, and I'm not here to make a pitch for more resources at this point, other than to make the strong argument that this work is very resource-intensive. And we are very well resourced now.

But when one of these captures fleets across the headlines, and there's a long list of them in the director's testimony -- Khalid Sheikh Mohammed, Tawfiq bin Attash, Ramzi bin al Shibh, all of these key figures -- it involves literally hundreds of people working sometimes weeks and months to accomplish that one thing, stations and individuals and agencies from every part of our government across continents. I could give you examples to demonstrate that, but it's very resource-intensive, labor-intensive.

MR. HAMLITON: Did -- is --

MR. MCLAUGHLIN: So offensive posture, hard work, labor-intensive, and that's the way it's going to be for a long time.

MR. HAMLITON: And in the lead up now to 9/11, were you short of resources?

MR. TENET: Systemically? Absolutely. In terms of a, you know -- we --

MR. HAMLITON: Were you requesting them and --

MR. TENET: I went through this.

MR. HAMLITON: -- asking for them?

MR. TENET: Sure. I went through this with the staff. I don't want to have a resource discussion when we're talking about these things. It's not appropriate. But look --

MR. HAMLITON: I didn't bring it up. He brought it up.

MR. TENET: Yes, sir. I understand. (Laughter.) I'm trying to get to him through you, sir. (Laughter.) But anyway, in any event --

(To Mr. McLaughlin.) You did well, though.

In any event, you know, one of the things you might want to do, Mr. Hamilton, and I think the Commission may want to do, is you actually might want to come and sit out and see how it works today just to get a sense of what has changed. How is the integration really working? What is the relationship between the CIA, the FBI, TTIC and all these entities? How good is the data sharing? You should see it, make your own judgments, and think through what other systemic fixes we need to put in place.

MR. HAMLITON: Thank you, Mr. Chairman.

MR. KEAN: Thank you.

Senator Kerrey.

MR. KERREY: Well, Mr. Chairman, let me first of all say for the record, since Dr. Rice is not going to be here in this, yesterday we heard both Secretary Wolfowitz and Secretary

Rumsfeld refer to the failure of the Clinton administration to deliver a plan dealing with al Qaeda, and they spent seven or eight months developing their own plan. I was briefed this morning on that plan, and I would say fortunately for the Administration it's classified because there's almost nothing in it. It calls for more diplomacy; it calls for increased pressure; basically the same thing that Director Tenet just talked about, using tribals against al Qaeda; and lastly calls for some vague things to try to oust Mullah Omar. I mean, it's not, in my judgment, what it was sold to be, and I just -- I have to say that for the record.

I would love to get Dr. Rice in front of this commission in the public to have her answer a series of questions about that because I would say -- (applause) -- Mr. Chairman, I do not believe the August 12th -- 20th attack on al Qaeda's camps in Afghanistan was a pin prick.

My guess is if you were on the ground that day, you would say, I hope to hell this doesn't happen again. And I'll say for the record, sadly, it didn't happen again.

That was the last time that mil ops were used against al Qaeda. Osama bin Ladin held a press conference to declare open war on the United States of America in February, 1998. And I appreciate that Afghanistan has fewer targets. But in the expression of frustration about not having enough military operations, so forth, I don't see in the record any requests for additional military operations. And I don't think we can look at Director Tenet and say that covert operations has to carry the day. I don't think it's enough.

And so I just want to say for the record that I'm personally frustrated. I've been very critical of the Clinton administration. I took your phone call on the 19th of August, 1998, to inform me as vice chairman of the Intelligence Committee that we were going to attack Afghanistan. And I told you then that I hoped it was big enough that they knew that the United States of America had done it. And I think our only mistake was not doing more -- (applause) -- not having seriatim attacks afterwords that allowed ourselves to say that we were going to try to destroy somebody who declared war upon us.

Now, let me ask you a question relating to, again, this issue of policy. Why doesn't -- why didn't we change our strategic policy? That's a provocative question that staff asked in I think

in an exceptional document that they read to the Commission earlier.

Now, let me take you back to the summer of 2001. On the 5th of July, National Security Advisor Rice says that she's worried enough about the Millennium Plot, that is to say an attack on the United States of America, that she asked Dick Clarke to bring a new set of domestic agencies into the Counterterrorism Security Group, the CSG, to be briefed. Now, that included Customs, INS, FAA, some local law enforcement people as well; and as Commissioner Gorelick said earlier, I believe the warnings that were put out as a consequence of that were at the very least weak, given the possibilities of an attack on the United States demonstrated by the Millennium Plot.

The President was worried enough that he asked you, according to staff, about the possibility of a domestic attack, and that produced the presidential daily, the famous presidential daily brief on the 6th of August, 2001. And -- you look confused. Is that --

MR. TENET: (Off mike.)

MR. KERREY: Pardon me?

MR. TENET: I don't think that's how it happened, but go ahead, sir. It doesn't -- please. I didn't mean to interrupt.

MR. KERREY: Go ahead and correct me if it happened different.

MR. TENET: I don't know if I can, but go ahead.

MR. KERREY: Well, but the question that I've got is that after that briefing is produced -- after the document, the daily briefing is done on the 6th of August -- I don't understand why -- I appreciate you said all the things that we could do going forward -- I don't understand why we didn't put an order out to get everything the FBI had, to get everything that everybody had in to try to determine whether or not it was possible an attack was going to occur in the United States of America.

I just don't understand it, given the level of urgency that was demonstrated by Dr. Rice in talking to Mr. Clarke and demonstrated as well by the President in talking to you. Now, tell me if I got it wrong.

MR. TENET: Well, sir, my perspective on it is I believed, through the mechanisms that we had in place -- through the CSG process, through principals consultations, I briefed the attorney general -- I believe people were doing all those things. I believe that -- I think people were doing everything they knew how to do to try and figure out what this was and what this wasn't. I did not -- I didn't get a sense of a lack of urgency on the part of people in this time period.

SEN. KERREY: I appreciate that, Director Tenet, but I don't understand -- and I'll ask Dick Clarke later because he was chairing the CSGs all summer -- I mean, brings the FAA in, why in God's name doesn't he say, "You know, there's a possibility there's going to be a hijacking, and it could be a domestic hijacking," and it doesn't become a part of their planning.

MR. TENET: I always --

SEN. KERREY: It doesn't become a part of their planning. They don't change the rules dealing with hijacking. And I'll have a chance to ask director -- Dick Clarke that later, but I mean we had all -- the FBI headquarters wasn't aware of the Phoenix memo, and you had all this stuff out there. And I appreciate you've got this wall that was separating intel and law enforcement and after PATRIOT and after 9/11 that changed, but even before that, it seems to me, given the level of concern about a possible domestic attack, that we should have swept that information up to try to find out if there was anything out there that indicated an attack was going to occur in the United States.

(Pause.) You're -- I guess there's no question here, it's just a declaratory. (Laughter.)

MR. TENET: I've always learned how to listen to you, Senator -- (laughter).

SEN. KERREY: I don't get it, George. I mean, I don't understand why it wasn't done. And I don't think it's a resource question. I just don't understand why it wasn't done.

Mr. Chairman, I guess there's no question there; this is all a statement, as it turns out.

MR. KEAN: Okay. Thank you.

Commissioner Ben-Veniste.

MR. BEN-VENISTE: Good morning, Director Tenet. I want to start out by thanking you and the extraordinary people who work at CIA for their dedication to the task of countering the terrorist threat. As you know, I have been an admirer of you personally and, in the time that we have spent together, understand the tremendous pressures that individuals have been under in your agency to protect our country.

Let me pick up on -- since my colleague, Senator Kerrey raised the question, with respect to the PDB of August 8 (sic), 2001, Dr. Rice has made some statements to us, and to some extent publicly, with respect to the origin of that document. And is it fair to say that the recollection of CIA, which we have received in a written document from your office, contains a different recollection; that that August 8th (sic) PDB was initiated by individuals within the CIA and not as a direct request from the national security adviser?

MR. TENET: I simply don't know. I don't know what we've responded or what the origin is. I just don't know.

MR. BEN-VENISTE: You might ask Mr. Bonk (ph), who's sitting behind you.

(Pause while Mr. Tenet confers.)

MR. BEN-VENISTE: It is correct that we have received a document from you, dated March 19, 2004, in which that correction is noted.

MR. TENET: Would you like Mr. Bonk (ph) to respond?

MR. BEN-VENISTE: Well, he can whisper in your ear. So that the record is correct on this point, since it was raised by Senator Kerrey, I think it's appropriate, that we have been advised that the August 8th (sic) PDB -- I'm sorry, August 6th PDB was the product of individuals within CIA without prompting from national security --

MR. TENET: Commissioner Ben-Veniste, he only has a recollection. Let me come back for the record. I'll go back and look at this. I just don't --

MR. BEN-VENISTE: Well, I'll read into the record. The author of this piece, and others familiar with it, say they have no information to suggest that this piece was written in response to

a question from the President. And indeed, it goes on to say that it was prompted by an idea from the CIA.

So we have these clarification, and it's appropriate that the record be as accurate as possible.

Let me go to another question, and that is August '98, the missile attack; 60 Tomahawk missiles, more or less; 20 to 30 al Qaeda killed. Bin Ladin escaped, according to your intelligence, only with hours to spare.

Yesterday we heard from the secretary of Defense who talked about these missiles attacks as "bouncing the rubble". Would you regard that attack in August of '98 as "bouncing the rubble"?

MR. TENET: Well, you know that the '98 attack was predicated on intelligence that told us that there was going to be a gathering of senior al Qaeda leadership in one place.

MR. BEN-VENISTE: Yes, I do.

MR. TENET: So, the potential value there was high. I would say that continuing a program of cruise missile attacks wouldn't have been a smart thing to do subsequent to that, because I don't think it would have made much difference, unless there was some predictable intelligence. But I guess there's --

MR. BEN-VENISTE: And we could talk about whether the flying of the Predator in its reconnaissance mode might have developed similar intelligence in the spring of 2001.

MR. TENET: Should we talk about that?

MR. BEN-VENISTE: Well, we can, but not on my nickel here. (Laughter.)

Well, let me go into one other thing. The CIA provided massive aid to the Mujaheddin fighting the Soviets in Afghanistan on the theory that our enemy's enemy could be our friend. Fair enough. What has continued to puzzle and trouble me, George, is this: Didn't the CIA, knowing that -- knowing the proclivities and the extreme xenophobia of these jihadists, who the CIA had helped to arm and train -- why didn't the CIA seek to penetrate these organizations and keep close track of them in the years that follow the disbanding of the effort in Afghanistan?

MR. TENET: Well, first of all, there was an accommodation of mutual convenience because we had a common enemy. And in fact, if you go back and look at some of the planning that we did, we went back and found people that used to work for us who became part of our networks again. Equally, you found other people that were fighting you, people who had become jihadists. There are people in Afghanistan today fighting us that we knew way back when, and people in Afghanistan today who are on our side. So, I mean, we had in advantage in terms of understanding all of the personalities on the ground, who they were, what their networks looked like; so it was a plus.

But, you know, we drove the Russians out and essentially the United States left Afghanistan right after all of that. And the Taliban emerged and took a country down and allowed a terrorist organization to run a state.

So the history here is interesting on all sides.

MR. BEN-VENISTE: But given the fact that these were people trained in lethal modalities, who hated foreigners in Muslim countries, which is the basis of their attempt to throw the Russians out, don't you think you could have been more effective following up on some of these personalities, who include Osama bin Ladin?

MR. TENET: Well, but we didn't train him, Richard. But the point of the matter is, a guy like Massoud is somebody we met in the conflict and continued to work with. I mean, you know, we kept track of some of these people. We didn't keep track of all of these people. None of -- many of them, you know, show up as jihadists in other conflicts around the world.

So I wasn't around at the time, but I'm sure that the nature of our understanding of these relationships also helped us over the course of time as we were operating in Afghanistan.

MR. BEN-VENISTE: Thank you, Mr. Chairman.

MR. KEAN: Commissioner Thompson.

JAMES R. THOMPSON: You can talk about the Predator on my nickel, Mr. Director. (Laughter.)

MR. TENET: Sir.

MR. THOMPSON: But before you do, I want to read something to you. Talking about the Predator, Mr. Clarke says, "CIA had been blocking the deployment, refusing to be involved in running an armed version of the unmanned aircraft to hunt and kill bin Ladin." Is that statement true?

MR. TENET: No. Blocking -- I'm sorry. Can you repeat that --

MR. THOMPSON: Sure. "CIA had been blocking the deployment of the Predator" --

MR. TENET: Right.

MR. THOMPSON: -- "refusing to be involved in running an armed version of the unmanned aircraft to hunt and kill bin Ladin."

MR. TENET: I don't think that -- look, Dick had contacts with all kinds of people in our building, and they had all kinds of disputes. But at this level -- (chuckles) -- we wanted to go ahead with arming that Predator. I mean, I don't -- I haven't read the book, so I don't know what the context is.

MR. THOMPSON: Has anybody at CIA read the book?

MR. TENET: Not yet, sir.

MR. MCLAUGHLIN: Just if I could add, Commissioner --

MR. THOMPSON: Yes, Mr. McLaughlin.

MR. MCLAUGHLIN: Well, my recall of that period -- and again, I haven't read the book, and I don't know what context that sentence sits in, what comes before and after -- but my recall of that period is, we were all trying to figure out how to arm the Predator. It was not a trivial task. And in that period of time, we all wanted to get it armed.

The only issues were really a matter of timing and a matter of how it would be deployed, once it was armed -- and you know the story -- whether it would be deployed in a reconnaissance mode and armed mode, or just one of those. But that's my recall of where that story was with -- just not knowing the context of that sentence.

MR. THOMPSON: The Predator couldn't fly in the winter. Is that correct?

MR. TENET: That's correct. There were problems in the wintertime.

MR. THOMPSON: And you had to go through all sorts of testings to arm it. Is that correct? Because it hadn't been designed as armed missiles --

MR. TENET: There was an extensive testing program that took you through the summer and -- or actually early fall of 2001, sir.

MR. THOMPSON: So is it fair to say that the Administration and everybody in it was trying to get to an armed Predator as quickly as possible?

MR. TENET: Yes, sir.

MR. THOMPSON: Mr. Director, I want to read for the public record two paragraphs in your written statement because I think they deserve the attention of the public record.

Page 12, talking about the spiked reporting in the summer of 2001: "The reporting was maddeningly short on actionable details. The most ominous reporting hinting at something big was also the most vague. The only occasions in this thread of reporting where there was an explicit or implicit location appeared to point abroad, especially to U.S. interests in the Middle East."

And then on 13 there is a vast difference between being aware that a type of threat of exists -- and the type of threat would, for example, be the use of airplanes as weapons -- and having a specific warning of the date, time and location of a planned attack. We did not have intelligence of that specificity on which we could warn or take action.

MEMBER OF THE PUBLIC: (Off mike.)

MR. KEAN: Please sit down, sir.

MEMBER OF THE PUBLIC: (Off mike.)

MR. KEAN: The committee will stand in recess till the police restore order. (Brief pause.) You may proceed, sir.

MR. THOMPSON: Mr. Tenet, do you have any idea of how many aircraft were in the air on September 11?

MR. TENET: I don't, sir.

MR. THOMPSON: If I said over 4,000, would that surprise you?

MR. TENET: No.

MR. THOMPSON: Had the President of the United States ever been told anything by anybody, but especially by the CIA, that would have allowed him to predict that on the morning of September 11th, four aircraft would be hijacked and used as weapons at specific locations?

MR. TENET: Had we told him that, sir? Is that the question?

MR. THOMPSON: Yes.

MR. TENET: No, we did not.

MR. THOMPSON: Okay. Were you able, using all sources of your intelligence, to tell him that?

MR. TENET: I was not before the attack.

MR. THOMPSON: In the period January to September, 2001, the CIA participated, along with other agencies, in the preparation of "the Plan," as it's been described, responding to the threat of al Qaeda; is that correct?

MR. TENET: That's correct.

MR. THOMPSON: Were you ever dissatisfied with the pace of the Bush administration in the preparation of that plan?

MR. TENET: No.

MR. THOMPSON: Thank you, Mr. Chairman.

Thank you, Mr. Director.

MR. KEAN: Thank you.

Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman.

Welcome, Mr. Director. As a member of the Intelligence Committee and having traveled around the world to visit some of

the locations where we have the dedicated people working for the CIA, I just want to remind you how highly you're held in esteem by those people. And I want to thank those people around the world for the spectacular job they do.

I want to try, Mr. Director, if we can to talk about your role in the PDBs and the NSC's role in developing policy. As I said yesterday, I would hope that if we get Mr. Clarke here -- which he will be here in a few hours, sworn in to tell the truth -- that we would have Dr. Rice come and talk in the same way and on the same grounds and talk to us how policy was or was not developed during the first nine months of the Bush administration. Would you agree, Mr. Director, that the PDBs are not policy? As you said before, you are frustrated by racing around from event to event, trying to find out where they're coming at us next. Are you a policymaker?

MR. TENET: No.

MR. ROEMER: You're not a policymaker? The NSC, whether it be in the Clinton or the Bush administration, is tasked with developing the policy of the President of the United States, coordinating that policy with other agencies, and pushing it out and implementing it so something gets done, whether that's in the State Department policy or fighting al Qaeda.

MR. TENET: Mr. Roemer, I obviously have an input into the policy process with the data I provide.

MR. ROEMER: But I would --

MR. TENET: And from time to time I am asked -- although I don't inject unilaterally, I am asked for my views on issues. It doesn't happen all the time, but it occasionally happens and happens on terrorism occasionally.

MR. ROEMER: With you not fulfilling the policymaker role, but that we agree that the NSC is the primary policymaker and coordinator for the President and the United States government -- I want to come back to that in a minute, but I want to come to the PDB itself.

The PDB of August 6th, 2001, as you're aware, was declassified, or portions of it were declassified from a conversation with the CIA provided to the Joint Inquiry. It's a public document, declassified on page 206 of that public document, and I want to read you a couple of things that were

included in the Joint Inquiry statement on that PDB of that August 6th, 2001 time period.

A senior government official told the Joint Inquiry that the information included that bin Ladin had wanted to conduct attacks in the United States since 1997. It mentions al Qaeda, including some U.S. citizens, had resided in or traveled to the United States for years, and the group apparently maintained a support structure here.

The report cited uncorroborated information it obtained and disseminated in 1998 that bin Ladin wanted to hijack airplanes to gain the release of U.S.-held extremists; the FBI judgments about patterns of activity consistent with preparations for hijackings of other types of attacks; as well as information acquired in May, 2001, that indicated a group of bin Ladin supporters were planning attacks in the United States with explosives. Now, that's the Joint Inquiry public declassified statement about what was in the August 6th, 2001 PDB. Now, that's not saying that this was in New York on September 11th of 2001. That is saying there was a possibility of attacks domestically.

Now, why weren't we concentrating more on those kinds of possibilities? You were running around saying something spectacular is going to happen. You were worried about this. You were on record from 1998 on saying you're at war with al Qaeda. But why wasn't the United States government more concerned about those attacks in the United States?

MR. TENET: Congressman Roemer, I'd ask you this afternoon when you get Mr. Clarke here, who was the chairman of the CSG, to go through the process of what they were looking at, actions they were tasking, how they thought about this problem. I wasn't sitting in that room. I'd ask you to think about asking him how we dealt with this in this time period and find out what that response is.

MR. ROEMER: So you're saying that it is the responsibility of the National Security Council --

MR. TENET: Well, the CSG --

MR. ROEMER: -- to develop the policy to go after the terrorists --

MR. TENET: Sir, the CSG is a mechanism where all of these issues come into play every time it meets. What is the threat?

What actions do we take? What are we asking agencies to do? It's a focal point for the way this government has organized itself around terrorism for years.

MR. ROEMER: So, you're saying it's them, not the CIA, that should have been attentive to this.

MR. TENET: Well, the CIA is in the CSG meeting as well. I mean, everybody's at the table. The FBI's there, the NSC's there, CIA's there, domestic agencies are there. Throughout this time period -- I don't have access to the minutes and recordings of what happened. What actions were they tasking? How were they thinking about this?

MR. ROEMER: If they're going through a bottom-up review --

MR. KEAN: Congressman, we've got to move on. We've run out of time. We've got one more commissioner.

MR. ROEMER: Okay.

Just to underscore my concerns here, Mr. Director, I really believe that we need better data mining and better coordination at the CIA to track that kind of information in the PDBs, so that you can task back to the policymakers in the White House about how to go after this threat and how to help develop this.

Dr. Rice, Mr. Clarke and others we will talk to about their role in developing the government's coordination and the government policy with respect to this.

Thank you again.

MR. TENET: Thanks --

MR. KEAN: Thank you all.

The last questions are going to come from Commissioner Lehman.

MR. LEHMAN: Thank you.

Mr. Director, I have three questions. One, first, a number of the interviewees and testimony that we've had have complained about an overly legalistic culture in dealing with operations and with intelligence that was particularly marked in the Clinton administration, but hasn't really changed much since.

The '93 attack on the WTI -- on the World Trade Center, there were some very significant linkages that came out of that investigation: Ramzi Yousef, Khalid Sheikh Mohammed, the paying of legal bills by Osama bin Ladin to the assassin of the rabbi in Israel, Rabbi Kahane; and particularly the role, which still is not clear to us, of Abdul Rahman Yasin. All of this came out and these linkages were there in the investigation of the attack. But we have been told by a number of witnesses that there was such a total forensic policy towards that event that there was almost no sharing of this information.

When did you learn about all these al Qaeda linkages to the '93 World Trace Center? Was it shared with you as it was developed?

MR. TENET: Gosh, Commissioner Lehman, I don't get to -- I don't get to CIA till '95. I have to go back and look. I just don't recall when those things were shared. I'll go back and check. I don't remember.

MR. LEHMAN: I'd appreciate that for the record.

MR. TENET: Certainly.

MR. LEHMAN: And -- but one of the issues that has troubled me is why with -- after it became known of Yasin's -- particularly Yasin's role and linkages, and the fact that he fled to Baghdad and was in the hands of the Iraqi intelligence, was there ever any effort made to render him, since -- and where is he now?

MR. TENET: Yes. And I don't know if I can do this in the open, but the answer is yes, and I'd like to give you the details of that.

MR. KEAN: Okay. We'll receive that in private.

MR. LEHMAN: Thank you.

Second question is the *Cole*. Yesterday we had the former secretary of State say that she was given no evidence of any linkages between al Qaeda and the *Cole* attack right up to the end of the administration, and there have been other witnesses that have said that CIA did not say there was a link to al Qaeda until well into or at least into the early months of the new Administration.

MR. TENET: Sir, I believe that the briefing charts that we've reviewed would say that the briefing said something like the following. There are -- on a preliminary basis, we believe that there are operatives who are associated with al Qaeda that took part in this attack. There were some named individuals. The briefing also goes on to note that some of the data that is coming to us is coming from the Yemenis. We don't have direct access to some of their prisoners, et cetera, et cetera, et cetera. The briefing also then says that there -- we could not make a conclusive judgment about whether bin Ladin and his lieutenants had authority, direction and control over this operation, notwithstanding the fact there were named al Qaeda operatives who participated in the operation. I think I've got that about right; maybe there's more to it.

So there is al Qaeda operatives as a link. There is no definitive, at that moment, authority, direction and control. You remember in the East Africa bombings you did have authority, direction and control through some means very, very quickly. And that's -- there were named individuals: Nashiri, Khallad, some other people who were al Qaeda operatives. And so there's a distinction between where these operatives -- what we couldn't take you to is until we got Nashiri and Khallad in custody over a year later -- well, a year after 9/11, the specific dates -- where they both told us definitively that bin Ladin was involved in the planning and the execution of this attack, we could not say definitively that we had that piece of data, while we had al Qaeda operatives of their stature involved in the attack.

MR. LEHMAN: So that assessment was made, what, in -- not till January?

MR. TENET: No, sir. I think that assessment is provided -- I think the same assessment is provided in December and in January.

I mean, there were three different periods. My recollection is that there's a meeting in November, there's a meeting in -- there's a small group meeting in November, there's a principals' meeting in December --that I did not physically get to, I don't believe. John was there. And then there is follow-on material that's written in the January time frame.

MR. LEHMAN: Thank you. My last question is, Mr. Clarke and others, as we've heard in the staff statement this morning, have stated that at least since the Church-Pike era, there is a very deeply entrenched culture in the Directorate of Operations

against covert operations, and especially and strongly against assassination. Do you share Mr. Clarke's assessment?

MR. TENET: No, I don't. Look, I know that -- look, you've asked three separate questions in one. Number one, to sort of talk about the culture of the Directorate of Operations without living and working there every day is a stretch. Okay?

Number two, nobody ever talks about assassinations frivolously, ever. So one and the other, but the idea that, you know -- that they're risk-averse, couldn't get the job done, weren't forward- leaning -- I'm sorry. I've heard those comments, and I just categorically reject them.

MR. LEHMAN: Do you also reject Mr. Clarke's statement that at least two of the most senior officials in DO said they'd resign rather than carry out --

MR. TENET: Well, I don't know that, because I think that was something you learned in your staff interviews.

MR. TENET: And I don't -- and look, this is an issue -- there's some deeply felt -- held views here. But I mean, I don't know who said it and why they said it and -- here you go, sir.

MR. LEHMAN: Thank you.

MR. KEAN: With your permission, sir, Senator Gorton has asked for one final question.

MR. TENET: Sir.

MR. GORTON: Mr. Director, Commissioner Roemer's last question led me to ask you whether or not the "bright line" distinction established in 1947 between intelligence domestically and intelligence overseas, in your view, is now an anachronism, and whether some reorganization in that connection is in order.

MR. TENET: It's -- I don't know if I understand the question.

MR. GORTON: Should the CIA have some jurisdiction within the United States?

MR. TENET: No, absolutely not. Under no circumstance.

MR. GORTON: Thank you, Mr. Chairman.

MR. KEAN: Okay. I want to thank you very, very much. We appreciate your testimony, appreciate your coming.

MR. KEAN: (Sounds gavel.) Bring the hearing back to order, please.

We now move on to our next topic, which will focus on the strategies employed by the Clinton and Bush administrations against al Qaeda and how each administration directed and coordinated the key instruments of national power responsible for implementing those strategies.

Before hearing from our national security advisor, Samuel Berger, our executive director, Dr. Philip Zelikow, and the general counsel, Mr. Daniel Marcus, will present a statement from the staff.

PHILIP ZELIKOW (executive director of the Commission): Members of the Commission, with your help, your staff has developed initial findings to present to the public on the coordination of national policy in dealing with the danger posed by Islamic extremist terrorism before the September 11th attacks on the United States. These findings may help frame some of the issues for this hearing and inform the development of your judgments and recommendations. This report reflects the results of our work so far. We remain ready to revise our understanding of events as our work continues.

This staff statement reflects the collective effort of a number of members of our staff. Warren Bass, Michael Hurley, Alexis Albion and Dan Marcus did much of the investigative work reflected in this statement. The Executive Office of the President, Central Intelligence Agency and other government agencies have made the material available to us for the preparation of this statement.

I now turn over to Dan Marcus, general counsel of the Commission and a former high-ranking official of the Department of Justice. Dan?

DANIEL MARCUS (general counsel of the Commission): Thank you, Philip.

The full staff statement is in the record and has been distributed. I'm going to skip around a little to try to save a little time here. I'm going to start on the bottom of the first page of the statement.

The first World Trade Center attack spotlighted the problem of how and whether the NSC could bridge the divide between foreign policy and traditionally domestic issues, such as criminal justice. That attack, handled by the FBI as a matter for domestic law enforcement, had been carried out by a mixture of American citizens, resident aliens and foreign nationals with ties overseas.

President Clinton concluded that the National Security Act of 1947 allowed the NSC to consider issues of domestic security arising from a foreign threat. The President later issued a formal directive on counterterrorism policy, Presidential Decision Directive 39, signed in June 1995. That directive characterized terrorism as a national security concern as well as a matter for law enforcement.

Jumping to the next paragraph.

These efforts were to be coordinated by a subordinate NSC committee called the CSG. During the Clinton administration, these initials stood for Counterterrorism and Security Group. This committee was chaired by an NSC staff member, Richard Clarke. The CSG was the place where domestic security agencies such as the FBI regularly met alongside representatives from the traditional national security agencies.

Since 1989, each administration has organized its top NSC advisory bodies in three layers. At the top is the National Security Council, the formal statutory body whose meetings are chaired by the President. Beneath it is the Principals Committee with Cabinet-level representatives from the agencies. The Principals Committee is usually chaired by the national security adviser. The third layer is the Deputies Committee, where the deputy agency heads meet under the chairmanship of the deputy national security adviser. Lower-ranking officials meet in many other working groups or coordinating committees, reporting to the deputies, and through them to the principals. The CSG was one of those committees.

This ordinary committee system is often adjusted in a crisis. Because of the sensitivity of the intelligence and military options being considered, President Clinton created a small group in which a select set of principals frequently met without aides to discuss Khobar Towers or Osama bin Ladin. The participants would usually be many of the people who have appeared at these hearings yesterday and today: National Security Adviser Berger, DCI Tenet, Secretary of State Albright, Secretary of Defense

Cohen; Hugh Shelton, the chairman of the Joint Chiefs of Staff; Deputy National Security Adviser James Steinberg; the White House chief of staff, John Podesta; Richard Clarke, and Vice President Gore's national security adviser Leon Fuerth. Attorney General Reno and FBI Director Freeh would also sometimes participate.

National Security Adviser Berger told us that he designed the small group process to keep highly sensitive information closely held. There were few paper records. One tradeoff of such a system was that other senior officials and agencies around the government sometimes had little knowledge about what was being decided in the small group, other than what they could obtain from the principals or from Clarke. This sometimes led to misunderstandings and friction.

Presidential Directive 62 and the national coordinator. In early 1998, the Clinton administration prepared a new presidential directive on counterterrorism. Its goals were to strengthen the lead agency approach in 10 program areas to reemphasize the importance President Clinton attached to unconventional threats at home and abroad, and to strengthen interagency coordination. The draft directive would strengthen Clarke's role by creating the position of a national coordinator for counterterrorism who would be a full member of the Principals Committee or Deputies Committee for meetings on these topics.

Skipping the next paragraph.

As it evolved in the Clinton administration, the CSG effectively reported directly to principals, and with the principals often meeting only in this restricted small group. This process could be very effective in overseeing fast-developing but sensitive operations in moving issues quickly to the highest levels and in keeping secrets. However, since the deputies and other sub-Cabinet officials were not members of the CSG, this process created a challenge for integrating counterterrorism issues into the broader agenda of these agencies and the U.S. government.

Clarke was a controversial figure. A career civil servant, he drew wide praise as someone who called early and consistent attention to the seriousness of the terrorism danger. A skilled operator of the levers of government, he energetically worked the system to address vulnerabilities and combat terrorists. Some colleagues have described his working style as "abrasive." And some officials told us that Clarke sometimes misled them about presidential decisions or interfered in their chain of command.

National Security Adviser Berger told us that several of his colleagues had wanted Clarke fired, but Berger's net assessment was that Clarke fulfilled an important role in pushing the interagency process to fight bin Ladin. As Berger put it, quote, "I wanted a pile driver," close quote.

Skip the next paragraph.

Changing strategy about bin Ladin and his network. President Clinton often discussed terrorism publicly as the dark side of globalization. He was particularly and vocally concerned about the danger of terrorists acquiring weapons of mass destruction, especially biological weapons. He tended to receive his intelligence in written briefings rather than personally from the DCI, and he frequently would pass back questions to follow up on items related to bin Ladin or other terrorist threats. National Security Adviser Berger and others told us that the East Africa Embassy bombings of August 1998 were a wastershed event in the level of attention given to the bin Ladin threat.

Skip to the next paragraph.

After the August 1998 military strikes against Afghanistan and Sudan, Clarke turned his attention to a government-wide strategy for destroying the bin Ladin threat. His proposed strategy was called Political-Military Plan Delenda, circulated among CSG and small-group participants in late August and September 1998. As mentioned yesterday, the term "delenda" is from the Latin "to destroy," evoking the famous Roman vow to erase its rival, Carthage. The plan's goal was to immediately eliminate any significant threat to Americans from the Osama bin Ladin network, to prevent further attacks and to prevent the group from acquiring weapons of mass destruction.

This strategy sought to combine four main approaches: diplomacy, covert action, financial measures and military action. The strategy was not formally adopted, and Cabinet-level participants in the small group have little or no recollection of it, at least as a formal policy document. The principals decided against the rolling military campaign described in the plan, but Clarke continued to use the other components of the delenda plan to guide his efforts.

Skip the next little paragraph.

In June 1999, National Security Adviser Berger and Richard Clarke summarized for President Clinton what had been

accomplished to date against bin Ladin. An active program to disrupt al Qaeda cells around the world was under way and was reporting some success. The efforts to track bin Ladin's finances with help from Saudi Arabia and the UAE had not yet been successful. The U.S. government was pressing Pakistan and the Emirates to cut off support for the Taliban. Covert action efforts in Afghanistan had not borne fruit.

Proposals to intervene against the Taliban by helping the Northern Alliance had been deferred. The intelligence needed for missile attacks to kill bin Ladin was too thin and this situation was not likely to change.

Berger and Clarke said it was of virtually certainty that there would be more attacks on American facilities. They were worried about bin Ladin's possible acquisition of weapons of mass destruction, a subject on which they had recently received from some fragmentary but disturbing intelligence. The quality of that intelligence was unlikely to improve, his advisors reported. Given this overall picture, they returned to the idea they had discussed in the fall of 1998 of a preemptive strike on terrorist camps, such as the one reportedly involved in WMD work. Alternatively, they wrote, the government could retaliate after the next attack, but the camps might then be emptied.

The small group met to consider some of these ideas on June 24th, 1999. From some notes it appears that the group discussed military strikes against al Qaeda infrastructure but rejected this approach for reasons including the relatively slight impact of strikes balanced against the potentially counterproductive results.

The NSC staff kept looking for new options or ideas. Later in 1999, for example, the new leadership team at the CIA's Counterterrorist Center produced a plan for increased intelligence collection and relationships with other potential partners for clandestine or covert action against bin Ladin. Berger and Clarke made sure that these efforts received both attention and authorization to proceed.

The Millennium alerts. As 1999 drew to a close, Jordanian intelligence discovered an al Qaeda-connected plot to attack tourists gathered in Jordan for Millennium events. Intelligence revealed links to suspected terrorists who might be in the United States. Meanwhile, a customs agent caught Ahmed Ressam, an Algerian jihadist, trying to cross with explosives from Canada

into the United States. Both staff and principals at the NSC were seized with this threat.

The CSG met constantly, frequently getting the assistance of principals to spur particular actions. These actions included pressuring Pakistan to turn over particular suspects and issuing an extraordinary number of domestic surveillance warrants for investigations in the United States. Berger said that the principals convened on a nearly daily basis in the White House Situation Room for almost a month. The principals communicated their own sense of urgency throughout their agencies.

By all accounts, the Millennium period was also a high point in the troubled relationship between the White House and the FBI. Before 9/11, the FBI did not ordinarily produce intelligence reports. Records of the FBI's intelligence work usually consisted only of reports of interviews with witnesses or memoranda requesting initiation or expansion of investigation.

The senior FBI headquarters official for counterterrorism, Dale Watson, was a member of the CSG, and Clarke had good relations with him and with FBI agents handling al Qaeda-related investigations. But the NSC staff told us that the FBI rarely shared information about its domestic investigations. The Millennium alert period was an exception.

After the Millennium surge subsided, Berger and his deputy, James Steinberg, complained that despite regular meetings with Attorney General Reno and FBI Director Freeh, the FBI withheld terrorism data on grounds that it was inappropriate to share information relating to pending investigations being presented to a grand jury.

In a January 2000 note to Berger, Clarke reported that the CSG drew two main conclusions from the Millennium crisis. First, it concluded that U.S.-led disruption efforts, quote, "have not put too much of a dent," close quote, into bin Ladin's network abroad. Second, it feared that sleeper cells or other links to foreign terrorist groups had taken root in the United States.

Berger then led a formal Millennium after-action review of next steps, culminating in a meeting of the full principals' committee on March 10th.

The principals' committee endorsed a four-part agenda to strengthen the U.S. government's counterterrorism efforts: first, increase disruption efforts; second, strengthen enforcement of

laws restricting the activity of foreign terrorist organizations in the United States; three, prevent foreign -- do a better job of preventing foreign terrorists from entering the United States; fourth, improve the security of the U.S.-Canadian border.

We'll skip to coordinating a counterterrorism budget, lower down on page 6.

Overall, U.S. government spending connected to counterterrorism grew rapidly during the late 1990s. Congress appropriated billions of additional dollars in supplemental appropriations for improvements like building more secure embassies, managing the consequences of a WMD attack and protecting military forces.

Clarke and others remained frustrated, however, at the CIA's spending on counterterrorism.

They complained that baseline spending at headquarters on bin Ladin efforts or on operational efforts overseas remained nearly level. The CIA funded an expanded level of activity on a temporary basis with supplemental appropriations, but baseline spending -- (clears throat) -- excuse me -- baseline spending requests, and thus core staffing, remained flat.

The CIA, on the other hand, told us that Clarke kept promising more budget support but could never deliver it. The Clinton administration began proposing significant increases in the overall national intelligence budget in January, 2000, for fiscal year 2001. Until that time at least, CIA officials have told us that their main effort had been to rebuild the agency's operating capabilities after what they had said -- what they said had been years of cuts and retrenchment. They believed counterterrorism efforts were relatively well off compared with needs elsewhere.

I'm now going to skip to the paragraph in the middle of the page -- middle of page 7 -- on August 1st, 2000.

Clarke outlined for Berger a few key goals he hoped the administration could accomplish before it left office: to significantly erode al Qaeda's leadership and infrastructure; to gain the still-pending supplemental appropriations for the counterterrorism effort; and to advance the Predator program.

In August, Clarke urged that the CSG and the Principals Committee be ready for emergency meetings to decide whether to

fire cruise missiles if bin Ladin were spotted by the Predator. Berger noted to Clarke, though, that before considering any action he would need more than a verified location; he would also need data on a pattern of movements to provide some assurance that bin Ladin would stay where he had been sighted.

In September, Clarke wrote that the drones, the Predators, were providing "truly astonishing" imagery, including, quote, a "very high probability" of a bin Ladin sighting. Clarke was also more upbeat about progress with disruptions of al Qaeda cells elsewhere. Berger wrote back praising Clarke's and the CSG's performance while observing that this was no time for complacency. Quote, from Berger: "Unfortunately the light at the end of the tunnel is another tunnel."

The Attack on the *U.S.S. Cole*. The *Cole* was attacked on October 12 in Yemen. By November 11, Berger and Clarke reported to the President that, while the investigation was continuing, it was becoming increasingly clear that al Qaeda planned and directed the bombing. In an update two weeks later, the President was informed that FBI and CIA investigations had not reached a formal conclusion, but Berger and Clarke expected that the investigations would soon conclude that the attack had been carried out by a large cell headed by members of al Qaeda and that most of those involved were trained at Bin Ladin-operated camps in Afghanistan. So far, bin Ladin had not been tied personally to the attacks, but there were reasons to suspect he was involved.

In discussing possible responses, Berger stated to the President that inherent in them was the, quote, "unproven assumption," close quote, that al Qaeda was responsible for the attack. Berger told us that he wanted a more definitive judgment from the DCI before using force. By December 21, the CIA's preliminary judgment for principals was that, while al Qaeda appeared to have supported the attack, the agency still had no definitive answer on the, quote, "crucial question," close quote, of outside direction of the attack. Clarke added to us that, while both the State Department and the Pentagon had reservations about retaliation, the issue never came to a head because the FBI and the CIA had not provided that definitive conclusion about responsibility.

The *Cole* attack prompted renewed consideration of what could be done. Clarke told us that Berger upbraided DCI Tenet so sharply after the *Cole* attack, repeatedly demanding to know why the United States had to put up with such attacks, that it led

Tenet to walk out of a principals committee meeting. As we mentioned in our staff statement yesterday, Berger obtained a fresh briefing on military options from General Shelton.

In December 2000 the CIA developed initiatives -- moving off the *Cole* now -- based on the assumption that policy and money were no longer constraints. The result was the "Blue Sky" memo, the so-called "Blue Sky" memo, which we discussed earlier today. This was forwarded to the NSC staff.

As the Clinton administration drew to a close, the NSC counterterrorism staff developed another strategy paper, the first such comprehensive effort since the Delenda plan of 1998. The resulting paper, titled a "Strategy for Eliminating the Threat from the Jihadist Networks of al Qaeda: Status and Prospects," reviewed the threat, the record to date, incorporated the CIA's new ideas from the "Blue Sky" memo, and posed several near-term policy choices. The goal was to roll back al Qaeda over a period of three to five years, reducing it eventually to a rump group like others formerly feared but now largely defunct terrorist organizations of the 1980s. Quote, "Continued anti-al Qaeda operations at the current level will prevent some attacks, but will not seriously attrit their ability to plan and conduct attacks," Clarke and his staff wrote.

Now we'll turn to the Bush administration.

The Bush administration decided to retain Clarke and his core counterterrorism staff.

National Security Adviser Rice knew Clarke from prior government service. She was aware he was controversial, but she and Hadley thought they needed an experienced crisis manager in place during the first part of the Administration. Working with Clarke, Rice and her deputy, Stephen Hadley, concentrated Clarke's responsibilities on terrorism issues and planned to spin off some of his office's responsibilities for cybersecurity, international crime and consequence management to other parts of the NSC staff. Clarke in particular wished to elevate the attention being given to cybersecurity.

On May 8th, President Bush asked Vice President Cheney to chair an effort, a related effort, looking at preparations for managing a WMD attack and problems of national preparedness. That effort was just getting under way when the 9/11 attack occurred.

Rice and Hadley decided that Clarke's CSG should report to the Deputies Committee, chaired by Hadley, rather than bringing its issues directly to principals. Clarke would still attend Principals Committee meetings on terrorism, but without the central role that he had played in the Clinton-era Small Group. Hadley told us that subordinating the CSG to the deputies would help resolve counterterrorism issues in a broader context. Clarke protested the change, arguing that it would slow decision-making. He told us that he considered this move a demotion to being a staffer rather than being a de facto principal on terrorism. On operational matters, however, Clarke could and did go directly to Rice.

Clarke and his staff said that the new team, having been out of government for at least eight years, had a learning curve to understand al Qaeda and the new transnational terrorist threat. During the transition, Clarke briefed Secretary of State-designate Powell, Rice and Hadley on al Qaeda issues, including a mention of "sleeper cells" in many countries, including the United States. Clarke gave a similar briefing to Vice President Cheney in the early days of the Administration.

Berger said he told Rice during the transition that she would spend more time on terrorism and al Qaeda than on any other issue. Although Clarke briefed President Bush on cybersecurity issues before September 11th, Clarke never briefed or met with President Bush on counterterrorism, which was a significant contrast from the relationship he had enjoyed with President Clinton. Rice pointed out to us that President Bush received his counterterrorism briefings directly from Director Tenet, who began personally providing intelligence updates at the White House each morning.

Asked by Hadley to offer major initiatives, on January 25, 2001 Clarke forwarded his December 2000 strategy paper and a copy of his 1998 Delenda plan to the new national security adviser, Condoleezza Rice. Clarke laid out a proposed agenda for urgent action by the new Administration: Approval of covert assistance to the Northern Alliance; significantly increase funding; choosing a standard of evidence for attributing responsibility for the *Cole* and deciding on a response; going forward with new Predator missions in the spring and preparation of an armed version; and more work on terrorist fundraising.

Clarke -- I will try to wind up quickly because we're running late. Clarke asked on several occasions for early principals

meetings on these issues and was frustrated that no early meeting was scheduled.

No Principals Committee meetings on al Qaeda were held until September 4th, 2001. Rice and Hadley said this was because the Deputies Committee needed to work through many issues relating to the new policy on al Qaeda. The Principals Committee did meet frequently before September 11th on other subjects, Rice told us, including Russia, the Persian Gulf and the Middle East peace process. Rice and Hadley told us that although the Clinton administration had worked very hard on the al Qaeda program, its policies on al Qaeda, quote, "had run out of gas," and they therefore set about developing a new presidential directive and a new comprehensive policy on terrorism.

I'm going to skip now, so that we can catch up on time, to the bottom of page 10, the last full paragraph.

As spring turned to summer, Clarke was impatient for decisions on aid to the Northern Alliance and on the Predator program, issues managed by Hadley and the Deputies Committee. Clarke and others perceived the process as slow, and Clarke argued that the policy on Afghanistan and Pakistan did not need to be settled before moving ahead against al Qaeda. Hadley emphasized to us the time needed to get new officials confirmed and in place. He told us that they moved the process along as fast as they could, and the Deputies Committee met seven times from April until September 10th on issues related to al Qaeda, Afghanistan and Pakistan.

Rice recalled that in May 2001, as threats of possible terrorist attacks came up again and again in the director's morning discussions with the President, the President expressed impatience with, quote, "swatting flies" and pushed his advisers to do more. And Rice and Tenet met at the end of May, along with their counterterrorism advisers, to discuss what Rice at the time called taking the offensive against al Qaeda. Within the NSC staff, Clarke was asked to put together a broad policy to eliminate al Qaeda, to be codified in the presidential directive.

Moving to the next paragraph.

Clarke and his staff regarded the new approach as essentially similar to the proposal they had developed in December 2000 and put forward to the new Administration in January 2001. Clarke's staff produced a draft presidential directive on al Qaeda. Hadley

circulated it to his counterparts in early June as, quote, "an admittedly ambitious program."

The draft had its goal -- had the goal of eliminating the al Qaeda network as a threat over a multi-year period. It had headings such as "No Sanctuaries" and "No Financial Support."

Skipping to the next paragraph, from April through July, alarming threat reports were pouring in. Clarke and the CSG were consumed with coordinating defensive reactions. In late June, Clarke wrote Rice that the threat reporting had reached a crescendo.

Next paragraph.

On July 2nd, the FBI issued a national threat advisory. Rice recalls asking Clarke on July 5th to bring additional law enforcement and domestic agencies into the CSG threat discussions, and that was done.

Last sentence of the paragraph.

On July 27th, Clarke reported to Rice and Hadley that the spike (in) intelligence indicating a near-term attack appeared to have ceased, but he urged them to keep readiness high; intelligence indicated that an attack had been postponed for a few months.

In early August, the CIA prepared an article for the President's daily intelligence brief on whether or how terrorists might attack the United States. Neither the White House nor the CSG received specific, credible information about any threatened attacks in the United States. Neither Clarke nor the CSG were informed, however, about the August 2001 investigations that produced the discovery of suspected al Qaeda operatives in the United States, nor did the group learn about the arrest or FBI investigation of Zacarias Moussaoui in Minnesota.

Let's skip to -- skip the next paragraph.

At the beginning of August, Rice and Hadley again reviewed the draft presidential directive on al Qaeda. Rice commented that it was "very good," and principals needed to discuss it briefly before it was submitted to President Bush. This meeting was scheduled for September 4.

Skip the next paragraph.

The policy streams converged at a meeting of the principals' committee, the Administration's first such meeting on al Qaeda issues, on September 4.

Before this meeting, Clarke wrote to Rice summarizing many of his frustrations. He urged policymakers to imagine a day after a terrorist attack, with hundreds of Americans dead at home and abroad, and ask themselves what they could have done earlier. He criticized the military for what he called its unwillingness to retaliate for the *Cole* or to strike Afghan camps. He accused senior CIA officials of trying to block the Predator program. He warned that unless adequate funding was found for the planned effort, the directive would be a hollow shell. He feared, apparently referring to Bush's earlier comment, that Washington might be left with a modest effort to swat flies, relying on foreign governments while waiting for the big attack.

Rice chaired the meeting of principals. They apparently approved the draft directive. They agreed, as discussed earlier, that the armed Predator capability was needed, leaving open issues related to command and control of the Predator. Director Tenet was pressed to reconsider his opposition to starting immediately with reconnaissance flights and, after the meeting, Tenet agreed to proceed with such flights.

Various follow-up activities began in the following days, including discussions between Rice and Tenet, directives on September 10 from Hadley to Tenet to develop expanded covert action authorities, and that same day further deputies committee considerations of policy toward Afghanistan and Pakistan. And then came the attacks of September 11th.

MR. KEAN: Thank you all very much. (Pauses.)

We are pleased to welcome before the Commission a witness who can offer us considerable insight into questions of national policy coordination, Mr. Samuel Berger, who served as President Clinton's national security advisor.

Mr. Berger, we'd like to ask you to raise your right hand. Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?

MR. BERGER: I do.

MR. KEAN: Thank you, sir.

Mr. Berger, your written remarks will be entered into the record in full. We will ask you to summarize your opening statement. And welcome.

MR. BERGER: Chairman Kean, Vice Chairman Hamilton, members of the Commission, families and friends, I'm pleased to be here today to share my reflections on the fight against terrorism, as well as my recommendations for the future.

We can never forget what we lost on September 11th, more than 3,000 lives cut short. It was the beginning of the age of catastrophic terrorism. The tragedy changed our perspectives and priorities as a nation, even as individuals. We have an obligation to explore the events that led up to that terrible morning.

For all of the efforts of successive administrations, September 11 was not prevented.

We were hit. We must learn the right lessons so that it never happens again. At the same time, it is easier to see how puzzle pieces fit together if you have in hand the final picture. History is written through a rear-view mirror but it unfolds through a foggy windshield.

When President Clinton entered office in 1993, the intelligence community was primarily focused on the Soviet Union's collapse and the Cold War's end. During the 1980s, nearly 500 Americans had been killed in terrorist attacks abroad, yet counterterrorism was not a priority of our government. From the beginning of our administration, the NSC was responsible for policy formulation and for seeking to implement President Clinton's commitment to fight terrorism. We met frequently on terrorism at the Cabinet level. During times of acute crisis, such as during the Millennium threat, we took on a more active management role. The day-to-day interagency working group, the Counterterrorism Security Group, reported to us. We provided stimulus to agencies across a broad counterterrorism strategy.

What were the elements of our counterterrorism strategy?

First, as our understanding of bin Ladin evolved in the mid-1990s, from one of many financiers of terrorist groups to a galvanizer of anti-American hatred, our focus on him and his network increased. We established a dedicated CIA cell for tracking his activities.

After the bombings of our embassies in Kenya and Tanzania in August 1998, the first time we had established bin Ladin's role in attacks against Americans, getting bin Ladin and stopping al Qaeda became a top priority. As has been reported, the President gave the CIA broad, lethal and unprecedented authorities regarding bin Ladin and his lieutenants.

The President's willingness to destroy Osama bin Ladin and his lieutenants was made unmistakably clear in August 1998, the one time we had actionable intelligence as to bin Ladin's whereabouts. The President ordered a cruise missile attack against him. According to the intelligence community at the time, 20 to 30 al Qaeda lieutenants were killed, but bin Ladin was missed by a few hours.

For the rest of our term, we tried continually to obtain actionable intelligence on bin Ladin and other top operatives. Unfortunately, such intelligence never emerged again. And it was our judgment that to attack primitive camps and fail to destroy bin Ladin or other al Qaeda leaders would strengthen al Qaeda and make us look weak.

President Clinton pressed often for Special Forces options to get bin Ladin, boots on the ground. The military seriously considered such missions. But before 9/11, with no regional support or bases, daunting operational obstacles, and no lead time intelligence on bin Ladin's whereabouts, the military leadership concluded that any such mission likely would fail.

Nonetheless, we continued to seek the whereabouts of bin Ladin and his lieutenants, and we were ready to act if we could locate them.

Second, the CIA worked closely with liaison agencies worldwide to break up al Qaeda cells in more than 20 countries.

Third, the CIA, together with foreign intelligence services, tracked down and captured more than 50 terrorists abroad, including the mastermind of the '93 World Trade Center bombing.

Fourth, the intelligence and law enforcement communities prevented a number of bad things from happening: a plot against New York landmarks in 1993, a Manila-based plot to assassinate the pope and blow up 12 American airlines over the Pacific in 1995, and the 1998 plot to attack the U.S. embassy in Albania. We sent a hundred troops, a hundred Marines, at that time.

In late '99, as we approached the Millennium celebrations, the CIA warned us of five to 15 plots against American targets. This was the most serious threat spike during our time in office. I convened national security principals at the White House virtually every day for a month. During this Millennium period, plots were uncovered in Amman against the Radisson Hotel and religious sites, and against the Los Angeles airport. Terror cells were broken up in Toronto, Boston, New York and elsewhere.

Fifth, we exerted strong pressure on the Taliban to give up bin Ladin. We withheld recognition of their regime. We imposed unilateral -- and then obtained multilateral -- economic sanctions. We froze assets and grounded their airline. We saw pressure on them from others, and we told the Taliban in January 2000 that we would hold them directly responsible for any future al Qaeda attacks on American interests.

President Clinton felt so strongly that he traveled to Pakistan in 2000, against the adamant advice of the Secret Service, to personally press General Musharraf.

Sixth, we sought to track and freeze al Qaeda assets, though this proved extremely difficult.

Seventh, we worked with Congress to more than double counterterrorism budgets at the FBI and CIA, and significantly increase counterterrorism funding for domestic security.

Eighth, we sought to achieve greater integration, interagency coordination. We appointed an experienced senior official, Richard Clarke, to a new position of White House-based national counterterrorism coordinator; energized the Counterterrorism Security Group; designated lead agencies for each key counterterrorism function; and elevated terrorism to a high priority level for the intelligence community.

Ninth, we moved forward to develop a plan to protect critical infrastructure in the United States, in coordination with the private sector; stepped up funding, training and equipment for first responders; and launched a $1.5 billion bioterrorism effort.

Finally, the administration, from President Clinton on down, repeatedly spoke to the American people about this threat. In 1995, President Clinton was the first world leader to bring the counterterrorism challenge before the United Nations. In 1996, he called terrorism "the enemy of our generation." Over his eight

years in office, he gave 10 major speeches devoted solely to terrorism, delivered more than 60 significant remarks on the subject, and raised the issue in public statements more than 200 times. Both he and the Vice President played a hands-on role in shaping and executing our counterterrorism strategy here and abroad.

A few other things, Mr. Chairman. You asked me to address the attack on the *U.S.S. Cole*. We strongly suspected that al Qaeda was involved. But at the time President Clinton left office -- by the time he left office, neither the CIA nor the FBI had reached firm conclusions that al Qaeda was responsible. Something that is confirmed in your staff statement. I believe a president needs a confident judgment of responsibility upon which to base military action.

You also asked about Saudi Arabia. The President and Vice President personally pressed Saudi officials to use their leverage against the Taliban. We know that a senior Saudi official went to Afghanistan to press the Taliban at our request. We know the Saudis cut back relations with the Taliban and cut off their funding. I cannot say that they used the full measure of their authority.

You also asked about the transition. When our administration ended, we alerted the incoming team to the terrorist threat and al Qaeda. During the transition, Bush administration officials received intensive briefings on this. As has been reported, I told my successor that she would be spending more time on terrorism and al Qaeda than any other issue. I did my best to emphasize the urgency I felt.

Members of the Commission, looking back at our years in office, there were successes, disappointments and frustrations. Sixty-seven American lives were lost to foreign terrorism during the Clinton administration. But fighting terrorism was a high and growing priority from the beginning of the Clinton administration to the end.

For all of us now our challenge is to sharpen our ability to look forward. I have a number of recommendations for the future, which I describe in my written testimony. I hope you'll give me an opportunity to discuss them. For now, let me simply summarize by saying that I believe we need better integration in three areas. Number one, policy integration to ensure greater seamlessness between agencies that have traditionally been either domestic or externally focused so that we never again have a

situation in which, for example, the FAA or INS is disconnected from national security. Two, intelligence integration to harmonize priorities and engage an ethic of jointness across the intelligence community -- domestic and foreign. And three, resource integration with a single national security budget that includes all military, homeland security, diplomatic and economic resources available to deal with the threats and challenges we face.

I welcome a chance to elaborate further during our discussion.

MR. KEAN: Thank you very much, Mr. Berger.

Commissioner Ben-Veniste will now lead the questioning, followed by Commissioner Lehman.

RICHARD BEN-VENISTE: Good morning, Mr. Berger.

MR. BERGER: Good morning, Mr. Commissioner.

MR. BEN-VENISTE: Our hearings today will be asymmetrical in the sense that your counterpart, National Security Adviser Dr. Condoleezza Rice, will not appear because the White House has refused to allow her to testify here. As I pointed out yesterday and I will point out in your presence, the Congressional Research Service of the Library of Congress looked at the issue of presidential advisers appearing before Congress. And even though we are not Congress ourselves, we are all out of government by the terms of the statute which creates us.

I point out that you, on May the 3rd, 1994, as deputy assistant to the President for national security, appeared before the Senate Committee on Foreign Relations talking about our policy in Haiti in open session, and you appeared as national security adviser before the Senate Committee on Government Affairs on September 11th -- coincidentally -- 1997. This report also has numerous other entries, including the appearance of former National Security adviser Zbigniew Brzezinski on September 17th, 1980. And may I say, without denigrating anybody and the importance of their prior appearances, none of those appearances was as important as the 9/11 inquiry in which you are appearing today.

Now, with respect to the function of the national security adviser, your function is to coordinate and to relay to the

President information both of a foreign and domestic nature as it regards our national security; is that correct?

MR. BERGER: That's correct, although the traditional focus of the National Security Council have been the traditional concerns of national security, which have been foreign threats, but that, obviously, has evolved over time.

MR. BEN-VENISTE: And it certainly evolved during your service. Specifically I point to the Millennium threat --

MR. BERGER: Yes.

MR. BEN-VENISTE: -- where the United States, as we have heard, at its highest levels was on battle stations. You convened meetings of the Cabinet to deal with that threat, did you not?

MR. BERGER: Yes, I did.

MR. BEN-VENISTE: And that was on an intense and frequent basis; is that correct?

MR. BERGER: It was on a daily basis, Mr. Commissioner, I think almost every day for a month.

MR. BEN-VENISTE: And is it correct that although, again, the focus of the threat was supposedly against assets overseas, indeed, as you have related in your opening remarks, plots involving North America and sleeper cells in North America, including Los Angeles, Toronto, Boston and others, were uncovered and thwarted by reason of the intensive efforts that were made during the Millennium time frame.

MR. BERGER: I do believe that we thwarted threats and I do believe it was important to bring the principals together on a frequent basis for a number of reasons. Things happen when the number one person is in the room. So Director Tenet would say I've got a lead on so and so, and the attorney general would turn around to a person sitting behind her and say, "Can we get a FISA on this person?" And she'd say "the answer is yes, Attorney General." We got more FISAs in a shorter period of time than ever before in history. And when the principal spends an hour a day at the White House or more, he goes back or she goes back to her agency or his agency and she -- he or she shakes that agency for whatever it has.

So I believe that the threat was sufficiently serious that it had to be operated at that level. You can't operate that, obviously, principals level as a routine matter, but this was not a routine situation.

MR. BEN-VENISTE: Well, let me ask you this because I have continued to press the question of offense versus defense -- offensively going against bin Ladin and his operation wherever we could find them to disrupt them, to trace the funds that they use to finance their operations and so forth -- but defensively, equally important and particularly important in connection with 9/11, to protect the United States. As our vice chairman, Lee Hamilton, said this morning, this is an area in which, obviously, we fail.

Now with respect to sleeper cells in the United States, did you have at the time you left government, during the transition, have any reason to believe that al Qaeda's efforts to position sleepers/operatives in the United States had terminated?

MR. BERGER: No. We knew from the Millennium experience that there were al Qaeda operatives, people linked to al Qaeda that we busted up in Brooklyn, in Boston, and I believe two or three other places. The FBI had generally taken the position that there was not a significant al Qaeda presence in the United States. And that was the position that they took quite honestly, Mr. Commissioner, through the end of 2000 and when we left, that there was not a substantial presence and what presence was here was a sense -- we have it covered. But I certainly cannot say --

MR. BEN-VENISTE: They had it covered?

MR. BERGER: We had it covered. I certainly cannot say that we could say that there was no presence here.

MR. BEN-VENISTE: Now, in a threat environment, which we have received very substantial information about during the summer -- in fact, it's been called the “summer of threat,” where there was the highest level of threat indicators perhaps in the modern history of intelligence gathering -- was there any reason, in your view, to discount the possibility of a domestic attack against the United States, given the fact that al Qaeda had attacked us or al Qaeda- related operatives had attacked us in 1993 at the World Trade Center; that you had broken up an attempt to bomb the Los Angeles International Airport; and with respect to the other North American operations which were disrupted during your watch? Was there any reason to think that the United

States would be excluded from this potential huge operation that our intelligence agencies perceived would be coming?

MR. BERGER: Mr. Ben-Veniste, I had no access to the intelligence during this period, so I can't make a judgment as to what it said or what it provided. The fact is that the track record after '93, after the World Trade Center, was just a few months after we came into office, was that we had blocked things in the United States. But I think there was no reason to feel sanguine that we were invulnerable in the United States.

MR. BEN-VENISTE: Moreover, we have received information that suggests, ironically, that on September 10th, 2001, Attorney General Ashcroft axed $58 million from the FBI's counterterrorism budget.

During your tenure, did you understand there to have been any specific request for counterterrorism funding that was denied?

MR. BERGER: I believe that during our period, funding for counterterrorism at the FBI went up 350 percent. I believe that actually Director Freeh used that number when -- in his press conference when he left office in July of '01.

MR. BEN-VENISTE: With respect to the authorization for the use of force given to Director Tenet, he was reluctant to go into specifics, but he did say that there was no request for authority that was denied by President Clinton. Could you shed light on that as well?

MR. BERGER: I will try, Mr. Commissioner. I've read some of these reports in the press and otherwise.

Let me say first of all, there could not have been any doubt about what President Clinton's intent was after he fired 60 Tomahawk cruise missiles at bin Ladin in August '98. I assure you they were not delivering an arrest warrant. The intent was to kill bin Ladin. Number one, his overall intent was manifest in August '98.

Number two, I believe the director understood, and I think he reiterated today, that we wanted him to use the full measure of the CIA's capabilities. Only the CIA can judge what its capabilities are, and that then defines the scope of the authorization. We gave the CIA every inch of authorization that it asked for. If there was any confusion down the ranks, it was never communicated to me nor to the President. And if any

additional authority had been requested, I am convinced it would have been given immediately.

MR. BEN-VENISTE: Yesterday, the secretary of Defense indicated that missile attacks against al Qaeda in its location in Afghanistan would have been, I think he used the term, "bouncing the rubble." Did you regard the missile attack, which you just described, to be "bouncing the rubble"?

MR. BERGER: No, the missile attack in August of '98 was attempting to be bouncing bin Ladin into rubble. We had specific intelligence that a large gathering would be there, that probably bin Ladin would be there. We struck with the intent of killing bin Ladin and/or his operatives. I deeply regret that we did not succeed. For the next two years we tried to get that kind of actionable intelligence. The President ordered submarines in the Arabian Gulf to stay there for over a year so that we would be six hours away from any strike -- six hours from a "go" to a hit.

One of the reasons I was so -- and I will take one more second, Mr. Ben-Veniste -- one of the reasons I was so pleased with the Predator, which was developed at the end of our administration, was not because I was thinking about it as armed with a Hellfire missile -- was because our problem, as the director made very clear, was we often had one stream, one source of intelligence from tribals or others on the ground -- and we learned after 9/11, as we all watched this war, how unreliable some of these people are and their own vendettas and their own agendas. And I'd get a call from George and he'd say, you know, we've been watching something here for two or three days and we've got some information that we think bin Ladin might be in such a such a place over the weekend. And we'd get -- we'd all get ramped up. I'd call all the principals. I would brief the President. And in each of those instances, the director would come back -- came back and said, we just don't have it. And the Predator, as a intelligence platform, as a surveillance platform, would have given us the second source. If we had that intelligence saying he's going to be at Kandahar in this building, we could have put the Predator above him and then we would have known for damn sure where he was and we would have had a -- put a cruise missile six hours away from that site.

MR. BEN-VENISTE: Now, with respect to -- in all fairness, the idea of putting a cruise missile there in six hours, you had events such as the stand-off between the Pakistanis and the Indians, both armed with nuclear weapons. And the notion of sending a cruise missile over either of those countries during

extraordinary tense times was not something to be lightly done. Correct?

MR. BERGER: Correct. When we --

MR. BEN-VENISTE: Or over -- let me just add --

MR. BERGER: Yeah.

MR. BEN-VENISTE: -- in doing so, it would be important, would it not, to advise these two countries that the missile that we were sending for the purpose of eliminating bin Ladin was not coming from either of them against the other.

MR. BERGER: It's a very important point you raise, Mr. Ben-Veniste. When we attacked in August '98, we sent -- we obviously did not want to give them advance notice, because we quite honestly didn't trust the Pakistani army to not be penetrated. It was essentially -- Taliban was -- the Pakistani army was the midwife of the Taliban. There were very close relationships.

We sent General Ralston to go have dinner, as I recall, with General Kara mat, the head of the Pakistani military. And as those missiles were heading into Pakistani airspace, General Ralston said, "By the way, General Kara mat, at this moment missiles are coming over your airspace," so that the Pakistanis would not read those as incoming missiles from India with nuclear warheads and we'd start a nuclear war.

MR. BEN-VENISTE: So clearly this was a nuanced question which -- any responsible person in your position would certainly want to factor in the possibility of the United States inadvertently triggering a nuclear war between India and Pakistan.

MR. BERGER: That would certainly have to go into the planning. But I will tell you, had we had another opportunity to get bin Ladin, I certainly would have -- we would have figured it out.

MR. BEN-VENISTE: Do you have any reason to understand now whether or not bin Ladin might have been warned back in '98 by Pakistani intelligence?

MR. BERGER: There has been speculation to that effect, Mr. Ben-Veniste, that he was tipped off. I tend to doubt it, for -- the simple reason is that we also killed, apparently, a number of Pakistani ISI -- Pakistani intelligence officials who were at the

camps at the same time. So one would think that had there been a tip, they would have gotten their own people out. So I have no reason to believe that's true, that the --

MR. BEN-VENISTE: And my last question -- I'll finish up on it. I see my time is over.

When you say the Pakistani military was behind the Taliban and its creation, this was a significant problem from a diplomacy standpoint to deal with. Not only was the Taliban in control in Afghanistan and protecting bin Ladin, but that the situation in Pakistan was not particularly conducive to assisting the United States in eliminating bin Ladin, was it?

MR. BERGER: I think it's a very important point, if I can take on minute on it. I believe we put as much pressure on Pakistan to put pressure on the Taliban as we possibly could through every means available to us. We didn't have any sticks. Congress -- because of the nuclear weapon sanctions, because of the other sanctions, there was nothing we could say, "We'll take this away from you," because we weren't giving them anything. But we leaned on them very, very heavily. We had the Saudis lean on them very, very heavily. The only thing we could have done, I think, that we didn't do was cut off their access to IMF loans, which would have collapsed Pakistan, and we would have had a failed nuclear state in South Asia, which probably would not have been the best thing for the United States.

MR. BEN-VENISTE: Thank you, Mr. Berger, and thank you for your service to the country.

MR. BERGER: Thank you.

MR. KEAN: Commissioner Lehman?

MR. LEHMAN: Thank you, Mr. Berger. And as a fellow survivor of the NSC --

MR. BERGER: (Chuckles.)

MR. LEHMAN: -- I'm glad to see you're here. And please take my questions in the spirit of what this -- the mission of this commission is all about. People may be forgiven sometimes from -- for seeing it. Our real objective here is to come up with some real change recommendations drawing on your experience and those of your colleagues.

MR. BERGER: I respect the responsibility that all of you have.

MR. LEHMAN: So that's really the purpose. And we'll be spending more time with you to really get down to some hard proposals. And I know you've made some, and we look forward to working with you on it.

But let me go to some of the criticisms that have been leveled at the U.S. government during the period of the Clinton administration. If you take the now famous Clarke book and related testimony that we've had, and so forth, I would say the gist of the criticism tends to be not that the senior officials, and particularly the White House did not recognize the threat and take it seriously, and indeed, issue direction, but that very frequently, according to Clarke, that direction was ignored or subverted or simply not carried out.

So let me just start with some of the key milestones in the terror attacks as they developed against the United States, starting with the '93 attempt by Saddam to assassinate President Bush 41.

According to testimony that we've had, the response of President Clinton was to take very strong action, and indeed a whole broad series of targets were selected and the direction was given to implement that retaliatory plan; but in fact, because Warren Christopher and some others argued strongly against that strong an attack, it ended up being reduced to a small cruise missile attack against the Iraqi intelligence headquarters in the middle of the night so nobody would be there.

Tell us about your impression and what went on and what happened with that particular crisis.

MR. BERGER: Let me first comment on your wind-up and then your pitch. (Laughter.) Your wind-up was "Clarke said we didn't listen." I don't think there's anything -- I've not read Clarke's book.

MR. LEHMAN: (Laughs.) Nobody seems to have. (Laughter.)

MR. BERGER: But -- At least I've not read the book. But I can think of only two things that Dick recommended that we did not pursue, and we can come back to these. One was arming the Northern Alliance; the other was attacking the camps whether we knew anybody was there or not. We'll come back to those two

things. On every other matter -- you can ask Mr. Clarke this afternoon -- I believe the things he recommended and some of the things that we actually recommended to him, because it all wasn't just a one-way communication -- were undertaken.

With respect to the bombing of the intelligence headquarters, I don't believe it's accurate that those were scaled back because of Secretary Christopher's reservations. This was what the chairman of the Joint Chiefs of Staff, Secretary Powell -- Chairman Powell at that time -- and the other national security principals recommended. We took down their intelligence headquarters. It's like them taking down Langley. And I suspect if somebody took down Langley, we would not call that a pinprick. And we said at the same to them that if they ever tried terrorism again against the United States, the consequences will be severe.

And as far as I know, from 1993 on they never did.

MR. LEHMAN: Let's talk about the '93 World Trade Center investigation. We now know that three of the key planners and players were al Qaeda, and indeed one of them was able to escape and was given safe haven in Baghdad right up until, as far as we know, the present day. We have received many criticisms of the handling of that crisis at the time in that it was handled as a criminal problem, and that the information gathered in the investigation, that would have turned the light bulb on in the policy community as to the extent of the al Qaeda participation, was never shared within the intelligence community until after the trial.

MR. BERGER: Mr. Lehman, I think this is -- and I'm not attributing this to you -- I think this is a good example of reading history backwards. In 1993 we had no notion of the linkage of Ramzi Yousef to Khalid Sheikh Mohammed and others who ultimately were tied to bin Ladin. These were things that were learned in '97 and '98. You know, when you turn the book upside down and when you start with the last chapter and you read backwards, it's a hell of a lot easier --

MR. LEHMAN: But that's my point. I mean, the fact that as this was all being developed and was disseminated in '97, it would have been disseminated a lot earlier because a lot of it was developed during the investigation.

MR. BERGER: Well, there's no question we've learned since 9/11 -- I've learned since 9/11 -- that the mechanisms of

information sharing within the FBI and between the FBI and the rest of the government were even worse than I thought they were.

In 1993 my predecessor, Tony Lake, and I went over to meet with the attorney general and asked to sign a memorandum of understanding so we would agree what could be shared between law enforcement and national security because there is some legitimate concern about politicizing law enforcement. That's not a frivolous concern. Americans don't want the White House manipulating law enforcement matters. It took -- we couldn't get that done for eight years.

And we've learned since 9/11 that not only did we not know what we didn't know, but the FBI didn't know what it did know. (Laughter.) And I think this is -- we haven't talked much about the FBI in the hearings that I listened to yesterday and today. I hope that you'll look at this -- I know you will -- because I think that there was a sclerosis here.

MR. LEHMAN: Yeah, I think that's a very -- a very good point. Of course--

MR. BERGER: Let me -- excuse me --

MR. LEHMAN: Sorry.

MR. BERGER: There are extraordinarily dedicated people who work at the FBI. Let me distinguish the institution from the individuals. I mean, these are people who put their lives on the line to save you and I and to protect us. And I'm not trying in any way to cast any aspersions on them. It's an institution, at least in my time, that was not oriented towards this terrorism threat.

MR. LEHMAN: Well, I agree with that. And I think most of the witnesses we've had do agree with it. But they also paint a picture, and particularly Clarke, of an FBI that basically sent around nothing in writing in sharing of intelligence, and a Justice Department that was much more worried about getting convictions of caught terrorists than they were focused on spreading the information to prevent other terrorists.

And Clarke is particularly scathing about Janet Reno in the Justice Department and her unwillingness to fund more translators for the information that was gathered and was very much leaning in the other direction of the President from covert operations and so forth.

MR. BERGER: Let me say this in defense of Attorney General Reno. First of all, I reject the notion that we handled this as a law enforcement matter during the large portion of the Clinton administration. We were operating under the Law of Armed Conflict, which you are very familiar with, Secretary Lehman; not under law enforcement principles. And the Attorney General approved that. We weren't reading Miranda warnings. We weren't going through legal channels. All of those Moons that we talked about this morning were all authorized under the Law of Armed Conflict and at no point did the attorney general interpose a legal objection to anything that we wanted to do. She may have disagreed with a personal matter on some things, but she never interposed a legal obstacle to anything we wanted to do.

MR. LEHMAN: Well -- but that's Clarke's point in a way, and that of others of the thousand people that we've interviewed. Clarke calls those MONs "Talmudic," and written in such a way as to make it virtually impossible for the bureaucracy and their lawyers to approve the operations that were intended.

And there's no question, by the way, in the evidence that we've gathered, that the President's intentions and your intentions were as you have stated them. But as perceived by the CIA and the Defense Department and their lawyers, the authorities would not have permitted -- and all I'm saying is this is not my view; I'm recounting testimony that we have under oath that it was the firm belief, particularly in CIA but also in many areas of the JCS, that there could not be a kill without organizing an elaborate effort to capture. And so what I'm trying to get at is your view on this disconnect between testimony we have from out in the bureaucracy as the perception and what your intentions were.

MR. BERGER: I think Director Tenet answered this question this morning. He said I got -- it all depends on what my capabilities were. If I had the capability to do a kill, he was implicitly saying, I would have done a kill. I would have gone and asked for the authority to do a kill, straight out. All of the authorities he got envisioned that -- that there could be a kill.

And that the people we were working for would have been taken care of, dead or alive. So I don't think they were Talmudic.

I don't think there was any question -- again, if there was confusion down the line in the CIA or out in the field, it was never communicated back to us. And somebody should have come to

us and said, "You know, our guys are wringing their hands out here because they think they can do a lot more than they can do," because you had a president who wanted to do everything possible to get this guy.

And I think George basically answered it this morning by saying, "We didn't have the capability to do anything more. And if we got that capability, I would have gone to the White House and I would have gotten the authority."

MR. LEHMAN: Now, with regard to the Department of Defense, many of the witnesses have said that when the President wanted options, the famous black ninja kind of option, the only thing that he ever got out of the Pentagon was either a pin-prick or lobbing some cruise missiles or the Normandy invasion. Those are Mr. Clarke's words.

MR. BERGER: I don't think that's entirely fair. On a number of occasions we went to the Pentagon and we said, "What are the military options here, from commando-type operations to more robust operations?" They went back and looked at those options and would come back to us. And basically there was a range of options.

I remember one briefing, I think there were 12 options or 13 options in their briefing. All of them, however, suffered from the same problem. They were not feasible. That is to say that, in the absence of Pakistan for basing, in the absence of any of the neighbors having to stage 900 miles away without being able to put any kind of backup on the ground, going over those mountains, landing in terrain we'd never seen before, getting our people out of there at minimal cost to our own soldiers, and in the absence of actionable intelligence as to where he was, that these would fail or that it likely would fail.

So I don't think there was an unwillingness of the military to take on the mission if the conditions were different.

MR. LEHMAN: There is -- to follow up on that question, after the '98 bombing attacks, there essentially were no more military actions taken except in Iraq. And I find it a little curious that we were bombing virtually every day in Iraq but were reluctant to go after the conveyor belt that Clarke talked about at the same time.

MR. BERGER: Well, there were other military actions in Bosnia and Kosovo, but I'm sure you're not referring to those. We

discussed at various times, Mr. Secretary, whether serial bombing of the camps, intermittent bombing of the camps, two weeks of bombing of the camps, 17 days' bombing of the camps, was a sensible option. It was a subject of many discussions.

And I think the judgment that we reached, that we came to, was that to use military power in that way and not to get bin Ladin, not to get any of his top lieutenants, but to use our military power to bomb the camps, kill a bunch of people, sure, knock down a bunch of jungle gyms, as Hugh Shelton described them, would actually have strengthened bin Ladin and al Qaeda, glorified him and made us look weak.

And that's why we were constantly seeking intelligence with respect to leadership targets that would have enabled that to have some greater force.

MR. LEHMAN: One last question, and that is on the *Cole*. Since Clarke used the word "Talmudic," frankly, your response on waiting and you didn't really know about *Cole* sounds a little Talmudic.

I mean, the time to retaliate for the *Cole* would have been the day after the *Cole*, because, as you have rightly pointed out, the administration was basically at war with al Qaeda. And there was certainly enough evidence, although admittedly not to the satisfaction of the Justice Department perhaps and their evidentiary rules, but it was certainly not the IRA that blew up the *Cole*. And you knew that there had been a previous al Qaeda attempt on the Sullivan in the same harbor. Why wasn't there enough action to retaliate? I mean enough evidence.

MR. BERGER: I believe, before the President uses military force in retaliation, that he needs a clear judgment from his senior advisers that they're responsible. The day after Pan Am 103, we would have bombed Syria, Mr. Secretary.

MR. LEHMAN: But you told --

MR. BERGER: May I finish?

MR. LEHMAN: Yeah, go ahead.

MR. BERGER: We thought TWA 800 was terrorism. It was not terrorism. People actually -- dozens of people saw the missile strike TWA 800 as it went up over Long Island.

MR. LEHMAN: Yeah, but you just told us --

MR. BERGER: Preliminary judgments, I have come to learn, are not the same as judgments. And when the CIA was ready -- they were certainly not sitting on their hands. And when they were ready to come back and say, "It's our best judgment that this is al Qaeda," we should have acted. That did not happen on our watch, sir.

MR. LEHMAN: But, in fact, it did happen on your watch. It happened in November and December.

MR. BERGER: Your own staff, sir, says it didn't happen on our watch. Your own staff says there was a preliminary judgment -- a preliminary judgment.

MR. LEHMAN: I differ with you on that. But the fact is, the reality is that you've already testified that if you'd have found bin Ladin out in the open, you would have attacked him anyway, even without the *Cole* being hit.

MR. BERGER: Correct.

MR. LEHMAN: But you wouldn't attack him because of the *Cole*. That's a little --

MR. BERGER: No, I don't follow you, sir. What I'm saying is, I believe that when responsibility was ascribed for the *Cole*, I certainly would have recommended a strong response, including a response against the Taliban, because in January of 2000 we had warned the Taliban, if there was any other attack by bin Ladin and al Qaeda, we would hold them responsible.

So this turns on what's the threshold of action. And I think a preliminary judgment, which is what your staff statement describes it as, a preliminary judgment -- is not sufficient for the President to go to the world and saying, "I've gone to war with Afghanistan on the basis of preliminary judgment," or on the basis of, quite honestly, Dick Clarke's opinion.

When the CIA came back and said, "Sir, we believe this is al Qaeda," I believe I would have been in favor of acting. I don't think we were at that point. And I'd seen enough situations in my eight years where preliminary judgments were wrong.

The Egypt Air plane that went down was terrorism. Oklahoma City, sir, was foreign terrorism for quite some time until we

found out that it wasn't foreign terrorism. So I want to see the director of Central Intelligence, at least, as the chief adviser to the President on intelligence, come to the President and say, "Mr. President, there's no certainties in this world. We can't be 100 percent sure. But we believe that this is an al Qaeda operation." At that point, I think it would have been right for action.

MR. KEAN: I've got one quick question, just to follow up, really. Have you read this book, "Ghost Wars"?

MR. BERGER: No, I've just read the two excerpts, Governor, from the Washington Post.

MR. KEAN: It's a good book. It confirms a lot of what we're finding out in this investigation. I'd recommend it. But one of the things it does detail, similar to our findings, is that there was a real disconnect.

MR. BERGER: There was -- excuse me?

MR. KEAN: There was a real disconnect between what you all believed was the policy in Washington and what was going on in Afghanistan, including the famous comment by Massoud when he was told -- when he read an order, a legal opinion, as to what could be done and couldn't be done with bin Ladin.

And I guess my question is, it seems a fact, to me, anyway, from the book and from our research, that there was this disconnect. You were meeting every day. I mean, you were meeting every week, anyway. You had principals and everything else. You had a clear understanding of what was going on. How could this occur? How could --

MR. BERGER: Well, perhaps that's a question you should ask the director of Central Intelligence, because there was no communication -- or Cofer Black, who was in the White House twice a week and never took me aside and said, "Sandy, we've got a real problem in the field because the instructions are confusing," or, "We've got a lot more capacity to act than you've given to us" -- never, never.

MR. KEAN: Somewhere there was a disconnect.

MR. BERGER: Well --

MR. KEAN: It obviously affected policy.

MR. BERGER: I would say one thing about that, though. And I think Director Tenet mentioned it this morning. You've got a lot of stovepipes in this government. And someone who is sitting down there at the sixth level or the seventh level or a soldier who was on a battleship or a CIA operative who was out in the field doesn't have 360-degree vision on what's going on. So all he knows or she knows is what she is ready to do and willing to do, and may not know about the whole picture. That's why you've got to channel this through an integrated system, one central person.

MR. BEN-VENISTE: Mr. Chairman?

MR. KEAN: Governor Thompson is next.

MR. BEN-VENISTE: Yes, I understand it. There is a document which we have recently received from CIA, and I don't know how much about it we can discuss, but it would shed light on the issue of what CIA operatives in the field told Mr. Massoud at the appropriate time.

And I will tell you, Mr. Chairman -- and I'm sure you have not yet seen that document -- that it removed ambiguity in terms of whether Mr. Massoud would be rewarded whether or not bin Ladin was killed or captured.

MR. BERGER: Governor, the last thing I -- let me not say it. Let me let you pursue it.

MR. KEAN: Okay. Governor Thompson.

MR. THOMPSON: Thank you, Mr. Chairman.

Mr. Berger, thank you for your testimony today and for your service to our country. I will repeat something I said yesterday -- I don't know whether you heard it or not -- but that I was complimentary of the Clinton administration for its vigorous pursuit of terrorists, al Qaeda, UBL and all those things that you have testified to this morning.

On page three of your prepared remarks, there are two paragraphs that I think, in essence, you've discussed here today. I'll just highlight them. "It was our judgment that to fire on primitive camps and fail to destroy bin Ladin or key al Qaeda figures would have fortified bin Ladin and made the U.S. look weak and feckless. And given the circumstances that prevailed at the time, including no support from Pakistan or other neighbors, no base near Afghanistan and no lead-time intelligence, the

military leadership concluded that such a mission -- that is, boots on the ground in Afghanistan -- would fail."

Those were the conclusions yesterday, as I understand the testimony, from Cohen, Albright, Powell, Rumsfeld, and this morning from Tenet. And so you associate yourself with those views from those five --

MR. BERGER: Yes.

MR. THOMPSON: -- people? Okay. When did you brief Condi Rice about terrorism?

MR. BERGER: Well, as you of course recall, we had somewhat of a truncated transition --

MR. THOMPSON: Uh-huh.

MR. BERGER: -- because we had an elongated election. I think I met with Dr. Rice on three occasions, and then she received specific briefings from several members of my staff -- an hour, two-hour briefings, along with her deputy and -- and perhaps others. In my first briefing with her, we talked about this issue. I wanted very much to convey to her --

MR. THOMPSON: Al Qaeda -- you discussed al Qaeda?

MR. BERGER: Yes. I wanted very much to convey to her the sense of urgency that I felt, because they had been out of government for some time, and the world had changed. And I said to her at that time, and she's acknowledged this publicly, that the number one issue that you're going to be dealing with is terrorism, and generally, and al Qaeda specifically. Then, she had a specific factual briefing, Governor, from -- I believe Mr. Clarke and his team, and I went to no other briefings that she went to, staff briefings, except that one. And I showed up at that briefing in the beginning and I said, "Condi, I'm here simply to emphasize how important this is. I'm not going to stay through the whole thing, but I just wanted to underscore how important I think this is."

So, in every way that I knew how, Governor, I tried to convey that this was our -- now our top priority as a country.

MR. THOMPSON: So, when Mr. Clarke says in this book that nobody will acknowledge they've read except members of the Commission --

MR. BERGER: Well, I'm eager -- I'm eager to read it, I just haven't had a chance to.

MR. THOMPSON: I'm sure you will be. When he said that in his meeting with the national security advisor, Ms. Rice, I'll quote, "As I briefed Rice on al Qaeda, her facial expression gave me the impression that she had never heard the term before." So, since you discussed it with her, that impression of Mr. Clarke's would be erroneous, is that correct?

MR. BERGER: I don't -- I can't comment on that, Governor. I wasn't present. I don't know the circumstances of that. I did -- I know what the sequence was, quite honestly, of my meeting with her and Dick's meeting with her. All I can tell you is what I said to her and what I did.

MR. THOMPSON: Okay. Going to page seven of your prepared remarks, and I don't want to give the impression I'm picking on this or poaching on my friend Kerrey's territory in discussing the *Cole*, but he's finally moved me to the point where I think I need to. And your testimony this morning seems to be somewhat at odds with Director Tenet's testimony this morning, so I just want to get it clear in my own head.

You say, on page seven of your prepared statement, "By the time President Clinton left office, however, neither the CIA nor the FBI had reached firm conclusions that al Qaeda was responsible for that assault," that is the *Cole*.

Director Tenet told us this morning, as I recall his testimony, that during December, when the Clinton administration was still in office, the CIA had reached the judgment that al Qaeda was -- al Qaeda was responsible because the assault was carried out by known al Qaeda operatives, I think was his phrase, they just couldn't conclude that Osama Bin Ladin had command and control over that operation.

Can you shed some light on this apparent difference?

MR. BERGER: I'm reading now from your staff statement this morning, which says, on the issue of the *Cole*, the Bush administration received essentially the same, quote, "preliminary judgment," --

MR. THOMPSON: Uh-huh.

MR. BERGER: -- that had been briefed to the Clinton administration in December. And I -- I listened to George this morning, and it was a little bit hard to track, which he usually isn't, but all I can tell you is that what we were told was that the evidence led -- pointed to al Qaeda for sure, and they were -- they were -- and that preliminary judgment was that it was -- that it was al Qaeda. I believed a very sharp response would have been called for after the *Cole*. I believed to have sustained that in the court of world opinion you would have needed -- the President would have stood up and said based on the preliminary judgment of my intelligence community, I -- I bombed Afghanistan. I just don't think that would have cut it.

MR. THOMPSON: Well, but as I understand Director Tenet's testimony, he could have stood up and said we know that specific al Qaeda operatives bombed the *Cole*.

MR. BERGER: Well, I -- I -- I can't comment on Director Tenet's testimony because I was not watching it without doing some other things at the same time, like finishing my own statement. But I will tell you my own recollection, sir --

MR. THOMPSON: Sure.

MR. BERGER: -- and what is, I think, the record, and that is that there -- that in December, we were increasingly convinced that it was al Qaeda, that the CIA had reached a preliminary judgment to that effect, but they still had work to do, and did not have a judgment -- strike the word "preliminary." At that point, I think we would have been faced with a policy decision, as Mr. Tenet made perfect -- made clear that's not his decision, it's for the President, ultimately, of how to respond.

MR. THOMPSON: One last point. You made somewhat of a reference to the fact that you thought that, Osama Bin Ladin or al Qaeda aside, the Taliban, Afghanistan bore some responsibility in this as well, and you had specifically warned them that if this happened again -- and this was pre-*Cole* -- they would be held responsible as well. I agree with that, and in all this sort of back and forth about whether there were suitable targets in Afghanistan and whether we should go bomb the camps one more time, whether there were people there or not, just to show our resolve, it is a fact, is it not, that there were targets in Afghanistan that belonged to the Taliban, to Afghanistan -- their civil seat of government, Mullah Omar's house, I'm sure we knew where that was. Would you, under the right circumstances, have --

have concurred in a decision to take it out on the Taliban as well?

MR. BERGER: I can only speak for myself personally --

MR. THOMPSON: Sure.

MR. BERGER: -- Governor. That would have been my personal recommendation, given the warning that we gave in January of 2000, that we would have struck not just whatever al Qaeda targets were available, but we would have struck Taliban targets as well. And now, we've since learned the Taliban was prepared to be destroyed --

MR. THOMPSON: Uh-huh.

MR. BERGER: -- rather than give up Bin Ladin. So, this -- they were fused at the hip. I think that's a judgment that we reached, you know, in mid-1999 and early 2000, that you -- it would be very difficult to break the Taliban from -- from al Qaeda.

MR. THOMPSON: Thank you, Mr. Berger. Thank you, Mr. Chairman.

MR. KEAN: Senator Kerrey.

MR. KERREY: Mr. Berger, I noticed -- and I appreciate you're a private citizen now, and I saw you back there working on your -- on your statement, so it may just be an oversight that you did not draw attention to the February 23rd, 1998 press conference that Osama Bin Ladin held in Khost, Afghanistan and that he brought, and that he brought -- with a satellite telephone delivered to an Arabic-speaking newspaper in London. This seems, as I read it, it reads like a declaration of war. And I wonder if that's just an oversight, or whether or not you don't believe that that's a --

MR. BERGER: Senator Kerrey --

MR. KERREY: -- and important -- (inaudible) --

MR. BERGER: -- I've -- I've watched prior testimony yesterday, and your statements to that -- on this subject. I believe we were at war with al Qaeda. Number one, the President sounded the alarm. I have something for the record here --

MR. KERREY: But just help me --

MR. BERGER: Let me -- let me --

MR. KERREY: Actually, before you do that, because I've got five minutes here, and I know where you're going, and I just -- do you regard the 23rd --

MR. BERGER: (Inaudible.)

MR. KERREY: -- do you regard the 23rd February '98 declaration as strategically important?

MR. BERGER: Absolutely. The fatwas were terribly important. The document I wanted to show you -- this is -- it's not like we weren't talking about the terrorism, the Taliban and Afghanistan. We sounded the alarm. Number two, we used all the instruments that we had available to us -- whether those were military or covert or otherwise.

MR. KERREY: I didn't --

MR. BERGER: I think we were at war with the Taliban, Senator.

MR. KERREY: Sandy, I've got five -- I didn't have enough time to compliment you in the way that I would like to have done, but let's presume that I had 15 minutes to deliver compliments about all the things you're doing. I think you're a great strategic thinker, but when this is -- when your statement doesn't include --

MR. BERGER: I only had 10 minutes in my statement, Senator --

MR. KERREY: Okay. But -- so you regard the 23rd February press conference in Khost, Afghanistan as a declaration of war against the United States?

MR. BERGER: I -- I --

MR. KERREY: Was it --

MR. BERGER: I regarded all of the fatwas, I mean, there were several of them, as growing indication that this -- this individual was a strategic, lethal threat to the United States.

MR. KERREY: I just -- even -- even --

MR. BERGER: There's more than that fatwa. There's more than that. Your case is stronger than you're making it.

MR. KERREY: No, but --

MR. BERGER: It's not just one -- it's not one press conference.

MR. KERREY: I know --

MR. BERGER: He issued several fatwas.

MR. KERREY: Not just several fatwas. He -- first of all, he declared his willingness and then demonstrated his capability to kill Americans, and he was in Afghanistan. And what's -- but I keep scratch my head and wondering -- even Dr. Rice, at the end of an eight-year -- eight-month planning process comes up with a three-part plan, the first part is continued diplomacy to try to get Osama Bin Ladin released from the Taliban. That was the -- that was part number one of the plan.

And I just -- I'm -- I mean, it seems to me -- and it's reasonable, by the way -- it's not unreasonable to say, under the circumstances, we just didn't regard this as a strategic threat, comparable, for example, to the problems that we were having between Pakistan and India, because it -- it -- if you -- I just -- I just -- I regard this as an enormously important strategic moment.

And I understand that I've got hindsight looking back on it, and I see it that way, perhaps a bit more than I did on the 23rd of February 1998. But it -- it seems as well if you regard it as a declaration of war, it would seem to dictate everything that follows afterwards, and it would seem to rule out any diplomacy with the Taliban to try to get the release of bin Ladin.

MR. BERGER: I considered -- I go back farther than that, Senator. I consider, from at least August 20, 1998, when he attacked our embassies and when we could establish that it was responsibility of al Qaeda that we were at war with al Qaeda, and that was one further piece of evidence as well as other fatwas -- (inaudible) --

MR. KERREY: We only used military against a person who declared war on us, against whom we had declared war -- we only used our military against them one time -- the 20th of August 1998.

MR. BERGER: There are three ways to use military, Senator, it seems to me -- number one, we could have invaded Afghanistan. I

do not believe -- and I know you may disagree with this -- I do not believe before September 11th that the American people or the international community would have supported an invasion and occupation of Afghanistan, which already, since 9/11, has gone on for two-and-a-half years in the absence before 9/11. We could have used force by using Special Forces, which we constantly went back to General Shelton and Secretary Cohen and say, "What are the options here?" The options were lousy. We could have used force by bombing camps that were empty or that were jungle gyms and killed 25 or 30 or 40 CI -- not CIA -- al Qaeda operatives -- and the next day bin Ladin would have had a press conference, and he would have been sitting on top of that cruise missile, waving at us in contempt.

So use for how? I think before 9/11 -- the one way to use force to eliminate al Qaeda, it seems to me, in a sanctuary, would be to invade Afghanistan. I do not believe that this country was ready to invade Afghanistan before September 11th, notwithstanding the fact we had a president who, in 1996, said this is the challenge of our generation, this is the threat of our generation.

MR. KERREY: I don't -- I mean -- you persuaded the American people that military effort was necessary in Bosnia. You didn't have the House of Representatives with you. You barely had a majority in the Senate. You persuaded the American people that war was necessary to get Slobodan Milosevic to stop his terror in Kosovo.

MR. BERGER: Yeah, and we also had 19 democracies in NATO, and both of those cases that were standing with us together.

MR. KERREY: The point is only that -- the arguments that I find to be most unpersuasive is, say, we couldn't have gotten it done because nobody had been with us, because there are several examples during the Clinton administration where you all wanted to do something, you believed it was important, and you came to the American people over and over and over, I thought, heroically and correctly, to get public opinion on your side. That's what it's all about. If you'd come to Congress and said, "We're at war. Somebody just declared war on us," and I could understand not doing it until the 7th of August. But after the 7th of August, it seems to me that should have been the U.S. declaration, and every policy option we had should have followed that, and all diplomacy should have been abandoned.

MR. BERGER: I think we were at war after the 7th of August using military, covert instruments, rolling back al Qaeda cells, trying to put as much economic and other pressure on the Taliban. What we did not do is invade Afghanistan, and we'll just have to disagree on this, Senator. I do not believe that was conceivable before 9/11.

MR. KEAN: Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman. Welcome, Mr. Berger. Thank you, again, for your service through the Clinton years in fighting terrorism. Thank you for your time today, and thank you for the thoughtful recommendations that you put in your statement. I hope we get a chance to discuss those a little bit since part of our mandate is to look forward and try to make the country safer.

Let me, without beating a dead horse or poking a dead horse or embalming a dead horse here, poke a little bit more on the *U.S.S. Cole*. In our staff statement, we say that there was an exchange between you and Mr. Tenet, where Mr. Tenet ended up walking out of the room. Was that over the *U.S.S. Cole*?

MR. BERGER: You know, I read that, and I do remember -- obviously -- first of all, George Tenet is a good, close, cherished friend of mine. Passions run strong sometimes on issues such as this, and I do remember there was one episode where George left early.

(Laughter)

And suddenly, but I can't honestly say that I --

MR. ROEMER: -- was he in a good mood or a bad mood when he left?

MR. BERGER: He was not in a good mood at me, but I can't honestly remember exactly what the approximate cause of that was.

MR. ROEMER: Do you remember the approximate date for his bad mood?

MR. BERGER: No, I don't. It didn't happen often. It didn't happen --

MR. ROEMER: There is a great deal of frustration, I think, for some of us in looking back, as you said, through the rearview

mirror, which is easier to do, and we see some of these preliminary judgments put forward by the CIA, where they can't get command and control up to Osama bin Ladin, but it was definitely operatives of al Qaeda. And we have a tough time understanding that -- why we can't go forward and retaliate against al Qaeda generally. Did you, in your frustration and your concern about this, did you try to push the President on a more forward-leaning, aggressive approach to the guilt with respect to the *U.S.S. Cole*?

MR. BERGER: I think that I believe that the CIA and the FBI was doing everything possible. Now, we had some problems with the Yemenis during the Cole investigation, and they were restricting some access to some of our people, and the President of the United States called the President of Yemen, I believe, on two occasions but certainly on one occasion.

MR. ROEMER: This is on the Yemeni investigation -- and FBI and the CIA, and he is calling on the --

MR. BERGER: -- and the President called the President of Yemen and said, "You've got to cooperate with our people. We're not going to put up with this," and that problem was resolved. Obviously, there were an awful lot of Americans suddenly swarming into Yemen after the *Cole*.

So we were providing support to the CIA and the FBI as they conducted their investigation. I don't believe they were dragging their feet.

MR. ROEMER: I know I am putting you in a difficult position with both Mr. Tenet and the President, but back to my question -- do you recall trying to push the President a couple of times --

MR. BERGER: I wasn't trying to be non-responsive, Congressman. I don't believe there was because I don't believe they were dragging their feet. I left off the first half of my sentence. I mean -- I don't think that our perception was that they needed a kick in the rear end on this. My view was that the highest levels in the CIA felt the same -- you know, George and I talked about this issue, you know, behind my closed door two or three times a week in 1999 and 2000, and I had no doubt in my mind that he felt the same sense of urgency that I did.

MR. ROEMER: Back to the briefing --

MR. KEAN: -- last question, Congressman.

MR. ROEMER: Back to the briefing that you gave to Dr. Rice, which you have said several times, and I think that she has acknowledged. Did that briefing include any reference to sleeper cells in the United States? I know the Clinton administration had done an after-action report on the Millennium and found the presence of sleeper cells. Did you brief that or did Mr. Clarke or did anybody else brief administration officials on that particular aspect?

MR. BERGER: There was two parts of my interaction with Dr. Rice. One was in my office, and one of the two or three times that we had a chance to meet during the transition. She was still in California -- she was commuting back and forth. And as -- I've already reported on that conversation. There was a detailed, specific, factual slideshow briefing that she was given, along with others, and that was conducted by Mr. Clarke. I came to the beginning of that in the situation room and said I wanted to show up to show up. I wanted to show up because I wanted to emphasize how important this was as far as I was concerned, and I stayed, perhaps, for the first five minutes, and then I left. So I don't know what the substance of that briefing was and whether specifically sleeper cells came up.

MR. ROEMER: Thank you. Thank you, Mr. Chairman.

MR. KEAN: Thank you, Congressman. Commissioner Fielding.

MR. FIELDING: Thank you, Mr. Chairman. Mr. Berger, I'll just try to ask three brief things just to kind of fill in some blanks. First of all, following up on Commissioner Roemer, you know, we're studying an event that is a colossal and tragic failure of our system, and there was one bright light as we're looking through this, and that was the Millennium Plot and the success of the Millennium Plot in averting problems. And, as I understand, there was commissioned and presented in March of 2000, an after-action report on that. To your knowledge, was that after-action report ever shared with the incoming Administration?

MR. BERGER: Let me put it in context -- first of all, I requested the after-action report. It was presented to me in February. We had a principals meeting on it on March 10th. There were 29 recommendations. They basically were accepted subject, in some cases, to funding. Some of them -- a lot of them had to do with domestic security issues, and the President then submitted a $300 million supplemental to the Congress for additional money and reprogrammed $79 million within the CIA budget to counter terrorism.

Now, some of those recommendations were implemented; as we learned since 9/11 some of them were not. I do not know whether or not that was presented to Dr. Rice but, of course, the people who had originally drafted it were still at the White House.

MR. FIELDING: Okay, so we should look elsewhere for the answer to that?

MR. BERGER: Right.

MR. FIELDING: Okay, thank you. Now, I thought I had the authorities issue nailed down until you said something.

MR. BERGER: Okay, I'm sorry if I confused you.

MR. FIELDING: No, no, you said that your interpretation with George Tenet was saying was that the capacity was the real issue, and that if he had the chance to do a kill, he would have gone and gotten the authority to do it.

MR. BERGER: I believe that to be the case and I believe that to be the way I heard Mr. Tenet this morning.

MR. FIELDING: Right. But if that's the case -- that's what I thought, too. But if that's the case, wouldn't the inference be that he didn't have the authority?

MR. BERGER: No, he didn't have the capability.

MR. FIELDING: No, but wouldn't it also be the inference --

MR. BERGER: These MONs -- you know, they're not -- Talmudic is one way to describe them.

MR. FIELDING: So I've heard.

MR. BERGER: But the instructions -- that was not your description.

MR. LEHMAN: You can use "Jesuitical" if you'd rather.

MR. BERGER: I'm not going to --

MR. BEN-VENISTE: I have some influence on laymen in the interim.

MR. BERGER: Right. But they're drafted with the CIA. Often they're usually drafted initially at the CIA. The instructions to the field are drafted by the CIA. We don't draft them at the NSC.

So my view was, did some of these say -- some of these were strictly -- some of these authorities -- and I'm on very thin ice here; the chairman will rule me out of order if I get too far -- some of these authorities explicitly involved killing. Some of the authorities were capture or kill. We don't open up the spider hole in Iraq and blow out Saddam Hussein's brains. Capturing has some value. If we could bring this guy back and shake him down, that would be a good thing.

But there was never any question in my mind that, if capture was not possible, kill was acceptable and that if they wanted more explicit authority, that was ambiguous; if they thought that capture was a predicate to kill, attempt to capture.

I imagine a confrontation with bin Ladin and what should be a lot of guns fired. And chances are he'd be killed. And maybe, if we were lucky, we'd catch a convoy and somebody would be able to get his car, but no one's going to take -- none of the people we were dealing with were going to take a heck of a lot of risk to do that.

So, you know, I anticipated he would be killed. I also believed that if Director Tenet wanted more explicit authority, more specific authority, more targeted authority, he certainly understood that he could go back to the White House and he had a very sympathetic president and a very sympathetic national security adviser.

MR. FIELDING: Okay, well, thank you. Let me just -- one last thing, because I've been trying to run something to ground.

MR. KEAN: (Off mike.)

MR. FIELDING: Yes, Mr. Chairman. But when we're talking about the three occasions between December '98 and mid-'99, I'm particularly trying to get a handle on who and why the so-called desert camp incident was aborted. And what happened there? Nobody seems to say, "Well, it was our decision." There seemed to be really good intelligence, and it went for a period of days, and then suddenly it was aborted. So anything you can shed --

MR. BERGER: I cannot distinguish that incident from the two or three other incidents where I would get information either

from Mr. Clarke or from Mr. Tenet that we had some opportunity, that we were watching this very, very carefully; stay tuned.

I would get them authorization from all the principals and put the President on alert that something might be possible. In each of those cases, the director of CIA would come back to me and say, "I do not believe we have reliable enough intelligence to recommend going forward." And we did discuss it, as he said this morning. It was interactive. But there was never a situation in which we were presented information that bin Ladin was here and we didn't take it because of civilian casualties or any other reason.

The only other thing I would add is, I've been told that a subsequent review of that episode suggested bin Ladin never was there. I don't know whether that's true or not. At the time, we were told -- the assessment was it was not reliable information. And the judgment was to fire a bunch of cruise missiles, or, as President Bush has said, $10 million cruise missiles to knock down a $10 tent, would have made bin Ladin look stronger, glorified him in the Islamic world, created more terrorists, and not made us look stronger or advance the cause of fighting terrorism.

MR. FIELDING: But there was an after-action report.

MR. BERGER: I'm sure there was.

MR. FIELDING: Thank you.

MR. BERGER: Let me --

MR. FIELDING: Oh, I'm sorry.

MR. BERGER: Excuse me. Let me correct the record. I'm not sure there was. I believe there was, Mr. Fielding. And I remember being told that, but I've never seen an after-action report.

MR. FIELDING: Well, thank you, sir. Thank you, Mr. Chairman.

MR. KEAN: Our last questioner before lunch will be Commissioner Gorelick.

MS. GORELICK: Dangerous to stand between this commission and lunch.

Very quick questions, then. First of all, as I understand it, you have now associated yourself with the comments of Secretaries Albright, Powell, Rumsfeld, Cohen, echoing the testimony of Deputy Secretary Wolfowitz, that it would have been impossible, both in terms of Pakistan's willingness to provide the necessary assistance and in terms of the Congress of the United States, to have invaded Afghanistan in the way that would have been necessary to tear down the Taliban and get bin Ladin prior to 9/11. Is that correct?

MR. BERGER: Yeah, I think it would not have been feasible and it would not have been sustainable, either domestically or internationally.

MS. GORELICK: Second of all, while we cannot discuss -- we were not able to discuss the issue of covert authorities other than in vague generalities with Director Tenet, he did say that if he wanted more authority from you, if he wanted to clarify an ambiguity with you, it is his view that it was his obligation to come to you. Is that your understanding as well?

MR. BERGER: Absolutely -- yes, although it could have worked the other way as well. If I had something that I wanted him to think about, I'm sure he would have entertained it. But generally, if he had more capability, he would have come back to us and said, "We need more authority."

MS. GORELICK: Third, with respect to this issue of the *Cole*, just assume with me for the moment that on January 25th, when there was a new administration, the CIA's advice to that new Administration was equally as hedged as it was when you left office and that administration made no conclusion with regard to responsibility for the *Cole* until the President announced post-9/11 that it was the responsibility of al Qaeda.

Do you think that administration had an obligation, until the advice was unhedged, if you will, to take action in retaliation for the *Cole*?

MR. BERGER: Let me say this. This is not a static situation. This information is developing every day. Every day they're getting more information. The investigation gets farther, more conclusive.

As we left, it was a preliminary judgment. As they came in, it was a preliminary judgment. The point at which it no longer became a preliminary judgment, became a judgment, there would

have been a responsibility to make a decision with respect to how to respond.

MS. GORELICK: I'll make two factual comments just as a commissioner here. Number one, our staff has a view on whether the CIA's hedging was appropriate, based upon the factual record that we have. And number two, Deputy National Security Adviser Hadley has told us that his Administration's response would come via this new policy that was in the works in the spring and summer of '01.

Thank you very much for your testimony and your service to the country.

MR. KEAN: I have one last question. We're through, but this question comes from some members, some family members, so I wanted to make sure and ask it.

Prior to 9/11, did you have any intelligence that planes could be used as missiles?

MR. BERGER: I saw no intelligence which drew our attention to that as any more likely than truck bombs, car bombs, assassinations, embassies. What I'm saying is, there were hundreds of thousands of pieces of intelligence.

Were there -- I take it from the Graham-Goss report there were a number of documents which talked about that. But I do not recall ever being told that this was a modality that was likely, any more likely than others. Indeed, I think, you know, the intelligence took us to other kinds of methods of terrorism rather than this one.

MR. KEAN: Thank you very much, Mr. Berger. Thank you very much for your testimony and thank you for your service. If we have additional questions later on, I hope we can get them to you.

I do have a note from the Capitol police saying, "Please do not leave unattended bags or packages on your chairs or seats or in the room or they may not be here when you get back."

We're going to have a brief lunch, because we have to stay on time. And I would ask the Commission to be back at 1:30.

MR. KEAN: I'd like to call the hearing back to order. And we have our witnesses here and should be coming out shortly.

(PAUSE)

Our next witness is Mr. Richard Clarke, who served as the former national coordinator for counterterrorism at the National Security Council. Mr. Clarke served on the National Security Council staff with great dedication. We are pleased to have him here with us, to join us.

Mr. Clarke, could I ask you to raise your right hand so we may place you under oath?

Do you swear or affirm to tell the whole truth and nothing but the truth?

MR. RICHARD CLARKE: I do.

MR. KEAN: Thank you very much, sir. Now, Mr. Clarke, your written remarks will be entered into the record in full. We'd ask you to summarize your statement, and please proceed.

MR. CLARKE: Thank you, Mr. Chairman. Because I have submitted a written statement today, and I have previously testified before this commission for 15 hours, and before the Senate-House Joint Inquiry Committee for six hours, I have only a very brief opening statement.

I welcome these hearings because of the opportunity that they provide to the American people to better understand why the tragedy of 9/11 happened, and what we must do to prevent a reoccurrence. I also welcome the hearings because it is finally a forum where I can apologize to the loved ones of the victims of 9/11, to them who are here in the room, to those who are watching on television, your government failed you. Those entrusted with protecting you failed you. And I failed you. We tried hard, but that doesn't matter because we failed. And for that failure, I would ask, once all the facts are out, for your understanding and for your forgiveness.

With that, Mr. Chairman, I would be glad to take your questions.

MR. KEAN: The questioning will be led by Senator Gorton -- are you leading off, or Commissioner Roemer?

MR. GORTON: Tim is.

MR. KEAN: Commissioner Roemer.

MR. ROEMER: Thank you, Mr. Chairman. Welcome, Mr. Clarke. I want to thank you, as I start my questions, for your 30 years of public service to the American people. I want to thank you for your sworn testimony before the 9/11 Commission, over 15 hours.

And I really want to say, Mr. Clarke, that there are a lot of distractions out there today -- the books, a lot of news media, a lot of accusations flying back and forth. I want you to concentrate, to the degree you can, on the memos, on the e-mail, on the strategy papers, and on the time that we're tasked with looking at on this 9/11 Commission between 1998 and September the 11th.

You coordinated counterterrorism policy in both the Clinton and the Bush administrations. I want to know, first of all, was fighting al Qaeda a top priority for the Clinton administration from 1998 to the year 2001? How high a priority was it in the Clinton administration during that time period?

MR. CLARKE: 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 a 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 administration.

MR. ROEMER: With respect to the Bush administration, from the time they took office until September 11th, 2001, you had much to deal with -- Russia, China, G-8, Middle East. How high a priority was fighting al Qaeda in the Bush administration?

MR. CLARKE: I believe the Bush administration in the first eight months considered terrorism an important issue but not an urgent issue. They -- well, President Bush himself says as much in the -- his interview with Bob Woodward in the book "Bush at War." He said, "I didn't feel a sense of urgency." George Tenet 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 underway 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.

MR. ROEMER: Now, you have said, in many ways you've issued some blistering attacks on the Bush administration, but you have not held those criticisms from the Clinton administration either.

We heard from Mr. Berger earlier that you were critical of the Clinton administration on two areas: not providing aid to the Northern Alliance, and not going after the human conveyor belts of jihadists coming out of the sanctuaries in Afghanistan. Are there more in the Clinton administration years -- the *U.S.S. Cole*, the response there?

MR. CLARKE: Well, I think, first of all, Mr. Berger is right to say that almost everything I ever asked for in the way of support from him or President Clinton I got. We did enormously increase the counterterrorism budget of the federal government, initiated many programs, including one that is now called homeland security. Mr. Berger is also right to note that I wanted a covert action program to aid Afghan factions to fight the Taliban, and that was not accomplished. He is also right to note that on several occasions, including after the attack on the *Cole*, I suggested that we bomb all of the Taliban and al Qaeda infrastructure, whether or not it would succeed in killing Bin Ladin. I thought that was the wrong -- the wrong way of looking at the problem.

Now --

MR. ROEMER: Let me --

MR. CLARKE: -- I think the answer is essentially Mr. Berger got it right.

MR. ROEMER: Okay. Let's move into, with my 15 minutes, let's move into the Bush administration. On January the 25th, we've seen a memo that you had written to Dr. Rice, urgently asking for a principals review of al Qaeda. You include helping the Northern Alliance, covert aid, significant new '02 budget authority to help fight al Qaeda --

MR. CLARKE: Uh-huh.

MR. ROEMER: -- and response to the *U.S.S. Cole*. You attached to this document both the Delenda Plan of 1998 and a strategy paper from December 2000. Did you get a response to this urgent request for a principals meeting on these, and how does this affect your time frame for dealing with these important issues?

MR. CLARKE: I did get a response. The response was that in the Bush administration I should, and my committee, the counterterrorism security group, should report to the deputies committee, which is a sub-cabinet level committee, and not to the

principals, and that therefore it was inappropriate for me to be asking for a principals meeting. Instead, there would be a deputies meeting.

MR. ROEMER: So, does this slow the process down to go to the deputies rather than to the principals or a small group, as you had previously done?

MR. CLARKE: It slowed it down enormously, by months. First of all, the deputies committee didn't meet urgently in January or February. Then, when the deputies committee did meet, it took the issue of al Qaeda as part of a cluster of policy issues, including nuclear proliferation in South Asia, democratization in Pakistan, how to treat the problems, the various problems, including narcotics and other problems in Afghanistan , and, launched on a series of deputies meetings extending over several months to address al Qaeda in the context of all of those interrelated issues. That process probably ended, I think, in July of 2001, so we were readying for a principals meeting in July, but the principals' calendar was full, and then they went on vacation, many of them, in August, so we couldn't meet in August, and therefore the principals met in September.

MR. ROEMER: So, as the Bush administration is carefully considering from bottom up a full review of fighting terrorism, what happens to these individual items, like a response to the *U.S.S. Cole* --

MR. CLARKE: Well --

MR. ROEMER: -- like the Predator? Why aren't these decided in the shorter time frame as they're also going through a larger policy review of how this policy affects Pakistan and other countries -- important considerations, but why can't you do both?

MR. CLARKE: The deputies committee, its chairman, Mr. Hadley, and others, thought that all these issues were sufficiently interrelated, that they should be taken up as a set of issues, and pieces of them should not be broken off.

MR. ROEMER: Did you agree with that?

MR. CLARKE: No, I didn't agree with much of that.

MR. ROEMER: Were you -- were you frustrated by this process?

MR. CLARKE: I was sufficiently frustrated that I asked to be reassigned.

MR. ROEMER: When was this?

MR. CLARKE: Probably May or June -- certainly no later than June. And there was agreement in that time frame, in the May or June time frame, that I would be -- my request would be honored and I would be reassigned on the first of October to a new position to deal with cyber security, a position that I requested be created.

MR. ROEMER: So, are you saying that the frustration got to a high enough level that it wasn't your portfolio; it wasn't doing a lot of things at the same time. It was that you weren't getting fast enough action on what you were requesting?

MR. CLARKE: That's right. My view was that this Administration, while it listened to me, either didn't 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 counterterrorism when he says there's an urgent problem, and if it's unprepared to act as though there's an urgent problem, then probably I should get another job.

I thought cyber-security was and I still think cyber-security is an extraordinarily important issue for which this country is very underprepared. And I thought perhaps I could make a contribution if I worked full-time on that issue.

MR. ROEMER: You then write a letter or a memo on September the 4th to Dr. Rice expressing some of these frustrations. Several months later, if you say the time frame is May or June when you decided to resign, a memo comes out that we have seen on September the 4th.

You are blunt in blasting DOD for not willingly using the force and the power. You blast the CIA for blocking Predator. You urge policymakers to imagine a day, after hundreds of Americans lay dead at home and abroad after a terrorist attack, and ask themselves what else they could have done. You write this on September the 4th, seven days before September 11th.

MR. CLARKE: That's right.

MR. ROEMER: What else could have been done, Mr. Clarke?

MR. CLARKE: Well, all of the things that we recommended in the plan or strategy -- there's a lot of debate about whether it's a plan or a strategy or a series of options -- but all of the things we recommended back in January were those things on the table in September. They were done. They were done after September 11th. They were all done. I didn't really understand why they couldn't have been done in February.

MR. ROEMER: Well, let's say, Mr. Clarke -- I think this is a fair question -- let's say that you asked to brief the President of the United States on counterterrorism. Did you ask that?

MR. CLARKE: I asked for a series of briefings on the issues in my portfolio, including counterterrorism and cyber-security.

MR. ROEMER: Did you get that request?

MR. CLARKE: I did. I was given a briefing opportunity to brief on cyber-security in June. I was told I could brief the President on terrorism after this policy development process was complete. And we had a principals meeting and a draft national security policy decision that had been approved by the deputies committee.

MR. ROEMER: Let's say, Mr. Clarke, as gifted as you might be in eloquence and silver-tongued as anyone could be, and let's say, let's imagine, that instead of saying no, you asked for this briefing to the President, you said you didn't get it after eight months of talking -- let's say you get this briefing in February, after your memo to Dr. Rice on September the 25th, and you meet with the President of the United States in February and you brief him on terrorism.

Tell me how you convince the President to move forward on this and get this principals meeting that doesn't take place until September the 4th moved up so that you can do something about this problem?

MR. CLARKE: Well, I think the best thing to have done, if there had been a meeting with the President in February, was to show him the accumulated intelligence that al Qaeda was strong and was planning attacks against the United States, against friendly governments.

It was possible to make a very persuasive case that this was a major threat and this was an urgent problem.

MR. ROEMER: And you think this would have sped up the deputies process and the principals process? Do you think the President would have reached down then and said something to the national security team to --

MR. CLARKE: I don't know.

MR. ROEMER: -- expedite this?

MR. CLARKE: I don't know.

MR. ROEMER: Well, you worked for President Clinton. You saw what meetings with presidents could do there. Is this a magical solution, or is it something that presidents might say right back to you, "Listen, Dick, I've got many other things I've got to do here -- the Middle East peace process, Bosnia, Kosovo, the Korean peninsula." How likely is it that we are able to see some kind of result from a meeting like that?

MR. CLARKE: I think it depends in part on the President. President Bush was regularly told by the director of Central Intelligence that there was an urgent threat. On one occasion -- he was told this dozens of times in the morning briefings that George Tenet gave him. On one of those occasions, he asked for a strategy to deal with the threat.

Condi Rice came back from that meeting, called me and relayed what the President had requested. And I said, "Well, you know, we've had this strategy ready since before you were inaugurated. I showed it to you. You have the paperwork. We can have a meeting on the strategy any time you want."

She said she would look into it. Her looking into it and the President asking for it did not change the pace at which it was considered. And as far as I know, the President never asked again. At least I was never informed that he asked again. I do know he was thereafter continually informed about the threat by George Tenet.

MR. ROEMER: Let me ask you, with my yellow light on, a question about the summer 2000 alert. You were saying, the CIA was saying, everybody was saying, "Something spectacular is about to happen" -- spiking in intelligence; something terrible was about to happen.

You told us in some of our interviews you only wish you would have known at that time, in that summer, what the FBI knew with regard to Moussaoui, the Phoenix memo and terrorists in the United States.

What could you have done with some of that information, with the spiked alerts, with the spectacular attack on the horizon, in the summer of 2001?

MR. CLARKE: Well, Congressman, it is very easy, in retrospect, to say that I would have done this or I would have done that. And we'll never know.

I would like to think that had I been informed by the FBI that two senior al Qaeda operatives who had been in a planning meeting earlier in Kuala Lumpur were now in the United States, and we knew that, and we knew their names -- and I think we even had their pictures -- I would like to think that I would have released or had the FBI release a press release with their names, with their descriptions, held a press conference, tried to get their names and pictures on the front page of every paper -- America's Most Wanted, the evening news -- and caused a successful nationwide manhunt for those two, two of the 19 hijackers.

But I don't know, because you're asking me a hypothetical, and I have the benefit now of 20/20 hindsight.

MR. ROEMER: Thank you, Mr. Clarke. Mr. Chairman, thank you for the patience on the time.

MR. KEAN: Okay, thank you, sir. Senator Gorton.

MR. GORTON: Mr. Clarke, you got the position as the head of this Counterterrorism and Security Group, CSG, when? In about May of 1998. Is that correct?

MR. CLARKE: No, Senator, actually I got it in the first Bush administration, in the fall of 1992.

MR. GORTON: But it got to the level of being up there at the White House and being a very important position in 1998?

MR. CLARKE: What happened in 1998 -- let me go back. The Counterterrorism Security Group, the CSG, goes back to the Reagan administration. It's been around for that long. I started chairing it during the last few months of the Bush administration

in 1992; continued to chair it throughout the Clinton administration and into the second Bush administration.

In 1998, President Clinton signed a presidential directive that created a new title for the chairman of that group. The chairman had always been a special assistant to the President. That was the title.

Under the new directive in 1998, the title became national coordinator for counterterrorism. But I think there's something I need to say about that title. The actual title was national coordinator for security, infrastructure protection and counterterrorism. And the press, thinking that title was too long and not sexy enough, immediately turned it into “terrorism czar.”

If you look at the presidential decision directive in 1998 that created this position, it is replete with what the national coordinator cannot do and what resources the national coordinator would not have.

It was not a counterterrorism czar, especially when compared to people like the drug czar. It gave me --

MR. GORTON: It was a staff position, not an action position, in other words.

MR. CLARKE: It gave me all of the responsibility and none of the authority.

MR. GORTON: And later in 1998, of course, we had the explosions, the attack on the two embassies.

MR. CLARKE: Right.

MR. GORTON: And shortly after that, the administration took its one military response to terrorism in the attacks on Afghanistan and the Sudan. Were those actions taken on your recommendation? Were you a part of the decision-making process in calling for that reaction?

MR. CLARKE: Senator, I was. But if I may be a little picky, this was not the administration's first or only use of military action in response to terrorism. The administration began in the first five months of the Clinton administration -- the first five months of the administration -- six months -- to use military force --

MR. GORTON: -- the first to al Qaeda --

MR. CLARKE: -- the first time that we had an al Qaeda attack on the United States facilities. It was the first time that al Qaeda had attacked us and we had been told it was al Qaeda. In retrospect, many years after these attacks occurred, FBI and CIA began to say that things like the World Trade Center attack in 1993 might have been done by an early-stage al Qaeda.

MR. GORTON: In August of 1998, did you recommend a longer-lasting military response or just precisely the one that, in fact, took place?

MR. CLARKE: I recommended a series of rolling attacks against the infrastructure in Afghanistan. Every time they would rebuild it, I would propose that we blow it up again, much like, in fact, we were doing in Iraq, where we had a rolling series of attacks on their air defense system.

MR. GORTON: And shortly after that you came up with the so-called "Delenda Plan," as I understand it? And is our staff report accurate in saying that it had four principal approaches -- diplomacy, covert action, various financial members, and military action? Is that a reasonable summary that our staff has given us?

MR. CLARKE: Yes, sir. Yes, sir.

MR. GORTON: And also is our staff accurate in saying that the strategy was never formally adopted, but that you were authorized, in effect, to go ahead with the first three but not with the fourth?

MR. CLARKE: Yes, sir.

MR. GORTON: And at various times thereafter, you did recommend specific military responses under specific circumstances, did you not?

MR. CLARKE: Yes, sir.

MR. GORTON: Each of which was rejected for one reason or another?

MR. CLARKE: That's correct.

MR. GORTON: Then, in the early winter of 1999, when the CIA came up with a plan to attack a hunting camp in Afghanistan, which it felt that Osama bin Ladin was present or was not present, that recommendation or that plan, you know, was ultimately aborted. Did you recommend against that plan?

MR. CLARKE: Yes, Senator, what I did was to call the director of Central Intelligence and say that I had finally been presented with satellite photography of the facility, and it was very clear to me that this looked like something other than a terrorist camp. It looked like a luxury hunting trip, and I asked him to look into it personally. When he did, he called back, and he said that he was no longer recommending the attack.

MR. GORTON: Okay. So you never recommended either for or against an attack on that camp?

MR. CLARKE: Well, I think -- I don't want to split hairs. By calling the director of Central Intelligence and suggesting to him that this did not look to me like a terrorist facility and urging him to look into it, he certainly had the impression that I wasn't in favor of it, absolutely.

MR. GORTON: Well, did it make any difference as to what kind of camp it was if it was likely that Osama bin Ladin was there?

MR. CLARKE: Well, it did in two respects. The administration had adopted a policy with regard -- let me back up -- after the bombings in 1998, we kept submarines off the coast of Pakistan loaded with cruise missiles for the purpose of launching a follow-on attack when we could locate bin Ladin. The intelligence that we got about where bin Ladin was, was very poor. The DCI, Mr. Tenet, characterized that intelligence himself on repeated occasions, as very poor. On one occasion we thought we knew where he was, and there were two problems. One, the intelligence was poor, according to George Tenet and, two, the collateral damage would have been great, according to the Pentagon.

When I looked at this facility, it looked to me like the intelligence was, again, poor, because it didn't look like a terrorist camp. And the probability of collateral damage would have been high, I thought, since I believed, based on the satellite photography, that people other than terrorists were there. The decision ultimately was George Tenet's, and George Tenet recommended no action be taken. I don't know, in retrospect -- your staff might -- but I don't know, in retrospect, whether it proved to be true that bin Ladin was in the vicinity or not.

MR. GORTON: In any event, every recommendation for military action or covert action from late 1998 until the year 2000 ran up against the objection of actionable -- that it was not based on actionable intelligence, that wonderful phrase we've heard in the last two days. Is that not correct, because of uncertainty as to whether bin Ladin was present; uncertainty about collateral damage, et cetera?

MR. CLARKE: That's true in describing actions aimed at Osama bin Ladin himself. There were other covert-action activities taken, which we obviously can't go into here, but there was a pre-existing finding on terrorism under which CIA was operating and CIA was able to do some things outside of Afghanistan against the al Qaeda network using that authority.

MR. GORTON: And at the very end of the Clinton administration, after the attack on the *Cole*, there was triggered, either by the *Cole* or by everything else, that a new set of initiatives resulting in what is called a "Blue-Sky memo," is that correct?

MR. CLARKE: That's right.

MR. GORTON: And were you a part of that? Was that -- did you draft it? Was it your plan?

MR. CLARKE: The Blue-Sky memo I believe you are referring to was part of an overall update of the Delenda Plan. And it was a part generated by the Central Intelligence Agency. We, my staff, generated the rest of the update.

MR. GORTON: And the goal of that plan was to roll back al Qaeda over a period of three to five years, reducing it eventually to a rump group, like other terrorist organizations around the world?

MR. CLARKE: Our goal was to do that to eliminate it as a threat to the United States, recognizing that one might not ever be able to totally eliminate everybody in the world who thought they were a member of al Qaeda. But if we could get it to be as ineffective as the Abu Nidal organization was toward the end of its existence, it didn't pose a threat to the United States. That's what we wanted. The CIA said if they got all the resources they needed, that might be possible over the course of three years at the earliest.

MR. GORTON: And then Delenda and that Blue-Sky proposal, I take it, were pretty much the basis of what you recommended to Condoleezza Rice in January of 2001, covert assistance to the Northern Alliance, you know, more money for CIA activities, something called choosing a standard of evidence for attributing responsibility for the *Cole*, new Predator reconnaissance missions and more work on funding?

MR. CLARKE: That's right, Senator. The update to the Delenda Plan that we did in October-November-December of 2000 was handed to the new National Security Advisor in January of 2001. It formed the basis of the draft National Security presidential directive that was then discussed in September of 2001 and signed by President Bush as NSPD-9, I believe, later in September.

MR. GORTON: What do you mean by a standard of evidence? I'm troubled by this fuzzy phrase, "actionable intelligence," and let's take the *Cole* on that. As we've heard from Director Tenet, in November and then, more precisely, in December of 2000, they pretty much concluded that the *Cole* was took place through al Qaeda people, but they couldn't prove that it had been directed by Osama bin Ladin. Was the amount of intelligence available in November and December of 2000 -- in 2001, in your view, actionable intelligence that could have been the appropriate basis for a specific response to the *Cole*?

MR. CLARKE: The phrase that you read, "the standard for actionable," was a way of my addressing this problem, and I wanted to get us away from having to prove either in a court of law legal standard or even in some fancy intelligence community standard, that went through a prolonged process that took months. I thought we could disassociate the attack on the *Cole* from any attacks that we did on the Taliban and al Qaeda. If people wanted to further study who was guilty of attacking the *Cole*, and the FBI had deployed hundreds of people to do that, and CIA was saying that there were some people involved who might have been al Qaeda.

I thought, "Fine, if you want to have that kind of standard, and you want to have that kind of process, fine, then let's separate that, and let's bomb Afghanistan, anyway, and not tie the two together." But it seemed to my staff -- and we're looking at the same intelligence that the CIA was looking at -- it seemed to us within two days of the attack on the *Cole* that we could put together an intelligence case that this was an al Qaeda attack by the local al Qaeda cell in Yemen. And that is of course the conclusion that the CIA came to in January or February of the

next year, based on pretty much nothing but the evidence that we had available to us within two days.

MR. GORTON: Now, since my yellow light is on, at this point my final question will be this. Assuming that the recommendations that you made on January 25th of 2001, based on the line of -- based on Blue Sky, including aid to the Northern Alliance which had been an agenda item at this point for two and a half years without any action, assuming that there had been more Predator reconnaissance missions, assuming that that had all been adopted, say, on January 26, year 2001, is there the remotest chance that it would have prevented 9/11?

MR. CLARKE: No.

MR. GORTON: It just would have allowed our response after 9/11 to be perhaps a little bit faster?

MR. CLARKE: Well, the response would have begun before 9/11.

MR. GORTON: But -- yes, but we weren't going to -- there was no recommendation on your part or anyone else's part that we declare war and attempt to invade Afghanistan prior to 9/11?

MR. CLARKE: That's right.

MR. GORTON: Thank you, Mr. Chairman.

MR. KEAN: Thank you, senator.

I just have one question. Taking it back further, you've been there longer than anybody really in this particular slot, and looking at terrorism, and looking at it well, if you -- is it resources? Is it change of policy? Or what is it over the years, taking all your years there for two administrations or three administrations even, what could we have done? And I'm trying to find not only what we could have done but what should we be doing perhaps in the future because we were beaten. I mean, we were really beaten by these guys, and 3,000 people died. And what -- is there anything that you can think of over that long period had we done differently as a country, as a policy, what have you, that could have made a difference?

MR. CLARKE: Well, I think, governor, there's a lot in retrospect, with 20/20 hindsight.

MR. KEAN: Yeah, I'm asking in 20/20 hindsight.

MR. CLARKE: Because we have that opportunity now. I think, you know, al Qaeda probably came into existence in 1988 or 1989, and no one in the White House was ever informed by the intelligence community that there was an al Qaeda until probably 1995. The existence of an organization like that was something that members of the National Security Council staff suspected in 1993. National Security Adviser Anthony Lake urged CIA to create a special program to investigate whether there was some organization centered around bin Ladin. It was not done because CIA decided there was probably an organization; it was done because the national security adviser thought there was probably an organization.

Had we a more robust intelligence capability in the late 1980s and early 1990s, we might have recognized the existence of al Qaeda relatively soon after it came into existence. And if we recognized its existence and if we knew its philosophy, and if we had a proactive intelligence covert action program -- that's both more on the collection side and more on the covert action side -- then we might have been able to nip it in the bud. But as George Tenet I think explained this morning, our HUMINT program, our spy capability, had been eviscerated in the mid 1980s and early 1990s, and there was no such capability, either to either know that al Qaeda existed, let alone to destroy it.

And there's something else that I think we have to understand about the CIA's covert action capabilities. For many years they were roundly criticized by the Congress and the media for various covert actions that they carried out at the request of people like me in the White House -- not me, but people like me. And many CIA senior managers were dragged up into this room and others and berated for failed covert action activities. And they became great political footballs.

Now, if you're in the CIA and you're growing up as a CIA manager over this period of time, and that's what you see going on, and you see one boss after another, one deputy director of operations after another being fired or threatened with indictment, I think the think you learn from that is that covert action is a very dangerous thing that can damage the CIA as much as it can damage the enemy.

Robert Gates, when he was deputy director of CIA and when he w as director of CIA, and when he was deputy national security adviser, Robert Gates repeatedly taught the lesson that covert action isn't worth doing. It's too risky. That's the lesson that

the current generation of directorate of operations managers learned as they were growing up in the agency.

Now, George Tenet says they're not risk averse, and I'm sure he knows better than I do. But from the outside, working with the DO over the course of the last 20 years, it certainly looks to me as though they were risk averse, but they had every reason to be risk averse, because the Congress, the media, had taught them that the use of covert action would likely blow up in their face.

MR. KEAN: Okay, thank you very much.

Commissioner Ben-Veniste.

MR. BEN-VENISTE: Good afternoon, Mr. Clarke. I want to focus on the role of the national security adviser and your relationship with the national security adviser in the Clinton administration as compared with the Bush administration. Can you point to any similarities or differences?

MR. CLARKE: Well, I think the similarity is that under all four national security advisers for whom I worked I was told by each of the four, beginning with Brent Scowcroft, that if I ever had any -- I hate to use the word, senator, but "actionable intelligence" -- the phrase -- if I ever had reason to believe that there was something urgent that they could act on, that I could interrupt anything that they were doing -- that I had an open door at any time I needed it, day or night, if there was something about to happen.

I think the difference between the two national security advisers in the Clinton administration and the national security adviser in the Bush administration is that on policy development I dealt directly with the national security advisers in the Clinton administration, but policy development on counterterrorism I was told would be best done with the deputy national security adviser. So I spent less time talking about the problems of terrorism with the national security adviser in this Administration.

MR. BEN-VENISTE: Let me move to substance in terms of the level of threat during the summer of 2001 and your involvement in coordination of both foreign and domestic intelligence. That was definitely a part of your function, was it not?

MR. CLARKE: Yes, sir.

MR. BEN-VENISTE: Now, before I get to that, and before I forget doing so, I want to express my appreciation for the fact that you have come before this commission and stated in front of the world your apology to what went wrong. To my knowledge, you're the first to do that. (Applause.)

This does not detract from the fact that there were so many people who we have met over this past year who were engaged in trying to keep our country safe and who have worked tirelessly to achieve that goal.

In the Millennium threat we knew -- and we've covered this with Sandy Berger to some considerable extent -- that sleeper cells in North America had been activated and that we had rolled them up and prevented, among other things, an attack on the Los Angeles International Airport. With respect to the level of threat and the intelligence information that you were receiving, is it fair to say that in the summer of 2001 the threat level either approached or exceeded anything that you had previously been receiving?

MR. CLARKE: I think it exceeded anything that George Tenet or I had ever seen.

MR. BEN-VENISTE: And I think the phrase which has received some currency in our hearings of someone's hair being on fire originated with you, of saying that basically you knew that something drastic was about to happen, and that the indicators were all consistent in that regard.

MR. CLARKE: That's right.

MR. BEN-VENISTE: Did you make a determination that the threat was going to come from abroad as an exclusive proposition, or did you understand that given the fact that we had been attacked before, and that plans had been interrupted to attack us before, that the potential existed for al Qaeda to strike at us on our homeland?

MR. CLARKE: The CIA said in their assessments that the attack would most likely occur overseas, most probably in Saudi Arabia, possibly in Israel. I thought, however, that it might well take place in the United States, based on what we had learned in December '99, when we rolled up operations in Washington State, in Brooklyn, in Boston.

The fact that we didn't have intelligence that we could point to that said it would take place in the United States wasn't significant in my view because, frankly, sir -- I know how this is going to sound, but I have to say it -- I didn't think the FBI would know whether or not there was anything going on in the United States by al Qaeda.

MR. BEN-VENISTE: Well, the FBI was the principal agency upon which you had to rely -- is that not the case?

MR. CLARKE: It is.

MR. BEN-VENISTE: Now, with respect to what you were told -- you we the principal coordinator for counterterrorism for the chief executive, flowing up and down through you, correct?

MR. CLARKE: Yes, sir.

MR. BEN-VENISTE: Did you know that the two individuals who had been identified as al Qaeda had entered the United States and were presently thought to be in the country?

MR. CLARKE: I was not informed of that. Nor were senior levels of the FBI.

MR. BEN-VENISTE: Had you known that these individuals were in the country, what steps -- with the benefit of hindsight, but informed hindsight, would you have taken, given the level of threat?

MR. CLARKE: To put the answer in a context, I had been saying to the FBI and to the other federal law enforcement agencies, and to the CIA, that because of this intelligence that something was about to happen that they should lower their threshold of reporting -- that they should tell us anything that looked the slightest bit unusual.

In retrospect, having said that over and over again to them, for them to have had this information somewhere in the FBI and not told me I still find absolutely incomprehensible.

MR. BEN-VENISTE: Was --and I will have to end it here, although I'd like to go further -- was the information with respect to Moussaoui and his erratic behavior in flight school ever communicated to you?

MR. CLARKE: Not to me.

MR. BEN-VENISTE: Given the fact that there was a body of information with respect to the use of planes as weapons within the intelligence community's knowledge, had you received information about Moussaoui training to fly a commercial airplane? Would that have had some impact on the kinds of efforts which might be made to protect commercial aviation?

MR. CLARKE: I don't know. The information to which you refer, information in the intelligence community's knowledge about al Qaeda having thought of using aircraft of weapons -- that information was old, relatively speaking -- five years, six years old -- hadn't recurred to my knowledge during those five or six years, and has to be placed -- to give the intelligence community a break -- it has to be placed in the context of the other intelligence reports. The volume of intelligence reports on this kind of thing, on al Qaeda threats and other terrorist threats, was in the tens of thousands -- probably hundreds of thousands over the course of five or six years. Now in retrospect to go back and find the report six years earlier that said perhaps they were going to use aircraft as weapons is easy to do now. But I think the intelligence community analysts can be forgiven for not thinking about it, given the fact that they hadn't seen a lot in the five or six years intervening about it, and that here were so many reports about so many other things.

MR. BEN-VENISTE: And yet -- with your indulgence, Mr. Chairman.

MR. KEAN: -- indulgence. (Laughter.)

MR. BEN-VENISTE: And yet an FAA advisory went out. The FAA advised on the potential for domestic hijackings.

MR. CLARKE: I asked them to.

MR. BEN-VENISTE: And had you known on top of that that there was a jihadist who was identified -- apprehended in the United States before 9/11, who was in flight school, acting erratically?

MR. CLARKE: I would like to think, sir, that even without the benefit of 20/20 hindsight, I could have connected those dots.

MR. BEN-VENISTE: Thank you.

MR. KEAN: Commissioner Kerrey.

MR. KERREY: Mr. Clarke, first of all, let me thank you for doing what I think all of us who had any responsibilities during the late 1990s-early 2000 have responsibility to do, which is to apologize to the families for letting them down. I think it was a courageous gesture, and I think it'd be a lot easier for us to, in a non- judgmental fashion, figure out what went wrong and what to do in the future if we'd all sort of start off our inquiries with that declaration. I appreciate very much the sincerity of that.

And let me also say I feel badly, because I presume that you are at the moment receiving terrible phone messages and e-mail messages. And I hope you don't take it personal, because it -- you're just caught in one of these moments -- I can barely see you because of all the cameras I'm having to look through. No, it's okay. I'm just kidding. I'm just trying to illustrate the attention that's being paid to you. And --

MR. CLARKE: Senator, I -- I think I knew what the price would be.

MR. KERREY: I think -- well, you're a smarter man than most of us, then, because I think you can sort of know it theoretically, but until you get in it, it's -- it can be quite surprising. And let me also thank you for over a quarter-century of public service. I mean, you really in many ways are an example of a single individual coming to government and demonstrating that you can make a difference over a long period of time. And you have. And I think as badly as you feel toward the families that are sitting behind you, there are many families that are today unknowingly the recipient of your service, because we did, thanks to you and thanks to many others who were working with you, prevent an awful lot of bad things from happening as well.

So let me start off with that. And let me also start off by saying that I think that one of the things we got to try to do is get to a point where we can have honest disagreements and let those disagreements permit us to discover where -- where, in fact, we've got common ground. I find, in fact, arguments almost being necessary -- and you, again, are a very good demonstration of that. You almost always, with your declaratories, provoke a good argument. And it's those arguments that allow us to discover where our common ground is.

Let me say, in one area I disagree with you -- it's on the Delenda. You said in response to Senator Gorton earlier that it would not have prevented 9/11. It would not have resulted -- it

was not a declaration of war. You weren't advocating declaring war. I believe Delenda would have necessitated a declaration of war, and probably one of the reasons that it was rejected, as well as other options that I think would have substantially reduced the risk of 9/11 had we followed your advice -- one of the reasons it probably was not taken up by the National Security Council and the President was that it would have required that draconian of a step, and I've -- you've heard me say it before, but I think it's one of the mistakes that we made.

Let me ask you, just specific to the use of airplanes as a weapon, because it -- you know, it seems so obvious -- and again, it seemed obvious -- this seems so obvious after the fact. I mean, it was such a simple and easy strategy that was put in place. But in your case, in '96 with the Olympics, you raised a concern about a small Cessna being used to attack the Olympics in Atlanta.

In I think it was -- was it '98, in December '98? -- you were head of the CSG when -- chairman of the CSG -- when there was a big concern on the East Coast about the possibility of someone connected to Osama bin Ladin hijacking a commercial aircraft out of New York City. That warning went out.

During the Millennium scare, as well, you sent a memo to Berger discussing the possible domestic threats, and the quote is that is there a threat to civilian aircraft. In March 2001, another CSG item on the agenda mentions the possibility of alleged bin Ladin interests in "targeting U.S. passengers planes at the Chicago airport," end of quote.

And it seems to me that we had a broad, general understanding that it was possible that hijacking might be on the list of things that were going to be used. And I'm just -- I remember Administrator Garvey, when she came before this commission a month or so ago, all their attention was overseas, she said. I mean, if you listen and look at the documents on the day of 9/11, it just inescapably leads you to the conclusion that we were surprised by hijacking. And I just -- I wonder if you've got a perspective on how it's possible that we were surprised by hijacking, let alone a multiple hijacking simultaneously occurring at the same moment.

MR. CLARKE: Well, Senator, I would distinguish between hijackings in general and hijackings that then turned the aircraft into suicide weapons. There had been hijackings by

terrorists going back for 20, 25 years, and the United States had some programs in place to deal with that.

In 1996, after the TWA 800 crash, the President appointed a commission on aircraft safety and security, that looked at whether we needed to augment our protection against hijacking. And it made several recommendations. Most of those recommendations were carried out; not all of them. One of the things it rejected was federalizing the aircraft searching process that is now done by the Transportation Security Agency, because it would have cost so much money, and it would have required such a big federal bureaucracy. At the time, when there had been no recent hijacking, I assume the Commissioners on that commission thought they were making the right recommendation. Many of their recommendations for increased security, however, were carried out.

But as to your question about using aircraft as weapons, I was afraid, beginning in 1996, not that the Cessna would fly into the Olympics but that any size aircraft would be put into the Olympics. And during my inspection of the Atlanta Olympic security arrangements a month or two before the games, I was shocked that the FBI hadn't put into effect any aircraft air defense security arrangements. So I threw together an air defense for the Atlanta games, somewhat quickly, but I got an air defense system in place.

We then tried to institutionalize that for Washington, to protect the Capitol and the White House. And that system would have been run by the Secret Service. It would have involved missiles, anti-aircraft guns, radar, helicopters. Secret Service developed all the plans for that. Secret Service was a big advocate for it. But they were unable to get the Treasury Department, in which they were then located, to approve it, and I was unable to get the Office of Management and Budget to fund it.

MR. KERREY: But certainly, there's just the two-sentence response -- I mean, the papers were full of stories about men and women using suicide as a device in carrying out terrorist objectives. The second intifada was in full force in -- beginning in late 2000 through 2001. So I -- perhaps on the second question, if I get the chance, we can continue this discussion.

MR. CLARKE: Well, I'd enjoy that. The bottom line here is, I thought I -- I agree with you, and I thought I had made a persuasive case that we needed an air defense system, as well as an airport system, not just to stop hijackers at baggage

inspection, but to deal with them if they got through that and were able to hijack an aircraft. I thought we needed an air defense system. And we got a little of that air defense system implemented, but only a little.

MR. KERREY: Put me on the list, if we have a chance to do a second round.

MR. KEAN: Will do.

Governor Thompson.

JAMES R. THOMPSON: Mr. Clarke, as we sit here this afternoon we have your book and we have your press briefing of August 2002. Which is true?

MR. CLARKE: Well, I think the question is a little misleading. The press briefing you're referring to comes in the following context.

Time magazine had published a cover story, article, highlighting what your staff briefing talks about. They had learned that -- as your staff briefing notes, that there was a strategy or a plan and a series of additional options that were presented to the national security adviser and the new Bush team when they came into office. Time magazine ran a somewhat sensational story that implied that the Bush administration hadn't worked on that plan, and this, of course, coming after 9/11, caused the Bush White House a great deal of concern.

So I was asked by several people in senior levels of the Bush White House to do a press backgrounder to try to explain that set of facts in a way that minimized criticism of the Administration. And so I did.

Now, we can get into semantic games of whether it was a strategy, or whether it was a plan, or whether it was a series of options to be decided upon. I think the facts are as they were outlined in your staff briefing.

MR. THOMPSON: Well, let's take a look, then, at your press briefing, because I don't want to engage in semantic games.

You said, "The Bush administration decided then, you know, mid- January" -- that's mid-January 2001 -- "to do two things: one, vigorously pursue the existing policy" -- that would be the Clinton policy -- "including all of the lethal covert action

findings, which we have now made public to some extent." Is -- is that so? Did they decide in January of 2001 to vigorously pursue the existing Clinton policy?

MR. CLARKE: They decided that the existing covert action findings would remain in effect.

MR. THOMPSON: Okay.

"The second thing the Administration decided to do is to initiate a process to look at those issues which had been on the table for a couple of years and get them decided." Now, that seems to indicate to me that proposals had been sitting on the table in the Clinton administration for a couple of years, but that the Bush administration was going to get them done. Is that a correct assumption?

MR. CLARKE: Well, that was my hope at the time. It turned out not to be the case.

MR. THOMPSON: Well then, why in August of 2002, over a year later, did you say that it was the case?

MR. CLARKE: I was asked to make that case to the press. I was a special assistant to the President. And I made the case I was asked to make.

MR. THOMPSON: Are you saying to me that you were asked to make an untrue case to the press and the public and that you went ahead and did it?

MR. CLARKE: No, sir. Not --

MR. THOMPSON: What are you saying?

MR. CLARKE: -- not "untrue". Not an untrue case. I was asked to highlight the positive aspects of what the Administration had done, and to minimize the negative aspects of what the Administration had done. And as a special assistant to the President, one is frequently asked to do that kind of thing. I've done it for several presidents. (Pause, laughter.)

MR. THOMPSON: Well, okay.

"Over the course of the summer they developed implementation details. Principals met at the end of the summer, approved them in their first meeting, changed the strategy by authorizing the

increase in funding fivefold." Did they authorize the increase in funding fivefold?

MR. CLARKE: Authorized, but not appropriated.

MR. THOMPSON: Well, but the Congress appropriates, don't they, Mr. Clarke?

MR. CLARKE: Well, in this -- within the executive branch there are two steps as well. Within the executive branch there's the policy process, which you can compare to authorization, which is to say, we'd like to spend this amount of money for this program. And then there is the second step, the budgetary step, which is to find the offsets. And that had not been done. In fact, it wasn't done until after September 11th.

MR. THOMPSON: "Changing the policy on Pakistan" -- was the policy on Pakistan changed?

MR. CLARKE: Yes, sir, it was.

MR. THOMPSON: "Changing the policy on Uzbekistan" -- was it changed?

MR. CLARKE: Yes, sir.

MR. THOMPSON: "Changing the policy on the Northern Alliance assistance" -- was that changed?

MR. CLARKE: Well, let me back up. I said "yes" to the last two answers. It was changed only after September 11th. It had gone through an approvals process, it was going through an approvals process with the deputies committee. And they had approved it, the deputies had approved those policy changes. It had then gone to a principals committee for approval. And that occurred on September 4th. And those -- those three things which you've mentioned were approved by the principals. They were not approved by the President. And therefore, the final approval hadn't occurred until after September 11th.

MR. THOMPSON: But they were approved by people in the Administration below the level of the President --

MR. CLARKE: Approved --

MR. THOMPSON: -- and were moving towards the President. Is that not correct?

MR. CLARKE: Yes, over the course of many, many months. They went through several committee meetings at the subcabinet level, and then there was a hiatus, and then they went to, finally, on September 4th, a week before the attacks they went to the principals for their approval. And, of course, the final approval by the President didn't take place until after the attacks.

MR. THOMPSON: Well, is that eight-month period unusual?

MR. CLARKE: It is unusual when you are being told every day that there is an urgent threat.

MR. THOMPSON: But would the policy involved, changing, for example, the policy on Pakistan -- right? So you would have to involve those people in the Administration who had charge of the Pakistani policy, would you not?

MR. CLARKE: The secretary of State has -- as a member of the principals committee has that kind of authority over all foreign policy issues.

MR. THOMPSON: Changing the policy on the Northern Alliance assistance: that would have been DOD?

MR. CLARKE: No, governor, that would have been the CIA. But again, all the right people to make those kinds of changes were represented by the five or six people on the principals committee.

MR. THOMPSON: Well, they were also represented on the smaller group, were they not, the deputies committee?

MR. CLARKE: But they didn't have the authority to approve it. They only had the authority to recommend it up -- further up the process.

MR. THOMPSON: Well, is policy usually made at the level of the principals committee before it comes up?

MR. CLARKE: Policy usually originates in working groups, recommendations and differences, then are floated up from working groups to the deputies committee. If there are differences there, policies -- policy recommendations and differences are then floated up to the principals. And occasionally, when there's not a consensus at the principals level, policy recommendations and options or differences go the President. Now, the President makes

these kinds of decisions. By law, in fact, many of the kinds of decisions you're talking about can only be made by the President.

MR. THOMPSON: And you said that the strategy changed from one of rollback with al Qaeda over the course of five years, which it had been -- which I presume was the Clinton policy -- to a new strategy that called for the rapid elimination of al Qaeda. That is in fact the timeline, is that correct?

MR. CLARKE: It is, but it requires a bit of elaboration. As your staff brief said, the goal of the Delenda plan was to roll back al Qaeda over the course of three to five years so that it was just a nub of an organization, like Abu Nidal, that didn't threaten the United States.

I tried to insert the phrase early in the Bush administration in the draft NSPD that our goal should be to eliminate al Qaeda, and I was told by various members of the deputies committee that that was overly ambitious, that we should take the word "eliminate" out and say "significantly erode." And then following 9/11 we were able to go back to my language of "eliminate" rather than "significantly erode." And so the version of the national security Presidential Decision Directive that President Bush finally got to see after 9/11 had my original language of "eliminate," not the interim language of "erode."

MR. THOMPSON: Then you were asked when was that --

MR. KEAN: Okay. Governor, one more question

MR. THOMPSON: -- thank you, Mr. Chairman -- when was that presented to the President, and you answered the President was briefed throughout this process.

MR. CLARKE: Yeah. The President apparently asked on one occasion that I'm aware of for a strategy, and when he asked that he apparently didn't know that there was a strategy in the works. I therefore was told about this by the national security adviser. I came back to her and said, well, there is a strategy; after all, it's basically what I showed you in January. It's stuck in the deputies committee. She said she would tell the President that and she said she would try to break it out of the deputies committee then.

MR. THOMPSON: So you believe that your conference with the press in August of 2002 was consistent with what you've said in

your book and what you've said in press interviews the last five days about your book?

MR. CLARKE: I do. I think the thing that's obviously bothering you is the tenor and the tone. And I've tried to explain to you, sir, that when you're on the staff of the President of the United States you try to make his policies look as good as possible.

MR. THOMPSON: Well, with all respect, Mr. Clarke, I think a lot of things beyond the tenor and the tone bother me about this.

Thank you, Mr. Chairman.

MR. KEAN: Thank you, Governor.

Commissioner Gorelick?

MS. GORELICK: Thank you, Mr. Chairman, and thank you, Mr. Clarke, for your testimony today.

You have talked about a plan that you presented to Dr. Rice immediately upon her becoming national security adviser and that in response to questions from Commissioner Gorton you said that elements of that plan, which were developed by you and your staff at the end of 2000 -- many elements became part of what was then called NSPD 9, or what ultimately became NSPD 9.

When Dr. Rice writes in The Washington Post, "No al Qaeda plan was turned over to the new Administration," is that true?

MR. CLARKE: No, I think what is true is what your staff found by going through the documents, and what your staff briefing says, which is that early in the Administration, within days of the Bush administration coming into office, that we gave them two documents. One -- and in fact, I briefed Dr. Rice on this even before they came into office. One was the original Delenda plan from 1998, and the other document was the update that we did following the *Cole* attack, which had as part of it a number of decisions that had to be taken. So that she characterizes it as a series of options rather than a plan. I'd like to think of it as a plan with a series of options. But I think we're getting into semantic differences.

MS. GORELICK: Thank you.

I'd like to turn to NSPD 9, the document that was wending its way through the process up until September 4th. The document is classified, so I can only speak of it in generalities.

But as I understand it, it had three stages which were to take place over -- according to Steve Hadley, the deputy national security adviser -- over a period of three years. One -- the first stage was we would warn the Taliban. The second stage was we would pressure the Taliban. And the third stage was that we would look for ways to oust the Taliban based upon individuals on the ground other than ourselves, at the same time making military contingency plans.

Is that correct?

MR. CLARKE: That's right. Although the military contingency plans had always been around, but there was no -- there's nothing in the original draft NSPD that was approved by the principals to suggest U.S. forces would be sent into Afghanistan on the ground.

MS. GORELICK: And the covert -- in addition to that, Director Tenet was asked to draft anew some additional covert action authorities. Is that right?

MR. CLARKE: That's right; in part because Mr. Hadley found the existing six memorandums of covert action authority to be Talmudic. It's actually, I think, Mr. Hadley who gets credit for that word.

But it wasn't meant to expand them significantly, other than providing aid, direct aid, to Afghan factions.

MS. GORELICK: Now you have just described, then, the skeleton, if you will, of what was approved by the Administration as of September 4th, and we know that no further action was taken before September 11th. And so I would read to you -- and these are questions I would have put to Dr. Rice, had she been here, and I will put to her -- the White House designee, Secretary Armitage -- she says, "Our strategy," she says, "which was expected to take years, marshaled all elements of national power to take down the network, not just respond to individual attacks with law enforcement measures. Our plan called for military options to attack al Qaeda and Taliban leadership, ground forces and other targets, taking the fight to the enemy where he lived."

Is that an accurate statement, in your view?

MR. CLARKE: No, it's not.

MS. GORELICK: In addition to the items that were left hanging during this period of time that we've talked about, in your view -- the Predator, the issue of aid to the Northern Alliance, your response to the *Cole* -- the other item that we have heard about that was deferred until the policy emerged was action on the set of covert authorities or the draft of covert authorities that Director Tenet supplied to the NSC in -- I believe it was March of '01. Is that true?

MR. CLARKE: Yes.

MS. GORELICK: And no action was taken on those until after 9/11. Is that correct?

MR. CLARKE: That's correct.

MS. GORELICK: After the Millennium, you were asked by Sandy Berger -- and he testified about it this morning -- to do an after- action report. And he described how there were 29 recommendations and a huge supplemental, et cetera.

The report doesn't address some of the systemic issues, and you, above maybe anybody else, saw the systemic problems. I mean, you have described yourself the problems with the FBI, the wall between the FBI and the CIA. We've heard about the disconnect between the State Department watchlist and the FAA no-fly list. We've heard about really the inadequacy of our visa program and consular effort.

So my question for you is this. You had a great shot after the Millennium to take a whack at these problems, which you no doubt must have seen, or maybe -- I'll give you the benefit of the doubt; perhaps there's some you hadn't seen.

Why was the after-action report, post-Millennium, as modest as it was? Why didn't it address these fissures and these gaps in the system?

MR. CLARKE: Well, it made 28 or 29 recommendations. Had all of those recommendations been easy to do, they would have been implemented before or after the after-action report. Many of the 28 or 29 recommendations were implemented, but some of them weren't, because we went pretty far in the art of the practical, the art of the possible with those recommendations. And that's

probably why some of them never got done. And some of them still haven't been done.

I've learned over time that if you go for the perfect solution, the best solution, you don't get very far in actually achieving things. You can write nice reports if you're at the Brookings commission or something, but if you want to get something done in the real world, you do what is doable and you try to do a little bit more, but you don't shoot for the moon. And I think some of the systemic things that are obvious to you -- I know they are -- were more practical after 9/11 than they were after the Millennium.

Remember, in the Millennium we succeeded in stopping the attacks. That was good news. But it was not good news for those of us who also wanted to put pressure on the Congress and pressure on OMB and other places because we were not able to point to -- and I hate to say this -- body bags. You know, unfortunately, this country takes body bags -- it requires body bags sometimes to make really tough decisions about money and about governmental arrangements.

And one of the things I would hope that comes out of your commission report is a change -- a recommendation for a change in the attitude of government about threats; that we be able to act on threats that we foresee, even if acting requires boldness and requires money and requires changing the way we do business, that we act on threats in the future before they happen. The problem is that when you make that recommendation before they happen, when you recommend an air defense system for Washington before there's been a 9/11, people tend to think you're nuts. And I got a lot of that. You know, when the Clinton administration ended, 35 Americans had died at the hands of al Qaeda over the course of eight years. And a lot of people said behind my back, and some of them to my face, why are you so obsessed with this organization? It's only killed 35 Americans over the course of eight years. Why are you making such a big deal over this organization?

That's the kind of mindset that made it difficult for us, even though the President, the national security adviser and others, the DCI, knew there was a problem and were supporting me, but the institutional bureaucracy in the FBI and in DOD and in CIA and in OMB and on the Hill, because I spent a lot of time up here trying to get money and trying to get -- change authorities, couldn't see the threat because it hadn't happened.

MS. GORELICK: Well, that's a very sobering statement, particularly from someone whose reputation is as aggressive as your reputation is. And it makes me think that individuals who are less of a "pile driver," to use Sandy Berger's words, must feel even less able to push for change.

Thank you.

MR. KEAN: Secretary Lehman.

MR. LEHMAN: Thank you.

Dick, since you and I first served 28 years ago in the MBFR delegation, I have genuinely been a fan of yours. I've watched you labor without fear or favor in a succession of jobs where you really made a difference. And so when you agreed to spend as much time as you did with us in, as you say, 15 hours, I was very hopeful.

And I attended one of those all-day sessions and read the other two transcripts, and I thought they were terrific. I thought, here we have a guy who can be the Rosetta stone for helping this commission do its job to help to have the American people grasp what the dysfunctional problems in this government are. And I thought you let the chips fall where they may. You made a few value judgments which could be debated, but by and large, you were critical of the things, institutions and people that could have done better and some that did very badly.

And certainly the greater weight of this criticism fell during the Clinton years, simply because there were eight of them and only 7- 1/2 months of the Bush years. I don't think you, in the transcripts that we have of your classified interviews, pulled punches in either direction. And frankly, a lot of my questioning this past two days has been drawn from some of the things that you articulated so well during the Clinton years, particularly because they stretched from the first, as you pointed out, attempt by Saddam to assassinate President Bush 41 right up through the end of the administration.

But now we have the book. And I've published books, and I must say I am green with envy at the promotion department of your publisher. I never got Jim Thompson to stand before 50 photographers reading your book. (Laughter.) And I certainly never got "60 Minutes" to coordinate the showing of its interview with you with 15 network news broadcasts, the selling of the movie rights and your appearance here today. So I would say bravo

-- (laughter) -- until I started reading those press reports. And I said, this can't be the same Dick Clarke that testified before us, because all of the promotional material and all of the spin in the networks was that this is a rounding, devastating attack, this book, on President Bush. That's not what I heard in the interviews. And I hope you're going to tell me, as you apologize to the families for all of us who were involved in national security, that this tremendous difference -- and not just in nuance, but in what it is you choose to -- the stories you choose to tell -- is really the result of your editors and your promoters, rather than your studied judgment, because it is so different from the whole thrust of your testimony to us.

And similarly, when you add to it the inconsistency between what your promoters are putting out and what you yourself said as late as August '05 (sic), you've got a real credibility problem. And because of my real genuine long-term admiration for you, I hope you'll resolve that credibility problem, because I'd hate to see you become totally shoved to one side during a presidential campaign as an active partisan selling a book.

MR. CLARKE: Thank you, John. (Laughter.)

Let me talk about partisanship here, since you raise it. I've been accused of being a member of John Kerry's campaign team several times this week, including by the White House.

So let's just lay that one to bed. I'm not working for the Kerry campaign.

Last time I had to declare my party loyalty, it was to vote in the Virginia primary for president of the United States in the year 2000, and I asked for a Republican ballot.

I worked for Ronald Reagan, with you. I worked for the first President Bush, and he nominated me to the Senate as an assistant secretary of State, and I worked in his White House. And I've worked for this President Bush, and I'm not working for Senator Kerry.

Now, the fact of the matter is, I do co-teach a class with someone who works for Senator Kerry. That person, whose name is Randy Beers. Randy Beers and I have worked together in the federal government and the White House and the State Department for 25 years. Randy Beers worked in the White House for Ronald Reagan. Randy Beers worked in the White House for the first President Bush, and Randy Beers worked in the White House for the

second President Bush. And just because he is now working for Senator Kerry, I am not going to disassociate myself from one of my best friends and someone who I greatly respect and have worked with for 25 years. And yes, I will admit I co-teach a class at the Harvard University and Georgetown University with Mr. Beers. That, I don't think, makes me a member of the Kerry campaign.

The White House has said that my book is an audition for a high- level position in the Kerry campaign. So let me say here, as I am under oath, that I will not accept any position in the Kerry administration, should there be one -- on the record, under oath.

Now as to your accusation that there is a difference between what I said to this commission in 15 hours of testimony and what I am saying in my book and what media outlets are asking me to comment on, I think there's a very good reason for that. In the 15 hours of testimony, no one asked me what I thought about the President's invasion of Iraq. And the reason I am strident in my criticism of the President of the United States is because by invading Iraq -- something I was not asked about by the Commission, but something I chose to write about a lot in the book -- by invading Iraq, the President of the United States has greatly undermined the war on terrorism.

(Pause.)

MR. KEAN: Commissioner Fielding.

FRED F. FIELDING: Mr. Clarke, thank you for being here.

I guess I shared John's feelings when I read your interviews with the staff as well, because it gave a perspective of somebody that bridged different administrations and really had a chance to see it. And of course you were looking at it from a different level than some of the other people we'd interviewed.

And likewise, I was a little taken back when I saw the hoopla and the promotion for the book, and where I saw this transcript that just came forward today.

But what's bothering me now is that not only did you interview with us, but you also spent more than six hours with the congressional Joint Inquiry. And I've read your information. And, I mean, that's a very serious body and very serious inquiry -- not that we're not. But I can't believe that over six hours you never expressed any concern to them that the Bush

administration didn't act with sufficient urgency to address these horrible potential problems, if you felt that way. And, I mean, did you ever list for the Joint Inquiry any of the measures that you thought should have been taken that weren't?

MR. CLARKE: I think all the measures that I thought should have been taken were in the plan that I presented in January of 2001, and were in the NSPD that the principals approved in September, September 4th, 2001. There were no additional measures that I had in mind, other than those that I presented. And as I did explain, both to the Commission and to the Joint Inquiry, those proposals which ultimately were adopted by the Principals Committee took a very, very, very long time to make it through the policy development process.

MR. FIELDING: Well, I understand that. But -- but I think the charges that you've made are much more -- I think they're much deeper than that.

Let me ask you a question, because it's been bothering me as well. You've been involved intimately in PDD-39 and in PDD-62. The latter certainly very much implicates your own position. How long did it take for those to be developed and signed?

MR. CLARKE: I'm not sure I recollect that answer. Perhaps the staff could find out. Your general answer about how long does it take PDDs to be signed, I've seen them signed in a day, and I've seen them take three years.

MR. FIELDING: Well, of course, we've all seen that. But these were -- obviously, 62 was a very important one. Obviously the one that we're talking about that was developed was an extremely important one, and it was one that you put a lot into yourself, and it was in the beginning of a new administration.

Anyway --

MR. CLARKE: Sir, if I may?

MR. FIELDING: Yeah.

MR. CLARKE: There's also the issue that was raised earlier by another member of the Commission as to whether all of the pending decisions needed to be rolled up into a national security presidential directive or whether, based on the urgency of the intelligence, some of them couldn't -- like arming the Predator to attack and kill bin Ladin, why did that have to wait until the

entire policy was developed? Weren't there pieces like that that could have been broken off and decided right away? I certainly urged that. I urged that beginning in February when I realized that this policy process was going to take forever.

MR. FIELDING: Oh no, I understand and I understand your testimony that you did that. What I don't understand is if you had these deep feelings and deep concerns about the lack of ability and urgency within the Bush administration that you didn't advise the Joint Inquiry. I mean, was the -- did you feel it not necessary to tell them that the Bush administration was too preoccupied with the Cold War issues or Iraq at that point?

MR. CLARKE: I wasn't asked, sir. I think I provided the Joint Inquiry -- as a member of the Administration at the time, please recall, I provided the Joint Inquiry all the facts it needed to make the conclusions which I have made about how long it took and what the development of the policy process was like and the refusal of the Administration to spin out for earlier decision things like the armed Predator.

MR. FIELDING: Well, it obviously will be that -- the members of the Joint Inquiry to make that decision and judgment, but you must agree that it's not like -- going before a Joint Inquiry is not like going before a press background briefing. And as you said -- I think your description was I tried to highlight the positive and play down the negative, but the Joint Inquiry wasn't asking you to do that. They were asking you to come forward, weren't they?

MR. CLARKE: I answered very fully all of the questions the Joint Inquiry had to ask. They said that themselves in their comments to me and in their report. I testified for six hours and I testified as a member of the Bush administration. And I think, sir, with all of your experience in this city you understand as well as I do the freedom one has to speak critical of an administration when one is a member of that administration.

MR. FIELDING: I do understand that, but I also understand, you know, the integrity with which you have to take your job.

But thank you, sir.

MR. KEAN: Thank you. We're starting on a second round now of questioning.

Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman.

Having served on the Joint Inquiry, the only person of this 9/11 panel to have served on the Inquiry, I can say in open session to some of Mr. Fielding's inquiries that, as the Joint Inquiry asked for information on the National Security Council and we requested that the national security advisor, Dr. Rice, come before the Joint Inquiry and answer those questions, she refused and she didn't come.

She didn't come before the 9/11 Commission. And when we asked for some questions to be answered, Mr. Hadley answered those questions in a written form. So I think part of the answer might be that we didn't have access to the January 25th memo. We didn't have access to the September 4th memo. We didn't have access to many of the documents and the e-mails. We're not only talking about Mr. Clarke being before the 9/11 Commission for more than 15 hours, but I think in talking to the staff, we have hundreds of documents and e-mails that we didn't previously have, which hopefully informs us to ask Mr. Clarke and ask Dr. Rice the tough questions. And I have some more tough questions for you, Mr. Clarke. (Applause.)

On the FBI, you've said that the FBI did not do a very good job. I think I'm paraphrasing you in much easier language than you've used, but that during the Millennium, which may be the exception to the rule, they performed extremely well in sharing information. How do we get the FBI to do this on a regular basis? We still have problems here today. Or is that not an option for us?

We don't have time, Mr. Clarke -- I mean, I appreciate everybody going after everybody in Washington, D.C. We don't have time to make these kinds of arguments and attacks if we're going to get this situation right in the future in this country and prevent, or hopefully prevent, the next one; when we do know something for certain, and that is that groups like al Qaeda want to get dirty bombs, they want to get chemical and biological weapons, and they want to come after America.

So how do we get this situation solved, Mr. Clarke? What do we do with the FBI? What's your recommendation?

MR. CLARKE: In a perfect world, I believe we could create a domestic intelligence service that would have sufficient oversight; that it would not infringe on our civil liberties. In a perfect world, I would create that domestic intelligence

service separately from the FBI. In the world in which we live, I think that would be a difficult step to go directly to. And so what I proposed instead is that we create a domestic intelligence service within the FBI, and as fast as we could, develop it into an autonomous agency.

I am very fearful that such an agency would have potential to infringe on our civil liberties, and therefore I think we would have to take extraordinary steps to have active oversight of such an agency. And we'd have to explain to the American people in a very compelling way why they needed a domestic intelligence service, because I think most Americans would be fearful of a secret police in the United States. But frankly, the FBI culture, the FBI organization, the FBI personnel are not the best we could do in this country for a domestic intelligence service.

MR. ROEMER: We will certainly be looking to people in future hearings for their recommendations in a host of different areas. So I hope that you might think through this area a little bit more and be available to us.

Mr. Clarke, let me ask you some difficult questions for you to get at the complexity of our relationship with the Saudis. On the one hand, I think it's fairly -- there's a great deal of unanimity that the Saudis were not doing everything they could before 9/11 to help us in a host of different areas. Fifteen of the 19 hijackers came from there. We had trouble tracking some of the financing for terrorist operations, that we still have too many of the madrassas and the teachings of hatred of Christians and Jews and others coming out of some of these madrassas. We need to broaden and deepen this relationship. I will ask you a part A and a part B. Part A is where do we go in this difficult relationship? And part B is, to further look at that difficulty here, you made a decision after 9/11. And I'd like to ask you more about this -- to allow a plane of Saudis to fly out of the country. And when most other planes were grounded, this plane flew from the United States back to Saudi Arabia. I'd like to know why you made that decision, who was on this plane, and if the FBI ever had the opportunity to interview those people.

MR. CLARKE: You're absolutely right that the Saudi Arabian government did not cooperate with us significantly in the fight against terrorism prior to 9/11. Indeed, it didn't really cooperate until after bombs blew up in Riyadh.

Now, as to this controversy about the Saudi evacuation aircraft, let me -- let me tell you everything I know, which is

that some -- in the days following 9/11, whether it was on 9/12 or 9/15 I can't tell you, we were in a constant crisis management meeting that had started the morning of 9/11 and ran for days on end. We were making lots of decisions, but we were coordinating them with all the agencies through the video teleconference procedure. Someone -- and I wish I could tell you who, but I don't know who -- someone brought to that group a proposal that we authorize a request from the Saudi embassy. The Saudi embassy had apparently said that they feared for the lives of Saudi citizens, because they thought there would be retribution against Saudis in the United States as it became obvious to Americans that this attack was essentially done by Saudis, and that there were even Saudi citizens in the United States who were part of the bin Ladin family, which is a very large family -- very large family.

The Saudi embassy, therefore, asked for these people to be evacuated; the same sort of thing that we do all the time in similar crises, evacuating Americans.

The request came to me and I refused to approve it. I suggested that it be routed to the FBI and that the FBI look at the names of the individuals who were going to be on the passenger manifest and that they approve it or not. I spoke with the at that time the number-two person in the FBI, Dale Watson, and asked him to deal with this issue. The FBI then approved -- after some period of time, and I can't tell you how long -- approved the flight.

Now, what degree of review the FBI did of those names, I cannot tell you. How many people there are on the plane, I cannot tell you. But I have asked since, were there any individuals on that flight that in retrospect the FBI wishes they could have interviewed in this country, and the answer I've been given is no, that there was no one who left on that flight who the FBI now wants to interview.

MR. ROEMER: Despite the fact that we don't know if Dale Watson interviewed them in the first place.

MR. CLARKE: I don't think they were ever interviewed in this country.

MR. ROEMER: So they were not interviewed here. We have all their names. We don't know if there has been any follow-up to interview those people that were here and flown out of the country.

MR. CLARKE: The last time I asked that question, I was informed the FBI still had no desire to interview any of these people.

MR. ROEMER: Would you have a desire to interview some of these people that --

MR. CLARKE: I don't know who they are.

MR. ROEMER: We don't know who they are.

MR. CLARKE: I don't know who they are. The FBI knew who they were, because they --

MR. ROEMER: Given your confidence and your statements on the FBI, what's your level of comfort with this?

MR. CLARKE: Well, I will tell you in particular about the ones that get the most attention here in the press, and they are members of the bin Ladin family. I was aware for some time that there were members of the bin Ladin family living in the United States. And, let's see, in open session I can say that I was very well aware of the members of the bin Ladin family and what they were doing in the United States, and the FBI was extraordinarily well aware of what they were doing in the United States. And I was informed by the FBI that none of the members of the bin Ladin family, this large clan, were doing anything in this country that was illegal or that raised their suspicions. And I believe the FBI had very good information and good sources of information about what the members of the bin Ladin family were doing.

MR. ROEMER: I've been very impressed with your memory, sitting through all these interviews that the 9/11 Commission has conducted with you. I press you again to try to recall how this request originated, who might have passed this on to you at the White House Situation Room, or who might have originated that request for the United States government to fly out -- how many people on this plane?

MR. CLARKE: I don't know.

MR. ROEMER: We don't know how many people were on a plane that flew out of this country. Who gave the final approval, then, to say "Yes, you're clear to go, it's all right with the United States government to go to Saudi Arabia"?

MR. CLARKE: I believe after the FBI came back and said it was all right with them, we ran it through the decision process for all of these decisions that we were making in those hours, which was the Interagency Crisis Management Group on the video conference.

I was making -- or coordinating a lot of decisions on 9/11 in the days immediately after. And I would love to be able to tell you who did it, who brought this proposal to me, but I don't know. The two -- since you press me, the two possibilities that are most likely are either the Department of State of the White House Chief of Staff's Office. But I don't know.

MR. ROEMER: Thank you.

Thank you, Mr. Chairman.

MR. KEAN: Senator Gorton?

MR. GORTON: One more question on that subject. When the approvals were finally made, and when the flight left, was the flight embargo still in effect or were we flying -- or was that over? We were flying once again?

MR. CLARKE: No, sir. No, Senator. The reason that a decision was needed was because the flight embargo -- the grounding was still in effect.

MR. GORTON: We talked a little bit in my earlier round of questioning about this frustrating phrase "actionable intelligence." And one of your recommendations to the new Administration, according to our staff report, was to choose a standard of evidence for attributing responsibility for the *Cole*, and deciding on a response. Did that express a frustration that you had had for the previous several years that the phrase "actionable intelligence" often seemed to be an excuse for people not doing anything that perhaps they had other reasons for not wanting to do? Did you want a broader definition either of how much intelligence one needed or how broad action should be?

MR. CLARKE: Yes.

MR. GORTON: Yes to both?

MR. CLARKE: Yes to both.

MR. GORTON: Okay. Could you tell me, you know, what your previous frustrations had been and what kind of test you would have imposed?

MR. CLARKE: Well, I think if you go back to 1993 when the attempted assassination on the first President Bush occurred in Kuwait, the process we put in place then was to ask the FBI, working with Secret Service, to develop a set of evidence, and CIA to develop separately an intelligence case.

And that took from February of '93 through the end of May. And it was done in a way that was reminiscent of a criminal process. At least the FBI case was. The CIA case was an intelligence case and had different sources of information, different standards for what was admissible, and a more lenient standard for making a determination. But I think beginning then, I was frustrated by that kind of evidentiary process.

Now, I heard Sandy Berger this morning point out that immediately following the Pan Am 103 terrorist attack, the assumption in the intelligence and law enforcement communities was that it was a Syrian attack. And I recall that. He's quite right. And it turned out not to be a Syrian attack. He pointed out that in the days and weeks after the TWA 800 crash we assumed that it was a terrorist attack. There were eyewitnesses of what appeared to be a missile attack. But after exhaustive investigations that went of for years, in the case of the NTSB -- and the FBI -- a determination was made that it was not a terrorist attack. And I believe that that is the accurate determination. Mr. Berger made other examples: Oklahoma City and whatnot.

I think we have to distinguish between rushing to judgment after a terrorist event, which, as Mr. Berger said, is a mistake, because sometimes the evidence changes, sometimes the evidence develops. We saw this in Spain just two weeks ago, where for the first day after the attacks in Madrid the evidence really looked like it was the Basque Separatist Group. And I know there are political charges against the Spanish government for having distorted intelligence, but there was a lot of intelligence the first day that suggested it was the Basque terrorist group. So we do need to be careful not to rush to judgment after a terrorist attack.

On the other hand, what I'm suggesting, what I was suggesting in that paper that you referred to, is that we not necessarily have to wait for a terrorist attack in order to attack a

terrorist group. But when you sometimes do that, you get into trouble.

President Clinton got into a lot of trouble, a lot of criticism for blowing up a chemical plant in Sudan.

To this day, there are a lot of people who believe that it was not related to a terrorist group, not related to chemical weapons. They're wrong, by the way. But the President had decided in PDD-39 that there should be a low threshold of evidence when it comes to the possibility of terrorists getting their access -- getting their hands on chemical weapons. And he acted on that basis, and when he acted on that basis, he and his advisers were all heavily criticized.

So I was suggesting there and what I am suggesting here now is that while Sandy Berger is right and we should not rush to judgment after a terrorist attack as to who did it until there is ample intelligence evidence, not criminal evidence; on the other hand, we should feel free to attack terrorist groups without waiting for them to attack us, if we make a policy and an intelligence judgment that they pose a threat.

MR. GORTON: I have one follow-up question on that. Between January and September of 2001, was there any actionable intelligence, under either the narrow or broader definition, that caused you to recommend an immediate military response to some provocation?

MR. CLARKE: I suggested, beginning in January of 2001, that the *Cole* case was still out there and that by now, in January of 2001, CIA had finally gotten around to saying it was an al Qaeda attack and that therefore there was an open issue, which should be decided, about whether or not the Bush administration should retaliate for the *Cole* attack.

Unfortunately, there was no interest, no acceptance of that proposition, and I was told on a couple of occasions, well, that, you know, that happened on the Clinton administration's watch. I didn't think it made any difference. I thought the Bush administration, now that it had the CIA saying it was al Qaeda, should have responded.

MR. GORTON: But there was no other January-to-September incident that caused you to recommend a military response, I gather.

MR. CLARKE: In the general definition, I think there was. You know, what we had discussed in the general definition was not waiting for the terrorist attack but feeling free to use military activity as a -- or covert action activity; it doesn't have to be military -- covert action activity as a way of taking the offensive against terrorist organizations that look like they threaten the United States. And what our plan or strategy or list of options included was covert action activity to be taken -- to go on the offensive against al Qaeda in Afghanistan.

MR. GORTON: Through surrogates or through direct intervention?

MR. CLARKE: That was a combination of both, but it was -- the determination of how that would be structured would be left to the CIA.

MR. GORTON: Thank you, Mr. Chairman.

MR. KEAN: Senator Kerrey?

MR. KERREY: Well, Mr. Clarke, let me say at the beginning that everything that you've said today and done has not damaged my view of your integrity. It's very much intact as far as I'm concerned, and I hope that your pledge earlier not to be a part of the Kerry administration did not preclude you from coming to New York sometime and teaching at the New School. (Laughter.) So -- And let me also say this document of Fox News earlier, this transcript that they had, this was a background briefing, and all of us that have provided background briefings for the press before should beware. I mean, Fox should say “occasionally fair and balanced” after putting something like this out -- (laughter) -- because they violated a serious trust. (Applause.) All of us that come into this kind of an environment and provide background briefings for the press I think will always have this as a reminder that sometimes it isn't going to happen; that is, background. Sometimes if it suits their interests they're going to go back, pull the tape, convert it into a transcript and send it out into the public arena and try to embarrass us or discredit us. So I object to what they have done and I think it's an unfortunate thing they did.

Let me say as well that you and I have some disagreements and I'm going to get into them. First of all, I do not want to go back to the bad old days when covert operations could be done in an environment where the people thought they could do something in violation of U.S. law or that they could come to Congress and

lie about it, thinking that that was okay. I mean, that's what we -- (chuckles) -- were directing our attention to. Perhaps there were some personnel mistakes that were made in the response to the problems in Guatemala in particular, but I don't want to go back to the bad old days where guys could go out there and operate, not have to worry about U.S. law and not have to worry about whether or not they came and lied to Congress.

MR. CLARKE: Nor do I, Senator.

MR. KERREY: And secondly, I don't see it, as you do, that the war in Iraq has increased the threat of terrorism. I honestly don't, unless you say that the threat of terrorism in Iraq has unquestionably gone up as a consequence of al Qaeda feeling even more opposition to freedom in Iraq than they do to freedom in the United States. They feel much more threatened by having an Arab democracy than they do by having a democracy in the United States, and so I don't see it that way.

And though I don't go as far as the Administration has done with drawing the connection to al Qaeda, I do think that the presence of Abdul Rahman Yasin in Iraq certainly causes some suspicions to be raised. And I wonder -- I presume you know who Abdul Rahman Yasin is, and I wonder if you could comment on that. I mean, what conclusions do you draw by the fact that we have an individual who we believe was a part of the conspiracy to attack the World Trade Center in the -- World Trade Center 1 in February of -- February 1993; an associate of Ramzi Yousef, who was connected at least indirectly to the second attack; I wonder what conclusions you draw from the fact that Yasin has been given at the very least a place that he could hang out? And he is on the lam again; we're still hunting him and trying to find out where he is in Iraq today.

MR. CLARKE: Let me go back into the history of 1993, which is when we first heard about this man. In 1993 when the truck bomb exploded at the World Trade Center, we didn't know there was an al Qaeda. No one had ever said that. And the initial reports -- and I mean initial by the sense of about a year or two -- the initial reports from the FBI's investigation of that attack suggested that the attackers were somehow a gang of people from five or six different countries who had found each other and come together, almost like a pick-up basketball team; that there was no organization behind it. Eventually, in retrospect the FBI and the CIA were able to discover that there was an organization behind it, and that organization is what we now call al Qaeda.

Most of the people directly involved in that conspiracy were identified and tracked down by the FBI and CIA and arrested or snatched and brought back to the United States. Mr. Yasin was the one who wasn't. And the reason he wasn't was he was an Iraqi. He was the only Iraqi in the group. There were Egyptians, there were other nationalities. He was an Iraqi, and therefore, when the explosion took place and he fled the United States, he went back to Iraq. And we were obviously, for obvious reasons, unable to either snatch him or get him to be extradited to the United States.

But the investigation, both the CIA investigation and the FBI investigation made it very clear, in '95 and '96 as they got more information, that the Iraqi government was in no way involved in that attack. And the fact that one of the 12 people involved in the attack was Iraqi hardly, it seems to me, is evidence that they were, that the Iraqi government was involved in the attack. The attack was al Qaeda, not Iraq.

The Iraqi government, because, obviously, of the hostility between us and them, didn't cooperate in turning him over, and gave him sanctuary, as it did give sanctuary to other terrorists; but the allegation that has been made that the 1993 attack on the World Trade Center was done by the Iraqi government I think is absolutely without foundation.

MR. KERREY: Can you see where a reasonable person might say that if Yasin is given a safe haven inside of Iraq prior to 9/11, that the Iraqis are at least unwilling to do what is necessary to bring someone that we believe is responsible for killing Americans in 1993 to justice?

MR. CLARKE: Well, the Iraqis were, absolutely, the Iraqis were providing safe haven to a variety of Palestinian terrorists. as well. absolutely. As were the Iranians, as were the Syrians.

MR. KERREY: Thank you.

MR. KEAN: Commissioner Ben-Veniste.

MR. BEN-VENISTE: I just wanted to say that having sat in on two days of debriefings with you, Mr. Clarke, and having seen excerpts from your book, other than questions you weren't asked, I have not perceived any substantive differences between what you have said to us and what has been quoted from your published work.

Having said that, I'll cede my time to Congressman Roemer, if he'll give me his time with Condoleezza Rice. (Laughter.)

MR. CLARKE: That may not be a good deal.

MR. ROEMER: Submit those questions for the record, Mr. Commissioner.

MR. KEAN: Is that all?

Commissioner Thompson?

MR. THOMPSON: Mr. Clarke, in this background briefing -- as Senator Kerrey has now described it -- for the press in August of 2002, you intended to mislead the press, did you not?

MR. CLARKE: No, I think there's a very fine line that anyone who has been in the White House, in any administration, can tell you about. And that is when you are special assistant to the President and you're asked to explain something that is potentially embarrassing to the Administration -- because the Administration didn't do enough or didn't do it in a timely manner, and is taking political heat for it, as was the case there -- you have a choice. Actually, I think you have three choices.

You can resign, rather than do it. I chose not to do that.

Second choice is --

MR. THOMPSON: Why was that, Mr. Clarke? You finally resigned because you were frustrated.

MR. CLARKE: I was at that time, at the request of the President, preparing a national strategy to defend America's cyber space, something which I thought then and think now is vitally important. I thought that completing that strategy was a lot more important than whether or not I had to provide emphasis in one place or other while discussing the facts of this particular news story.

The second choice one has, Governor, is whether or not to say things that are untruthful. And no one in the Bush White House asked me to say things that were untruthful, and I would not have said them.

The third choice that one has is to put the best face you can for the Administration on the facts as they were, and that is what I did. And I think that is what most people in the White House in any administration do when they're asked to explain something that is embarrassing to the Administration.

MR. THOMPSON: You will admit that what you said in August of 2002 is inconsistent with what you say in your book?

MR. CLARKE: No, I don't think it's inconsistent at all. I think, as I said in your last round of questioning, Governor, that it's really a matter here of emphasis and tone, and that it's really -- I mean what you're suggesting perhaps is that as special assistant to the President of the United States, when asked to give a press backgrounder, I should spend my time in that press backgrounder criticizing him. I think that's somewhat of an unrealistic thing to expect.

MR. THOMPSON: But what it suggests to me is that there is one standard -- one standard of candor and morality for White House special assistants and another standard of candor and morality for the rest of America. I don't get that.

MR. CLARKE: I don't think it's a question of morality at all. I think it's a question of politics.

MR. THOMPSON: Well, I -- (interrupted by applause). I'm not a Washington insider, I've never been a special assistant in the White House. I'm from the Midwest. So I think I'll leave it there.

MR. KEAN: Congressman Roemer?

MR. ROEMER: Thank you, Mr. Chairman.

I appreciate your patience, this has been, I'm sure, a long day for you Mr. Clarke. I want to explore a little bit more, since we've heard from Mr. Tenet on this issue today, the Predator issue. As you know, the Predator first came out of use in Kosovo, and it was used in various activities to -- with a laser on it to track Serb tanks to help us go after these tanks. It was flown in 2000 in the Clinton administration as a recon vehicle, unmanned recon vehicle. In 2001 we had a debate, a complex debate that I can understand both sides of. Took several months to try to resolve it. There are two issues here on the recon Predator and on the armed Predator. Mr. Tenet said that they were not blocking the armed Predator. You have said that

they were blocking the armed Predator. How do we reconcile these two? And please take us through a little bit of this. I want to ask you if it would have made much of a difference getting the unarmed up, and if the armed could have been put up earlier than October of 2001?

MR. CLARKE: Let me begin in the first few months of the year 2000. President Clinton was enormously frustrated because he had authorized, in effect, the assassination of bin Ladin and his lieutenants by CIA.

He had also authorized in principle the use of military forces -- cruise missiles -- to attack and kill bin Ladin and his lieutenants. And none of this had happened because the CIA had been unable to use its human intelligence resources in Afghanistan to provide -- I'm sorry, senator -- actionable intelligence. (Light laughter.) On the occasions when we had things that looked like actionable intelligence, the three or four occasions, the director of CIA himself said the intelligence wasn't good enough.

So the President was very mad. And he asked Sandy Berger and me to come up with a better way. I asked the director of the Joint Staff, Admiral Fry, and the associate DCI, Charlie Allen, to form a task force to come up with a better way. They proposed flying the Predator in Afghanistan. CIA's Directorate of Operations, the director of the Directorate of Operations, opposed the use of Predator in 2000 for reconnaissance purposes. He said that if there were additional resources available to pay for the Predator operation, he would prefer to use them on human intelligence.

MR. ROEMER: And how much are we talking about, Mr. Clarke?

MR. CLARKE: Pennies, relatively.

MR. ROEMER: Hundreds of thousands of dollars?

MR. CLARKE: Some of it cost hundreds of thousands. The whole program was in the low millions, I think.

In any event, this slowed things down, obviously. Mr. Berger took up my cause with the director of Central Intelligence and got their agreement that they would fly the reconnaissance version. It was flown in September and October of 2000, 11 flights. And the Directorate of Operations put a lot of restrictions on those flights, in part because they were afraid

that the aircraft would be shot down and they would have to pay for it. I tried to point out that even if the aircraft were shot down, the pilot would return safely to home. But that didn't seem to persuade them.

In any event, during those flights, at CIA's insistence, they were designed as a proof of concept operation, meaning that we could not have cruise missiles, other military activity, other covert action -- capabilities cued to this, so that when the Predator did see bin Ladin, as it did, I think, on three occasions, but clearly on one in that time frame, there were no military assets available, there were no covert action assets available at the insistence of the CIA, because they wanted this only as a proof of concept operation.

Fast forward to 2001. The flights had been suspended because of the winter, during which they couldn't fly. We then became aware that there was a long-term program in the Air Force to arm the Predator. Johnny Jumper, the head of the Air Force, thought that it might be possible to crash -- probably the wrong word -- to accelerate this program and arm the Predator right away. General Jumper directed that that happen. It happened in a matter of months, not a matter of years, and it appeared to work in tests in the western United States.

When on September 4th we held the principals meeting that's been discussed, the issue on the table was would the CIA fly the armed Predator. And CIA took the view in the principals meeting that it was not their job to fly armed UAVs and they did not want to fly the armed Predator under their authority. I was informed by people who had -- who were in the CIA that during the discussions inside CIA, people in the Directorate of Operations had raised objections saying, for example, that if CIA flies the armed Predator and it kills bin Ladin, then CIA agents all around the world will be at risk of retaliation attack by al Qaeda. I didn't think that was a very persuasive reason because I thought CIA agents were already at risk of attack by al Qaeda.

In any event, as the September 4th principals meeting ended, CIA had not agreed to fly the mission. September 11th happened. CIA then agreed to fly the armed Predator mission. It went into operation very quickly in Afghanistan. It found the military commander --

MR. ROEMER: Within a month?

MR. CLARKE: I think within a month. It found the military commander of al Qaeda, and because it was armed then, it could not only find things, it could kill them. And it launched a missile, a Hellfire missile, at the military commander of al Qaeda and killed him and his associates.

I hope that answers the question.

MR. ROEMER: That answers the question.

Thank you, Mr. Chairman.

MR. KEAN: Okay.

Mr. Clarke, thank you very much. Thank you not only for your testimony today, but thank you for your extraordinary time you spent already with the Commission and your willingness to help us with our report. (Applause)

MR. KEAN: (Strikes gavel.) Will the hearing -- back to order, please.

We would -- the final official appearing before us today is Deputy Secretary of State Richard Armitage. We appreciate very much his appearing before us today. We would have -- in place of Condoleezza Rice. We would have liked to have Dr. Rice today. We appreciate Dr. Rice's testimony to us in private session. We wish she had appeared today in public session, but since she has not, we appreciate you and your long public service and thank you very much for coming, sir.

Now, as I understand, Dr. Armitage is not going to issue a statement -- oh, yes. Would you raise your hand, sir? You're already sworn, I think --

MR. : (Off mike.)

MR. KEAN: Doesn't last over from this morning?

MR. : (Off mike.)

MR. KEAN: How long does a swearing-in last before --

MR. ARMITAGE: (Off mike) -- that, Mr. Chairman. (Laughter.)

MR. KEAN: Is it like something that wears off? (Laughter.) I think you're still sworn, sir.

MR. BEN-VENISTE: Your still under oath.

MR. KEAN: Yeah. Thank you very much. So we will -- the -- you have an opening statement.

MR. ARMITAGE: Well, not -- it's not much of a statement. I jotted some ideas down. I'm not sure I can read them, because I was in the car.

MR. KEAN: (Chuckles.) Yeah.

MR. ARMITAGE: But it's not more than a minute or two, Mr. Chairman, if I may.

I think, regarding Dr. Rice, I'm very pleased to hear you say how forthcoming and candid she was. She's of course prepared to meet with you all in camera at any time. This is, I think, not her personal wish; it's a matter of separation of powers and things of that nature.

Mr. Ben-Veniste is the lawyer here; he can take it wherever he wants. I'm not.

RICHARD BEN-VENISTE: Overruled! (Laughter.)

MR. ARMITAGE: Not yet. (Laughter.) You'll have your time.

I want to just take two minutes, sir, and tell you where I think we are, at least from what I've gleaned thus far. Each individual who witnesses these hearings and the important work you all are doing will make their own mind up. But here's what I'm kind of hearing.

I think there was a pretty smooth hand-off from the administration of President Clinton to the Administration of President Bush, particularly in the counterterrorism area.

The reason I say that is because there was, for transitions, I think a stunning continuity. When the Bush administration came in there were a number of issues that had been on the table for a couple of years. And they weren't on the table because the Clinton administration wasn't working like crazy; they were on the table because -- we're meeting on these matters -- they were on the table because they were difficult, knotty issues.

We made the determination under the guidance of Dr. Rice and the President to vigorously pursue the policy which we inherited

while developing our own approach to the problem of al Qaeda specifically and terrorism more generally, and along the way we tried, at least though the deputies level, to make decisions and to approve things and push them up the food chain. The President said that he was tired of swatting flies, gave us a little more strategic direction. It was clear to us that rollback was no longer a sufficient strategy and that we had to go to the elimination of al Qaeda. And to that end, at least through the deputies prior to the horror of September 11th, decisions were approved to arm the Predator, to increase the assistance to Uzbekistan, to work with the Northern Alliance in a bigger way, to try to reinvigorate what was going on with Pakistan. And certainly, in order to bring some stability to South Asia, we had to have a different relationship with India and one that's not hyphenated, Indo-Pak.

So I saw in both administrations a lot of people working terrifically hard, doing the best jobs they could. But a lot of people in successive administrations working just as hard as they can on the issue is not a source of any satisfaction for anyone. I don't think any of us or anyone who's worked on these issues can feel any sense of satisfaction with 3,000 of our fellow citizens horribly murdered.

So the inevitable evisceration of Osama bin Ladin personally will be a very good thing, but in itself it's not going to bring any satisfaction or justice. True satisfaction and true justice, in my belief, will only come for Americans, and for that matter now for Spaniards and Turks and Saudis and Moroccans, when we've put an end to terrorism. The terrible thing is I'm afraid that's going to be at some far out date in the future, and we just have to steel ourselves for it.

So thank you, Mr. Chairman and Mr. Vice. I look forward to your hearing.

MR. KEAN: Thank you very much for your opening comments.

Commissioner Ben-Veniste will now begin the questioning.

MR. BEN-VENISTE: Mr. Secretary, I want to thank you for your service to the country.

MR. ARMITAGE: Thank you.

MR. BEN-VENISTE: And my comments to you are not meant as any personal criticism. You are here because the Administration asked

you to come here. We asked for Dr. Rice. The NSC is the lead on coordinating and implementing counterterrorism in its policy during the key investigative period that we are charged with investigating, from 1998 to 9/11/2001.

The State Department was one of several line agencies that White House staff worked to coordinate. It was a spoke in the wheel, not the hub. The hub was Dr. Rice. Just as Sandy Berger was for the Clinton administration, Dr. Rice would be to provide us with our understanding here.

In some respects, I think you're in the position of Admiral Stockdale when in 1992 he said, "Why am I here?" (Laughter.) I'd like to ask that question of you. When did you learn that you would be the person to testify, that the White House would request that you come here today?

MR. ARMITAGE: First of all, the 13th Amendment applies to me as well as it does to all of my colleagues, Mr. Ben-Veniste. (Laughter.) And I'm under no force to be here. They did request me.

I'm here, I think, in large measure because like Dick Clarke, who is a long-time colleague, I was in on the beginning, I was in on the take-off of this back in 1983, and through the initial embryonic setting up of counterterrorism centers, and the embryonic efforts at the agency, et cetera, and the rendering of Fawaz Yunis and these fellows. So I'm here because I've been involved for a while.

MR. BEN-VENISTE: Well, Mr. Clarke said that the folks in the Bush administration, Bush II, came in with more or less the same agenda that they had left with in Bush I. And so in certain regard, you actually were not in on the transition, isn't that so? You did not receive classified briefings until your confirmation, which I believe was in March. Is that right?

MR. ARMITAGE: Yes, it was.

MR. BEN-VENISTE: And so all of the initial briefings, you were not party to. Is that correct?

MR. ARMITAGE: I was not in the initial briefings for the President. I was on his team, of course. And I did have a clearance from 1997 on because of my work on the National Defense Panel, which eventually formed the basis for the President's Citadel speech and homeland security.

MR. BEN-VENISTE: Well, you told us that you were not privy to the initial briefings because the powers that be decided that those who were not yet confirmed would not get those briefings.

MR. ARMITAGE: The powers that be and the U.S. Senate, who looks very poorly on any administration -- incoming administration people even being perceived as taking an active participation role in decision-making. However, in the period of time leading up to my confirmation, I certainly had briefings from the entire organization in the State Department, to include counterterrorism.

MR. BEN-VENISTE: Now, the 13th Amendment notwithstanding, may I ask you when it was that you were advised that you would be requested by the Administration to come up here in lieu of Dr. Rice?

MR. ARMITAGE: I'd say about 10 days ago.

MR. BEN-VENISTE: Hmm. That's interesting.

MR. ARMITAGE: It might have been a week, but 10 days -- so a week to 10 days.

MR. BEN-VENISTE: We were advised not quite that long ago that you would be coming. And the --

MR. ARMITAGE: No, I think in fairness, I was told that if I'd do it, I'd be welcome. However --

MR. BEN-VENISTE: We welcomed you yesterday.

MR. ARMITAGE: However, there was a big debate in the Administration about this because, as I said in my opening remarks, I think Dr. Rice, if she were left to her own personal judgment, she'd be very pleased to appear.

MR. BEN-VENISTE: Well, you know, I agree with you. We had a useful period of time with her. She understood that we would need to question her again because we did not have the PDBs and other materials that she recognized would be necessary to complete her interview at the time that we did question her. On the other hand, there are a number of things which we would have liked to explore with her in person.

And I just want to end with saying that from my personal standpoint, although the Commission has unanimously requested

repeatedly that Dr. Rice come before us, my own view is that the President has said repeatedly through his spokesperson that he remains committed to full cooperation with this commission.

Now, I've brought to your attention, and all joking aside, the fact that other national security advisers have come before the Congress and have testified in open session, including Mr. Berger, including Zbigniew Brzezinski. And my point is that if the White House wanted to fully cooperate and make Dr. Rice available, there would be no impediment for their doing so.

And I'll leave it at that.

MR. ARMITAGE: Well, if I may, sir. I was under the very strong impression that sitting national security advisors have not testified in open session before. However, they have, as Dr. Rice did, certainly participated in commissions as far back as -- that I know to the Tower Commission.

MR. BEN-VENISTE: That's why I offered you this report from the Congressional Research Service of the Library of Congress, which documented times and places for Brzezinski and twice for Berger, who did in fact come and testify in open session.

MR. ARMITAGE: I was also -- I see you're the attorney, I'm not. You went to law school, I went into the Navy. I defer to your legal judgments on this. But --

MR. BEN-VENISTE: I think it's not a fair fight, frankly --

MR. ARMITAGE: If I may --

MR. BEN-VENISTE: And I think the --

MR. ARMITAGE: If I may --

MR. BEN-VENISTE: I think the White House has again "over-lawyered" this, because they've created impressions here that are unnecessary, in my view -- and just speaking for myself.

I'd like to get into substance.

MR. ARMITAGE: I'd love to, but I'd just say I think those situations which you describe, sir, are all distinguishable, one from the other, for different reasons. But, as I say, you're the lawyer. I'm not.

MR. BEN-VENISTE: They're all for reasons that I've explained on the record; none of which, I would have to say, sir, even approaches the seriousness of the mission of this committee -- that is looking into how it was that this country was attacked and 3,000 souls lost on 9/11/2001, in the worst attack on our homeland in the history of this country.

Now, substance. Start the clock. (Laughter.)

MR. ARMITAGE: It's going to be one of those afternoons, is it? (Laughs.)

MR. BEN-VENISTE: Is it correct that -- let me go to the period of just prior to 9/11. At this point you were confirmed.

MR. ARMITAGE: Yes, sir.

MR. BEN-VENISTE: At this point you were aware -- were you not? -- of the most heightened alert level in the United States up to that point, with respect to the potential for a terrorist attack of significant magnitude.

MR. ARMITAGE: Yes, I was. I was one of those to whom Director Tenet turned, along with other seniors in the Administration, and made it very clear that we had a big problem. He didn't know where and he didn't know when. But he said it was coming.

MR. BEN-VENISTE: And we have heard from Mr. Clarke -- who continued on into the Administration as the coordinator for counterterrorism, although in a somewhat reduced capacity from his status in the Clinton administration -- that there certainly was no way that they could rule out an attack upon the United States.

MR. ARMITAGE: Right.

MR. BEN-VENISTE: And do you agree with that?

MR. ARMITAGE: Oh, yes, I do.

MR. BEN-VENISTE: Now, Dr. Rice told us that Mr. Clarke had briefed her that there were al Qaeda sleeper cells in the United States.

Dr. Rice told us that she did not know what basis Mr. Clarke had for that. She told us that the FBI was trying to actively find al Qaeda personnel. She did not, she told us, talk to

Richard Clarke prior to 9/11 about the potential for al Qaeda sleeper cells. Were she here, I would ask her the question as to why she did not discuss the issue of al Qaeda sleeper cells in the United States with her counterterrorism coordinator. Do you have any information you might be able to shed on that subject?

MR. ARMITAGE: No, of course not.

MR. BEN-VENISTE: Dr. Rice, following 9/11, made a statement that -- I want to make sure I get it right -- (searches documents) -- she said, "I don't think anybody could have predicted that those people could take an airplane and slam it into the World Trade Center, take another one and slam it into the Pentagon, that they would try to use an airplane as a missile, a hijacked airplane as a missile." Do you recall that she made that statement publicly?

MR. ARMITAGE: No, I didn't see that.

MR. BEN-VENISTE: Similarly, yesterday Secretary of Defense Rumsfeld made a statement with respect to anticipating the use of commercial airplanes as weapons, and then, after I questioned him about it, he retracted that statement and said that he personally could not have -- or did not imagine that such a thing might happen. Dr. Rice told us privately that she wished to correct that statement which she had made publicly by saying to us that she misspoke, and that she, like Secretary Rumsfeld yesterday, would say that she could not have imagined using planes as missiles.

Can you shed any light on who, then, in the apparatus of protecting the United States against threats both foreign and domestic, ought to be coordinating this information for the benefit of the President?

MR. ARMITAGE: I know that the director of Central Intelligence had on at least one occasion, to my knowledge, talked about hijacking of aircraft. I just don't think we had the imagination required to consider a tragedy of this magnitude. I don't know what other answer to tell you. We didn't have a homeland security czar. We've traditionally generally in terrorism unfortunately looked overseas. Of course, that's the major direction of Secretary Powell's and my attention.

MR. BEN-VENISTE: Well, can you tell me, since you're sitting in for Dr. Rice, what it was that Dr. Rice had before her to

suggest that the United States might be a target in this period of extraordinarily heightened threat during the summer of 2001?

MR. ARMITAGE: Oh, I can't.

MR. BEN-VENISTE: Dr. Rice told us that at some point, I think it was in early July, because of the extraordinarily increased threat level that the intelligence services were picking up that the President asked her to go back and collect for her or get a report for her on what the potential was for a domestic incident of some magnitude. Are you familiar with the fact that Dr. Rice took that position?

MR. ARMITAGE: No, I'm not.

MR. BEN-VENISTE: I believe she's expressed it publicly in recent days.

MR. ARMITAGE: I'm not aware of it.

MR. BEN-VENISTE: Have you paid attention to at least some of the appearances Dr. Rice has made on the airwaves?

MR. ARMITAGE: No, actually I haven't.

MR. BEN-VENISTE: You own a television?

MR. ARMITAGE: Yeah, and it's generally on, and I won't tell you what it's on. (Laughter.)

MR. BEN-VENISTE: (Laughs.)

MR. ARMITAGE: But --

MR. BEN-VENISTE: I guess it -- (chuckles) -- wasn't on any of the talk shows --

MR. ARMITAGE: Look, I --

MR. BEN-VENISTE: -- because she's been on about every one of them --

MR. ARMITAGE: You know what --

MR. BEN-VENISTE: -- but not here before the Commission.

MR. ARMITAGE: Administration witnesses are on those shows all the time. And I'm sorry; when you see one of your colleagues up there, you don't stop in the airport and stare. (Laughter.) You don't stop everything you're doing. You do your work because it's hard enough as it is without being diverted.

MR. BEN-VENISTE: Well, I appreciate that --

TIMOTHY J. ROEMER: Mr. Ben-Veniste, you might want to have Mr. Armitage clarify his remarks. I'm sure the TV is on basketball these days. Isn't it, Mr. Armitage? (Laughter.)

MR. ARMITAGE: You know a little too much, Commissioner Roemer!

MR. ROEMER: I hope to know more. Dr. Rice --

MR. BEN-VENISTE: You know, it's tough serving on a commission with two of these Hoosiers, let me tell you. (Laughter.) All they want to do is watch basketball.

But in seriousness, with respect to your position here as -- in --

MR. KEAN: This is the last question.

MR. BEN-VENISTE: Well, actually, I get a couple more because of the initial non-substantive areas that that we went back and forth on.

MR. : (Off mike.) (Laughter.)

MR. KEAN: I don't think that's the rules, but --

(Laughter.)

MR. BEN-VENISTE: Okay. But it's --

MR. LEHMAN : Talmudic reasoning --

MR. BEN-VENISTE: (Chuckles.) No whinging!

If the chairman will indulge me for just two questions, in preparation for appearing here as Dr. Rice's doppelganger, did it not occur to you to familiarize yourself with what it was she was saying or had said?

MR. ARMITAGE: I'm not here as Dr. Rice's replacement. I'm here as someone who's been involved in counterterrorism for several administrations, over a long period of time. That's why I'm here.

MR. BEN-VENISTE: Well, you -- I thought you were here yesterday in that capacity. But with --

MR. ARMITAGE: I was here yesterday to support the secretary of State, sir.

MR. BEN-VENISTE: Let me ask you whether you were aware of the fact that the CIA has now said that the August 6th, 2001, Presidential Daily Brief, which Dr. Rice has indicated to us, privately, was prepared at the request of the President, was in fact prepared independently of any request, so far as they knew, by the CIA.

MR. ARMITAGE: I read the document sometime after it was passed around to the seniors, which is generally what happens to the deputies, and was unaware of that.

MR. BEN-VENISTE: Mr. Chairman, I would have more questions of the Dr. Rice-Armitage -- (laughter) -- team, and if we have remaining time, I'd like to ask those.

MR. KEAN: You may. We may.

Commissioner Thompson.

JAMES R. THOMPSON: Well, Mr. Secretary, I'm willing to accept you in your own capacity --

MR. ARMITAGE: Thank you, Governor. (Laughs.)

MR. THOMPSON: -- not as anybody's substitute.

When the Bush administration took office in January of 2001, you had, I believe, quite a long and complex foreign policy agenda. Is that right?

MR. ARMITAGE: Yes, sir.

MR. THOMPSON: China, Russia, missile defense, Iraq, Middle East peace process, just to name a few.

MR. ARMITAGE: India was on there as well.

MR. THOMPSON: And India, Pakistan, nuclear power in Asia. The list probably is endless and probably changed daily -- or was added to daily, let me clarify.

Would you give a sort of a rough order ranking, if you could, or if it's appropriate, and then indicate to me where you think the issue of terrorism and counterterrorism fit into that order of priority?

MR. ARMITAGE: Yes, sir. I don't know that I can adequately order them. But I can say that Secretary Powell's view, I think as evidenced by the fact that the first briefing that he received, at his request, was on counterterrorism was that this was a real problem. And he'd seen it from several different seats, NSC as well as chairman of the Joint Chiefs of Staff.

But we don't have the luxury, as I think he tried to explain yesterday, of actually ranking them in order. I'll tell you why. Let's say that in early April the entire administration was spending the entire day on counterterrorism, and we had a military aircraft knocked out of the sky by a Chinese fighter. And so for the next 13 days, Secretary Powell and I and the President and Dr. Rice were intimately involved and continually involved in that. And then when that resolved itself, we went back to the other agenda. And then there are trips and meetings of people who are coming and going that raise issues to a higher level for a time, or lower them for a time.

So I don't think I can satisfy you with a one, two, three. From our point of view, terrorism and counterterrorism were urgent.

MR. THOMPSON: You were a new administration, so I presume that during this period of time you were sort of besieged by ambassadors and representatives of other nations wanting to take make your measure and communicate with you.

MR. ARMITAGE: I know you'll be shocked to find out that most of them already had during the campaign. They generally do make sure they check with the political opposition just so they won't be surprised at anything when a new administration starts.

MR. THOMPSON: Both in his book and his testimony here today, Mr. Clarke complained that the eight-month gap between the time the Administration took office in January of 2001 and the time that the PSDB was produced in September, I believe September 4th

of 2001, was an inordinately long time to formulate a process. Do you agree with that?

MR. ARMITAGE: No, I don't. But I'd like to say the words of Samuel Clemens come to mind, and that is even though you're on the right track, you can get run over if you're not going fast enough.

And I think it is the case, it's certainly in hindsight that we weren't going fast enough.

Now, you can make your own judgments about whether we were moving faster or slower than other administrations. But there were a lot of complex issues, and we thought we were getting -- or trying to get our arms around ALL of them and not just pieces of them.

MR. THOMPSON: The establishment of a policy dealing with al Qaeda that was finally presented -- ready for presentation to the President in September of 2001 obviously involved more than simply a military response to al Qaeda. Pakistan was involved, is that correct?

MR. ARMITAGE: Yes, sir.

MR. THOMPSON: And so, those charged with the responsibility of dealing with Pakistan and trying to balance between keeping the Pakistanis flexible had to be a part of the policy, is that right?

MR. ARMITAGE: Governor -- yes, thank you. This is an important point, and it gets to something Senator Kerrey was talking about, I think twice yesterday, he was quite frustrated with.

You know, the giving of an order by the President improved the relationships with Pakistan so that we can have a better chance of uprooting the Taliban, et cetera. That's a pretty simple statement, and it doesn't look like much. But if you peel back the onion, what you see in Pakistan's case is we'd had over 10 years of divorce from their military, we had no inroads there, we had very limited intelligence work, we had no political relationship worth a damn with them. We had stopped all the World Bank or international financial institutions lending. We didn't have many places of purchase. So, the order given to improve relationships with Pakistan, then the far -- as you go down the food chain, there are more and more and more activities that are

associated with doing just what the President wanted, and that's true of all these issues. You could add in the al Qaeda case Iran -- was part of it, as we -- we actually had to work with Iran once we were -- if we had military action. So, it is complicated.

MR. THOMPSON: Uzbekistan?

MR. ARMITAGE: Uzbekistan was a special complication for two reasons: the affection for human rights there was not what we wanted and desired, and that we're -- we had some questions about whether we'd be able to base there, and what would be the reaction of the Russian Federation? So we had to work those things out.

MR. THOMPSON: You needed more funding?

MR. ARMITAGE: Funding, I think Dick Clarke and others have spoken to it. Making a decision to fund is one thing, and then going through the appropriations process is quite another.

MR. THOMPSON: How to get arms to the Northern Alliance, if that was to be the policy.

MR. ARMITAGE: Getting arms to them was not so difficult. It was making sure that we wouldn't be, one, embarrassed by what they were. And no matter the charismatic nature of Ahmed Shah Massoud, and he was quite charismatic, that doesn't make up for raping, drug dealing, et cetera, which many of the Northern Alliance had been involved with. So it's not easy. And that's why, I think, you don't see -- we're not sitting up here saying, "Well, why didn't people do it in the '98 time frame? They had two years." The fact, they're hard. It's difficult. It's not like falling off a log.

MR. THOMPSON: During the Bush administration -- the early part of the Bush administration when the decision was made to put the CSG under the Deputies Committee rather than under the Principals Committee, where it had sat during the Clinton administration, did Mr. Clarke ever complain to you about that change?

MR. ARMITAGE: Not to me, sir, no. But I was not in the entire Bush administration. I was in and out. I three times did special jobs, one of them -- two of them which took a year apiece, but I was out as a private citizen for some of that time as well.

MR. THOMPSON: You've been quoted as saying earlier that the Deputies Committee hasn't worked as speedily before since 9/11. What did you mean by that?

MR. ARMITAGE: I was frustrated as anyone else that it takes a long time to fashion a policy. I'm one of those -- a difference with Commissioner Gorelick -- I think we need fewer meetings, not more, as we've all got to put into effect the decisions that are made at these meetings. So that's been a frustration of mine. I think Paul Wolfowitz evidenced his own frustration with it yesterday.

MR. THOMPSON: Of course, on some of these issues, you can never work speedily enough; is that correct?

MR. ARMITAGE: I'm sorry, sir?

MR. THOMPSON: On some of these issues, you can never work speedily enough. It's part of the --

MR. ARMITAGE: No, that's unfortunately true.

MR. THOMPSON: Let me go back to my previous question because I think you misunderstood me. I wasn't talking about the first Bush administration, I was talking about the second.

MR. ARMITAGE: I'm sorry.

MR. THOMPSON: During the period January to September, 2001, did Mr. Clarke ever complain to you or within your hearing or to anybody else, to your knowledge, about the switch from -- his activities being taken from the Principals Committee to the Deputies Committee?

MR. ARMITAGE: No, sir.

MR. THOMPSON: Was there a reason why the Bush administration did not respond to the attack on the *Cole*, even though the Clinton administration had not responded?

MR. ARMITAGE: We were coming to the view that al Qaeda was responsible. The President had been frustrated by sort of lack of a real target that he could hit in a meaningful way. And it was when that NSPD was framed up, finally, for the President it was -- a strong mention of the *Cole* was in it.

As I recall -- I know my own building, when I first got there, would give us warnings to be careful; the evidence is not deep enough, it's not strong enough. It certainly wouldn't have held up in a court of law, but I think there was a good deal of frustration: it would hold up in a court of our opinion. But for the reasons I spoke, we didn't move.

MR. THOMPSON: The NSPD on al Qaeda, do you know how that came about? Who was writing it? Who was directing it? Who was contributing to it?

MR. ARMITAGE: Well, Dick was writing some of it, Dick Clarke, and others in the regional bureaus were writing some of it. When the deputies looked at it, we would make comments on it.

I have one difference with my former colleague, Dick Clarke, on what I just heard backstage. I remember the version that the deputies had having "elimination" of al Qaeda in it, and Dick I think said it didn't -- it wasn't in the -- it was removed by the deputies. And I must say that is not in my recollection at all, but I'm sure the staff has the draft of the NSPDs and you can come to your own conclusion.

MR. THOMPSON: Do you want to give us a summary of sort of what our relations with the Saudis were prior to 9/11 and then afterwards? Were you ever completely happy with the Saudis and the cooperation they were giving us in the war on terrorism?

MR. ARMITAGE: Nobody has been satisfied. The relationship has been described as complex. Okay -- (chuckles) -- it's more than that. It's also one that occasionally has real troubles in it, troubles. We've had severe differences of agreement over everything from religious freedoms -- and the Saudis have been cited in all three of the Religious Freedom Reports of this Administration. We've had problems at OPEC on occasion with them. We've had a lot of problems. We had problems in counterterrorism cooperation until May 12, and after the May 12 bombings in Riyadh I would say the scales fell from their eyes and they've been really getting after it. That's the version -- or that's the view of our counterterrorism folks, Cofer Black and others who are working with him. It's the view I think of our Treasury folks, who finally are getting real purchase on financing and the informal financing networks that feed these horrible people.

MR. THOMPSON: Do you know anything about the decision that was made to allow the Saudis to fly their people out of Washington immediately after September 11th?

MR. ARMITAGE: No, sir.

MR. THOMPSON: Part of our responsibility, Mr. Armitage, is to look to the future and to find ways to present to the Administration and to the American people and to the Congress that we can, if humanly possible, lessen the odds on another September 11th. Would you give us some notions of what you, if you were in our place, would recommend on that score?

MR. ARMITAGE: I think you've got a terribly heavy responsibility; the responsibility to be completely fair and honest without being seen as being partisan. It's hard. It's hard when this tragedy has built up over -- I think since 1989, frankly. It culminated in the attack on 2001. I'd like to give you the easy answer and say, oh, we've got to completely de-politicize the people who work in the organization, the counterterrorism field.

But that's the wrong answer, because you do need occasionally some new blood to come into the herd and to spur things up and make sure you're not drinking your own bath water; that you do things in a new way on occasion and that you don't just rely on the old tried-and-true tricks. So I don't know that I have any corner on wisdom. Clearly, we have to continue to look very closely at the CIA law enforcement and personal liberties of our citizens issues and weave our way through those very carefully, but very astutely. And it seems to me that's the first issue.

The second is I think the direction that Director Tenet has taken the Central Intelligence Agency has been extraordinarily noteworthy, but some of us were around at a time when the agency was frightened away from doing the dirty, hard and dangerous work that needs to be done to secure our nation. And I think to the extent that you can make covert actions more acceptable and more understood more broadly, then you'll be doing the Lord's work.

MR. THOMPSON: Would it cheer you to know that in the more than a year that this commission has been in operation, we've never taken a partisan vote?

MR. ARMITAGE: I'm not surprised.

MR. THOMPSON: Have you read this book?

MR. ARMITAGE: I'm the only honest person in Washington.

MR. THOMPSON: (Laughs.)

MR. ARMITAGE: I gave it the Washington read.

MR. THOMPSON: You looked in the index to see if your name was in it.

MR. ARMITAGE: And then what was said about me. (Laughter.)

MR. THOMPSON: I think I ought to quit there, Mr. Chairman.

MR. KEAN: Okay. I've got a brief question, Mr. Secretary.

MR. ARMITAGE: Yes, sir?

MR. KEAN: We've had a response coming out of, I guess -- I don't know if they came out of the Congress, previous administrations, but the policy generally is that we expect the world really to live up to our values, particularly in areas like human rights; and when they don't, we have certain sanctions. And we do the same thing if somebody is proliferating a nuclear -- people who do things that we think are bad and don't like; we have various sanctions that we impose. But every time we impose a sanction -- (inaudible) -- you had with Pakistan on this one -- every time we impose a sanction, we lessen our contact or our leverage on that particular society or that particular country. So as they have less and less contacts and leverage from us, they've, of necessity, turned sometimes to our enemies, sometimes other places. And it almost seems to be counterproductive.

Now, I understand the reasons for the policy. But in this new world we live in -- in a world where terrorism is the enemy, and particularly Islamic terrorism -- is this always the best policy to pursue, to sort of isolate these countries who are doing things that we don't approve of internally?

MR. ARMITAGE: No executive branch witness of any political stripe will ever argue for sanctions or for anything that in any way inhibits the power of the only nationally elected leader. You can just take that as a given. And I'm -- (chuckles) -- right on board with that.

There has to be a way to show -- it has to be discipline, in any administration, to be able to show our displeasure and to ourselves withhold assistance or stop trips, all these millions of things that go -- short of sanctions. But bureaucracies do go on, and they kind of run on their own steam, and left to their own devices, no bureaucracy is going to say, "Oh, no, you can't cut my assistance to Pakistan," you know, “voluntarily.”

By the same token, members of Congress get extraordinarily frustrated with some of the same old State Department and other witnesses coming up, saying the same old things. And they want to feel good, and they want to do something, so they put sanctions on. And when they do that, we argue as strenuously as we can to please give us the flexibility, the presidential waiver flexibility, et cetera, sometimes with effect and sometimes to no effect.

But I think it's generally accepted now that engagement is better than non-engagement, except in the most abhorrent countries.

MR. KEAN: Commissioner Gorelick?

JAMIE S. GORELICK: Thank you, Mr. Chairman. And thank you, Secretary Armitage, for returning to us as a witness in your own right and also for Dr. Rice.

MR. ARMITAGE: Thank you.

MS. GORELICK: You are a wonderful public servant, and we appreciate your service. And you may be the last honest person, although we didn't ask the other witnesses if they looked at the index.

You're in a difficult position for the questions I have, because I have been troubled personally by what I feel are hyperbolic statements by National Security Adviser Rice about the matters that we have under discussion, statements that she's made in the press but not to us here publicly, where we can discuss them with her.

I'm not going to ask you rhetorical questions. I'm going to ask you questions I do think that you can answer.

The first is this. We seem to have a consensus of every Cabinet officer of the two administrations that we've had before us in two days of questioning that -- A, that you could not have invaded Pakistan -- I'm sorry; it's late in the day -- that one could not have invaded Afghanistan prior to 9/11. And that -- your boss testified to that. And do you agree with that?

MR. ARMITAGE: Well, yeah, there was no way to get there without overflight. I think we could have put troops in Afghanistan. We wouldn't have been able to support them. So I certainly agree with it.

MS. GORELICK: But you couldn't have gotten congressional approval?

MR. ARMITAGE: I'm more inclined to Senator (Kerrey's view on that. I was one of these who -- in the late '80s, when we had a lot of trouble in the Persian Gulf, the U.S. Senate was entirely opposed to an Operation Earnest Will, where we wanted to actually escort ships that were getting attacked by the Iranians.

And the President and his team showed the leadership and got it done. And I generally think that the executive branch, when they put the point on the spear, can get things done.

MS. GORELICK: Well, let's explore that some. Secretary Rumsfeld, I think in a very persuasive statement, when asked about what could have been done with regard to the *Cole*, said that he advised the President that the only response that he could make that would be effective would be to put people on the ground, boots on the ground.

Do you agree with that?

MR. ARMITAGE: I think given what we've heard over the last two days about lack of targets or targetable intelligence -- whatever Senator Gorton was saying -- yes, I would.

MS. GORELICK: Now, you all in the Deputies Committee, and ultimately the Principals Committee, worked for seven-plus months on NSPD 9.

MR. ARMITAGE: That's right.

MS. GORELICK: As we've been talking about, that's the policy that went to the principals on September the 4th of '01.

MR. ARMITAGE: Right.

MS. GORELICK: And as we see it, it had three elements. The first stage was warning the Taliban in no uncertain terms. The second stage was pressuring the Taliban -- diplomatic pressure, other pressures on the Taliban. And the third was trying to figure out a way to oust the Taliban, but not with our boots on the ground, with somebody else's boots on the ground, and then maybe -- and then have some contingency planning, although as Dick Clarke said, that was part of the usual process to have contingency plans in the wings.

You just said that you might have suggested -- and maybe I -- I don't want to put words in your mouth -- that the President could have, should have advocated to Congress and to policymakers putting boots on the ground. I don't see any boots on the ground in NSPD 9. Is that correct?

MR. ARMITAGE: Well, first, it's not necessarily correct that I would advocate putting boots on the ground.

MS. GORELICK: Oh, I didn't mean to put words in your mouth.

MR. ARMITAGE: No, but it's an important point. As far as this citizen is concerned, the decision to commit men and women, who are also sons and daughters, to combat is an extraordinarily important one, and not to be done to just feel good; to be done to absolutely accomplish a mission. Now, sometimes I'm accused of being, you know, a foot-dragger, not wanting to go along on the use of force. But I'm sorry, that's my view.

Having said that, the Taliban -- there were a lot of reasons we were handling them somewhat gently.

Some of our citizens were still there. Some of OUR NGOs were the only thing keeping some segments of the Afghan population alive, through feed programs and things of that nature. So you don't want to throw the baby out with the bath water, generally.

And so, it -- the question with the Taliban is a tough one. There was no question about -- I think in anybody's mind about the desirability of putting soldiers on the ground if we could catch or capture or kill bin Ladin, but as a discreet element.

MS. GORELICK: That would be more -- right. Not a -- I'm talking about an invasion of the sort that we did post-9/11. And there is nothing in that -- in the NSPD 9 that came out of September 4th that we could find that had an invasion plan, a military plan. And even that plan, Deputy National Security Adviser Hadley said, was contemplated to take three years.

MR. ARMITAGE: Right.

MS. GORELICK: So I would ask you whether it is true that -- whether it is true, as Dr. Rice said in the Washington Post, "Our plan called for military options to attack al Qaeda and Taliban leadership, ground forces and other targets, taking the fight to the enemy where he lived." Was that part of the plan as -- prior to 9/11?

MR. ARMITAGE: No, I think that was amended after the horror of 9/11.

MS. GORELICK: Pardon me?

MR. KEAN: Your time.

MS. GORELICK: Oh, I see my -- I see my time is up. I have more questions to which I would like to return, if I might.

MR. HAMILTON: Commissioner Lehman.

MR. LEHMAN: Thank you.

Mr. Secretary, I think it's particularly appropriate that you're here as wrap-up witness along with Dick Clarke, because you and Dick more or less started in the counterterrorism business at about the same time ---

MR. ARMITAGE: Actually, I was before him. (Laughs.)

MR. LEHMAN: Sorry -- as particularly -- as boots on the ground. But I'd like to get your perspective on the long view, specifically back to a trauma that you and I both lived through in the Pentagon in '83, when our Marines were killed in the terrorist suicide attack in Beirut. And it's particularly apropos to this -- to our mission, because Osama bin Ladin has cited that as a seminal event in his awakening to the vulnerability of the U.S. And it also illustrates, particularly since in the last year, as a result of a trial, some of the most sensitive classified documents have become declassified, it illustrates some of the deep dysfunctions in our government, particularly in the handling of intelligence and in making of decisions based on intelligence.

And as you'll recall, we did not retaliate even though, we now know, that there was an intercept directly of the Iranian government ordering the assassination of our Marines. And that was in the hands of a few, although not all, policymakers. And as a result, even though the President wanted a retaliation, no retaliation was ever ordered for that.

And Osama is our authority to say that the fact that there was no retaliation and it was followed by the withdrawal of the United States from Lebanon, exactly what the purpose of the attack was to achieve, laid the groundwork for a tide of subsequent terrorist acts.

There were repetitive and growing instances of terrorism over the years. There were a few instances of retaliation. I would have to say they were episodic. The Tripoli bombing was one. But I'd really like to have you share with us your overall perspective of both the effects of immediate retaliation -- like we did not do in '83, we did not do for the *Cole*, we did not do in the '93 World Trade Center, we did not do after '98 -- and also the reasons why we didn't that seem to run through so many of them, which is stovepiping and lack of full picture, and always voices saying, well, we don't yet have a full picture; there may be Lebanese civilians in the target area; or, we don't know whether the *Cole* was really -- whether they were al Qaeda.

MR. ARMITAGE: Yes, sir.

As you, I was personally affected by that tragedy, those Marines and Navy corpsmen who were killed.

And I remember a discussion with you when you and I were on the same page. We wanted to put a cruise missile in the window of the Iranian ambassador in Damascus. Is that not a quote that you --

MR. LEHMAN: That is correct.

MR. ARMITAGE: -- and we thought it would be very salutary.

MR. LEHMAN: Had them all in New Jersey.

MR. ARMITAGE: However, the Beirut bombing -- I think the reason we were very slow and did not retaliate had to do more with the huge policy differences about why we were there. Remember the mission of the Marine Corps there? You argued against it. It was called presence. We didn't know what presence was. And slowly, over time, we became a factor in someone else's civil war and we were seen as taking sides, and boom, we got hit. That's exactly what happened. So I think each episode is a little bit sui generis.

Now on the question of Hezbollah, who did that, I don't think that we knew -- why, we didn't know then what we know now about the worldwide nature of these guys. I've called them the real A-team of terrorism because they are global and they can reach out when they're ready. We have to make sure we understand what we're getting into. And I would have said the Beirut bombing, though you and I were on the same side, I'm not sure we understood what we were getting into.

And I think each of these other things are sui generis. The decision of Mr. Clinton to knock out the intelligence headquarters was great. Our decision in '86 to bounce Tripoli around a little bit, and we almost got the colonel. And that would have been a fine thing, but you remember the discussion we had in the U.S. Congress at the time? Big debate about whether we were trying to assassinate somebody. And we won that debate because he was the military commander and this was a military retaliation, so it wasn't a violation of 12333, the executive order. But these are the kind of things that, in that day, we'd argue about. Because of the horror of 9/11 it's been pretty much swept aside. I think we're in a new day from the fights that we used to have, not with each other but in general.

MR. LEHMAN: (Chuckles.) Thank you.

MR. KEAN: Congressman Roemer.

MR. ROEMER: Thank you.

I just have one question --

MR. ARMITAGE: Yes, sir.

MR. ROEMER: -- for the secretary, and I will yield the rest of my time to Commissioner Gorelick, who has some more questions.

I join in thanking the Commission -- or thanking you from the Commission, Mr. Secretary. In my 16 years as a member of Congress and as a staff member up on Capitol Hill, your reputation is one for directness, for honesty, refreshing comments to people, dedication to public service, and I appreciate you being here and appreciate the tough role that you're serving in in serving our country.

That doesn't mean to say that I wouldn't like to have Dr. Rice here to continue the good dialogue that she gave us in private in public. And if the Administration has this compelling and convincing story that I think the American people should hear, it shouldn't be in the privacy of a SCIF *[Secure Compartmented Information Facility]*. It should be out in public because we do have some disagreements, from what Mr. Clarke said today.

And Mr. Clarke and Dr. Rice had some of these conversations. So it would be helpful -- I would really hope that the Administration might reconsider their decision because Dr. Rice

is such an articulate and compelling person, as you are, to tell the story --

MR. ARMITAGE: Much less articulate and much less compelling! (Laughter.)

MR. ROEMER: Actually, very refreshing and very direct. And that's how Mr. Clarke I think has a reputation for being direct -- trying to get things done.

One of the things that you said in your private interview to the 9/11 Commission staff was that you're not a patient guy, you like to get things moving along. You said that the deputies process has not worked, quote, "speedily before or since 9/11." Unquote.

Can you expand on that a little bit?

MR. ARMITAGE: Yeah. I've long held the view, and it's well known in the Administration, as I said, we ought to have less meetings and be more crisp. I miss some things, but I'm fairly crisp.

I was impatient on this and other issues. But I think all of my colleagues wanted to get it exactly right. And I'll tell you from my point of view in the Department of State, and this is a factual point, it is not a partisan comment; I found a State Department, and Secretary Powell stepped into a State Department which for almost 12 years had been neglected in terms of management, in terms of budgets and everything else. And my impatience with a lot of these meetings had to do with the necessity of getting back to try to do our part, along with our colleagues in the Department of State, to resuscitate that place and make it something that would make you and the members of our public at large proud of what they did. That's where my impatience came from.

MR. ROEMER: Well I appreciate and respect that desire to try to get things done in Washington, D.C., Mr. Secretary.

And as Mr. Clarke said today, in about the spring of 2001 he became very frustrated with this process that you said was moving too slowly.

And in an interview on TV with Lisa Myers, Dr. Rice said this, and I quote, "We were then able to really, on an accelerated basis, over the next 230 days to put in place a

policy that was more robust, that really did envision a fairly dramatic restructuring of our diplomatic initiatives, that put real funding behind the intelligence." And she went on.

Now, let's just have a legitimate discussion about was there real funding for that? People have said no, there was not real funding behind that.

Was it an accelerated basis? No. Some people wanted that process to move much more quickly. How can we get it done better in the future?

So that's the only point I'm making. I'd yield the rest of my time to Commissioner Gorelick. (Laughter.)

MR. ARMITAGE: Commissioner, do you want me to --

MR. ROEMER: You have 30 seconds, I think, Commissioner Gorelick. (Laughter.)

MR. ARMITAGE: Commissioner, do you want me to respond or --

MS. GORELICK: (Off mike.)

MR. ROEMER: I'm on a roll. No -- if you want to, Mr. Secretary.

MR. ARMITAGE: The definition of whether eight months was too long or not, each of you will have to come to your own conclusion on. I would suggest you need to bounce it against other such deliberations of those who came before, and probably people will be deliberating this long after. It's a relative thing, and it's relative to what. And as we look back, clearly, as I said earlier, in the Samuel Clemens -- that we were on the right track. We weren't going fast enough.

Now I'm -- as every witness up here has said is -- is -- I don't need these to look backwards.

MR. ROEMER: Thank you, sir.

MR. KEAN: Commissioner Ben-Veniste.

MR. BEN-VENISTE: I want to emphasize publicly what Commissioner Jim Thompson had said, and that is that this commission has never had a partisan vote. And I think the public needs to hear that, because there's a lot of interest in the

media and elsewhere in this town in trying to make this commission into some partisan operation. That's not the case. We have worked together now for a year, under extraordinary leadership from our chair and vice chair. And we may have differing opinions -- and we do, and we express those to each other -- but this has not been a partisan commission. And I believe that we will be able to satisfy the expectations of the public in doing our work in a nonpartisan way, in an objective and professional way, which will make for a credible final report that this commission will issue.

Let me ask two things. One, I thank you for your refreshing and direct answers and candor, Mr. Secretary. When you indicated that you looked through the index of Mr. Clarke's book, that sparked me to borrow Mr. Thompson's copy and take a look at page 30. And in that regard, there is a discussion of the immediate aftermath of 9/11, when the top leaders of our country assembled at Camp David with the President.

On that occasion, according to Mr. Clarke -- and, I guess, as previously reported by my friend Bob Woodward in his book -- there was a discussion of the possibility of an invasion of Iraq, utilizing 9/11 as the pretext for that invasion. According to Mr. Clarke's book, both you and Secretary Powell resisted any notion put forward by Secretary Rumsfeld or Deputy Secretary Wolfowitz that the events of 9/11 justified the invasion of Iraq. Could you comment on that?

MR. ARMITAGE: I was not at Camp David. I was off on another mission for the President, to go to Russia. My secretary was there. He spoke about his remembrance of what went on there.

There was no question in our mind that Afghanistan was where we had to go. Secretary Rumsfeld and Mr. Wolfowitz have their own views. I don't think it was unreasonable in the wake of this horror to speculate on how much of an interaction al Qaeda and others might have had with Iraq. But the President, as was reported to me by the secretary, listened carefully, made the decision to remove the others from the table, and concentrate on Afghanistan when he came down from Camp David that Monday.

MR. BEN-VENISTE: Putting aside the Camp David part of my question, is it correct that you discussed with Mr. Clarke in the aftermath of 9/11 the fact that the secretary of Defense and his deputy were advocating for a strike against Iraq?

MR. ARMITAGE: I don't recall that conversation; it's possible.

MR. BEN-VENISTE: Do you recall the event itself, that the secretary and the deputy were advocating for an invasion of Iraq?

MR. ARMITAGE: I was not at that -- I don't have that separate knowledge.

MR. BEN-VENISTE: No one told you about that.

MR. ARMITAGE: Oh, we've had the debates in this Administration about Iraq, about when and how to strike Iraq. But on the immediate aftermath of September 11th, I think everyone quickly fell in line. But the President had made his decision that's where we're going to spend our efforts.

MR. BEN-VENISTE: Well, prior to the decision being made, my question focuses on whether it was advocated for.

MR. ARMITAGE: You've read Mr. Woodward's book and you've talked to the secretary. He said that Mr. Wolfowitz had strong views, that he's not bashful, and I think the President welcomes all those views. But I was not there. I can read the book -- I mean, and just report that. But I -- I wasn't there.

MR. BEN-VENISTE: Finally, with respect to the *Cole*, in your interview with our staff you indicated that as of the transition the evidence was not yet presented to the White House that al Qaeda was responsible for the *Cole*. Is that correct?

MR. ARMITAGE: I recall the staff members who talked to me indicating there was -- what they felt was a very stunning piece of intelligence and asking me had I seen it, regarding the *Cole*. And I had not.

MR. BEN-VENISTE: In the "stunning piece of intelligence" --

MR. ARMITAGE: The implication to me was that this was sort of a smoking gun, but I had not seen it.

MR. BEN-VENISTE: That indicated that, in fact, while reasonable people may have had some doubt prior to this piece of intelligence being presented, that following the presentation of this piece of intelligence there was little doubt or no reasonable doubt --

MR. ARMITAGE: They did not show me the intelligence and I haven't seen it, so I don't know what they were talking about.

MR. BEN-VENISTE: Well, let's just then focus on your state of mind --

MR. KEAN: Last question --

MR. BEN-VENISTE: -- as of the transition. Was the FBI telling you, was the CIA telling you, the new Administration, that al Qaeda was responsible for the *Cole*?

MR. ARMITAGE: I did not have conversations with the FBI and had conversations with the CIA only after I got in. My conversations during the transition -- my transition into office -- were primarily with the counterterrorism staff. Secretary Powell had made it very clear to me that he felt this was a big problem and he wanted me to spend my time with the counterterrorism -- our counterterrorism people, learning what tools we had, what was available to us and how we could implement them.

MR. BEN-VENISTE: Well, when did you learn for the first time that al Qaeda was responsible for the *Cole*?

MR. ARMITAGE: I don't know the exact date. I think it's just like building coral -- came to the conclusion.

MR. BEN-VENISTE: Some time after March.

MR. ARMITAGE: Yes, that would be my recollection.

MR. BEN-VENISTE: Thank you, Mr. Chairman. And thank you, Mr. Secretary.

MR. KEAN: Senator Gorton?

MR. GORTON: Mr. Secretary, I want to go through a bit of our history with al Qaeda and our attempts to get at bin Ladin, and make a few statements and see whether or not you agree with them, disagree with them or want to supplement them.

I think we've pretty much found -- it's in our staff reports -- that the United States didn't recognize, begin to recognize, the seriousness of bin Ladin as more than a financier until essentially after he had left Sudan and had found refuge in Afghanistan.

Secondly, that very shortly after he got to Afghanistan, the Taliban seized control of a large part of the country.

Third, that while there were many diplomatic efforts in the Clinton administration, and perhaps -- and even some -- even one -- at least one last one in the Bush administration, through diplomacy to get the Taliban to give up bin Ladin, in retrospect, in this 20-20 hindsight, that was going to be absolutely impossible. As it turned out, the Taliban was willing to be destroyed before it would give up bin Ladin. But it would have been, for all practical purposes, impossible for anyone to have made -- come to that conclusion any earlier than it actually happened.

Fourth, that effective military action, either against al Qaeda or against the Taliban itself, required a large American presence that was impossible without the aid and assistance of Pakistan or Iran, which we weren't going to get, or Uzbekistan, because they're the only significant countries that border on it.

And fifth, that while some of the policies that were at least inchoate in the Bush administration were to change our policies toward Pakistan, it was actually only 9/11 that, in effect, gave us the ability to say you're with us or against us, and to require a really quick decision on the part of Pakistan to be on our side in what was now evidently a war as far as everyone in the world was concerned, and that you would have had a very difficult time in getting Pakistan to that point in the absence of a 9/11.

Is that an accurate statement of our history, in your view as --

MR. ARMITAGE: I think it is an accurate statement. If I can -- I don't want to advise (sic) and extend your remarks -- (chuckles) --

MR. GORTON: I think you should.

MR. ARMITAGE: -- or whatever you used to say.

MR. GORTON: I want you to.

MR. ARMITAGE: But on the question of Pakistan, we did give them a black and white choice, I mean no question about it, and gave them one day to think about it. But I don't think they could have even come to that decision if there hadn't had been some

preparatory diplomatic work by the President of the United States, who had communicated at least twice with President Musharraf, and the secretary of State who was also developing a relationship with him and his foreign minister at the time, Foreign Minister Sattar, as well as by others in our department who were traveling back and forth.

So the ability to say yes by Pakistan, I think, was to some degree -- and you can put whatever percentage on it you want -- a function of the diplomacy and the credibility that the President and his Administration had shown to the Pakistanis that we would stick with them this time. One of their major gripes was that we used them and pitched them as soon as the Soviet war was over, and they don't want to be a Dixie cup. And so I think that to a certain extent that seven or eight months of diplomacy that went into Pakistan made it easier for them to say yes without conditions.

MR. GORTON: And perhaps one other commentary. There was a very serious attempt -- Dick Clarke expressed his frustration sometimes when there was no action -- to find and eliminate Osama bin Ladin, more than al Qaeda as a whole, for an extended period of time. And in retrospect, I take it that's been a lot more difficult task. We haven't been able to find bin Ladin at this point after two-years-plus in Afghanistan on the ground, and so I suppose it's probably accurate to say that the chances of finding him with a cruise missile or with any of the less invasive ways than we actually engaged in was going to be extraordinarily difficult, if not impossible?

MR. ARMITAGE: Yes, sir.

MR. GORTON: Thank you.

MR. ARMITAGE: I agree with that.

MR. KEAN: Commissioner Gorelick.

MR. GORTON: Thank you.

MS. GORELICK: Mr. Secretary, I have just a few additional questions. You indicated that in the NSPD 9 that was the subject of the September 4th meeting, that there was a strong mention of the *Cole* in it. I think that's what you said; I don't mean to put words in your mouth if that's not what you said. But in any event, there was no response to the *Cole* in it.

MR. ARMITAGE: No. The response came after the 9/11, and it was wrapped in our activities in NSPD 9 after 9/11, which the President finally signed, wrapped in. So I might have misspoken on this.

MS. GORELICK: Well, I think you were trying to say -- well, let's not have me talk about what you were trying to say. But as of September --

MR. ARMITAGE: (Laughs.) I need the help.

MS. GORELICK: (Laughs.) You need help? We all need help. It's very late in the day.

As of September 4th, the steps contemplated -- warning the Taliban, pressuring the Taliban, et cetera -- were not -- there was no military or other forceful response to the *Cole* in that as of September 4th. Is that correct?

MR. ARMITAGE: There were contingency plans, but they're not specific to the *Cole*.

MS. GORELICK: Or -- and they were way down the line. They got -- they got --

MR. ARMITAGE: Truncated.

MS. GORELICK: -- the third stage got -- became the first stage after 9/11, but they were not the first stage as contemplated on September 4th.

In addition to -- and I don't mean to seem fixated on this, but it just -- it kind of sticks in my craw. In addition to saying in the Washington Post and to Russert and other news shows that this -- the policy that was being developed in the spring, marshaled military might against al Qaeda and the Taliban, which it did not do, Dr. Rice also says that because 16 of the 19 hijackers were here as of June 2001 nothing that could have been done that spring would have made a difference, the hijackers almost certainly, she says, would have carried out their plan. I would note that of the four -- that 18 of the 19, including three of the four pilots, came to this country after April. So it depends on what date you choose, and others came -- the three of the four pilots came in after June. So while it is true that I have said why didn't you meet -- why didn't you -- why didn't you act on these urgent matters while you were doing the policy, I'm not somebody who loves meetings for meetings. My question is,

wasn't -- in retrospect, don't you think that there were actions you could have taken prior to 9/11 on an urgent basis to try to address the very high level of threat that you were seeing?

MR. ARMITAGE: Well, given all that we know now, anyone who wouldn't say yes would be wrong. So obviously, the answer has to be yes. We've found out these characters were down in San Diego. If we'd have known about that, that would have done something. You heard Mr. Clarke earlier say he hoped he could have connected all the dots, had he known all those things. But we didn't. And so, that's where we are, and the chips will fall where they may.

On the question of meetings, I don't think that the significance of the director's meeting with the President almost every day, personally directly, and the principals having a phone call every day in which they discussed not only intelligence, but any impending policy issues, that that is a new way of doing business. Now, you'll say, oh, the telephone calls, everyone makes calls. Not in a consistent way with the purpose of talking about what went on, or what's on that day, or the intelligence they've all just read because they had the CIA briefers in.

So I don't want to -- I'm not going to quarrel with you -- (chuckles) -- on the question of meetings at all, but meetings alone don't accomplish much. There were a lot of things that went on in this Administration in the beginning that had been -- weren't the fault of the Clinton administration. They weren't the fault of any specific administration. But a lot had atrophied and a lot of old- think was still around. It had been around from successive generations -- successive administrations, and all of that had to be cleared out.

MR. LEHMAN: Just a correction for the record. I believe that all of the pilots were in the country by the 1st of January and all of the muscle by June.

MS. GORELICK: No, they went in -- three of them went out and came back in in the spring.

MR. KEAN: All right, with that, we'll --

MS. GORELICK: They came back -- I mean, we have that -- we have that -- we --

MR. LEHMAN: They had arrived. Some went in and out, but they were --

MS. GORELICK: They came back again was the point I was --

MR. LEHMAN: They were coming in and out.

MS. GORELICK: -- was trying to -- what I was trying to make, and the record is what it is.

Again, I very much appreciate your testimony. You are not Condi Rice, but you have been very helpful to us nevertheless. Thank you.

MR. KEAN: Mr. Secretary, thank you very much. We hope we can ask you perhaps some more questions for the record as time goes on before we finish. I thank you and all those who have testified before us today and the public who's taken the trouble to attend.

This now concludes our hearing. We will hold our next hearing in Washington, D.C. April 13th and 14th, when the Commission will focus on law enforcement and the issue of intelligence. (Sounds gavel.) Adjourned.

END.

PRESS CONFERENCE FOLLOWING HEARINGS DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C.
5:15 P.M. EST, WEDNESDAY, MARCH 24, 2004

AL FELZENBERG (deputy for communications): A couple of ground rules before we start. I'm Al Felzenberg. I'm the deputy for communications for at the 9/11 Commission.

Governor Kean and Congressman Hamilton will make a brief opening statement, and then when they finish, what I'd like to do is when I call on you, would you please give your name and your affiliation. And try to talk loudly because you don't have mikes. These acoustics are better than we had last time, but they're not good.

So with that, I'll turn it over to Governor Kean and Congressman Hamilton. I thank you all for staying with us for two days.

MR. KEAN: Yeah, thank you. It's been a long two days.

We want to begin our remarks with these three observations, and then we'll make some comments about what we've learned in the just concluded hearings.

First, we'd both like to commend our fellow commissioners for their questions, for their strong participation in the hearings. We've had a civil discussion on some grave questions and some of the most difficult questions that a government can possibly face.

Second, we will observe that there really aren't as many disagreements as we might have expected on the facts. There is substantial agreement among participants about what did occur and did not occur with respect to the key elements of policy on 9/11.

Third, we would observe that we and our fellow commissioners have experienced considerable frustration these past two days. We keep wrestling with the question: What could have been done and what should have been done at some stage or other over the past eight years to prevent 9/11?

And this leads to a discussion of what we have learned in these hearings. We've learned of systematic failure. There was poor communication between law enforcement and intelligence, and there was poor communication within the FBI. These points were made to us by National Security Adviser Berger, the director of Central Intelligence, and Richard Clarke. DCI Tenet told us, "We raced from threat to threat to threat.

There was not a system in place to close the seams. We did not develop a systematic approach."

We learned of the DCI's perspective and the special authorities the President provided him. He stressed the importance of foreign intelligence collection. He stressed that better intelligence led to the development of better capabilities, and that better capabilities preceded asking for new authorities. National Security Advisor Berger told us he would have recommended favorably that the President approve any request for additional authorities.

MR. HAMILTON: Thank you, Chairman.

We learned that policymakers were reluctant to use force. They wanted strong evidence and clear judgments about responsibility before recommending the use of force in response to attacks on American interests.

We learned that the military briefed policymakers on military options and the risks of military operations.

We learned that senior officials, both civilian and military, were prepared to proceed with the use of force when the intelligence was good enough, when they thought the intelligence was actionable.

We learned that the departments of State and Defense in two administrations took many actions to address terrorism. The list of actions is long and detailed. We are also left with the impression that the national security priorities of both administrations were to a large extent focused elsewhere.

We do not want overstate the criticism. As Secretary Albright reminds us, it is hard to remember how the world looked before 9/11, because it changed so much because of 9/11.

Every administration faces terrible choices about how it allocates its limited time and resources. Every decision is revisited in the light of what happened afterword. We heard strong arguments about why more could not have been done. An invasion of Afghanistan was inconceivable; cruise missile strikes were too hard. There was one thing we did not hear: no one offered a pre-9/11 strategy to win.

We learned that policies to persuade the Taliban to give up bin Ladin failed. We, as a nation, learned too late that Mullah Omar would rather surrender his country than surrender bin Ladin.

We learned that the United States had many important priorities in its priorities toward Pakistan. The clarity of a single policy choice for Pakistan -- you're with us or against us in the war against terrorism -- did not emerge until after 9/11.

We learned that Saudi Arabia was an important player in diplomatic efforts to force the Taliban to surrender bin Ladin, but its cooperation on intelligence-sharing and tracking finances before 9/11 fell short.

We learned that senior officials in both administrations do not believe Congress or the American public would have supported large- scale military operations in Afghanistan before 9/11.

We thank each of our witnesses, past and present officials, for their testimony yesterday and today. They have advanced our understanding of the choices policymakers faced and the choices they made.

Thank you, and the governor and I are prepared to respond to questions.

MR. FELZENBERG: Okay. When I call on you, will you please give your name and affiliation and try to speak up? The gentleman up here. Thank you.

Q I'm Lance Gay with Scripps-Howard Newspapers. Within the next year or so, Congress is going to plan to take up the issue of reauthorizing the PATRIOT Act, which includes the right of the CIA to get material out of grand jury indictments. Could you ask both of you, in light of what you've discovered from this experience, do you think that that provision has merits or doesn't have merits? And your commission doesn't get into the other civil rights issues, the privacy issues other people are raising about this, but if you can just comment on what Congress should do with that --

MR. HAMILTON: I don't pretend to be expert on the PATRIOT Act. I think all of us are concerned about taking steps that might be harmful to civil liberties, and we certainly will be reviewing carefully the PATRIOT Act.

I do think there is one element of the PATRIOT Act that we find beneficial to policy, and that is that part of it which reduces the stovepiping, the fact that you don't -- did not have prior to 9/11 the connecting of the dots, the flow of information among agencies, and even within agencies. I am not enough of an expert in the PATRIOT Act to be able to point you to the provision that deals with that, but we had several witnesses comment that the PATRIOT Act was responsible for breaking down those barriers.

MR. KEAN: Yeah, we also had -- and I'm not an expert on the act, either, and obviously it'll be part of our recommendations when the whole commission discusses it, but we did have witness after witness tell us that the PATRIOT Act has been very, very helpful, and if the PATRIOT Act, or portions of it, had been in place before 9/11, that would have been very helpful. So what we've got to do is look at the whole act and recognize the fact that there may be pieces of it that need revision at this point, and -- but that hopefully nobody will throw out the baby with the bath water.

MR. FELZENBERG: Ms. Zakaria? Yeah.

Q After all that you've heard --

MR. FELZENBERG: Could you tell them your affiliation, please?

Q Oh, sorry. Toby Zakaria with Reuters. After all that you've heard in these last two days, do you believe that 9/11 could have been prevented?

MR. KEAN: Well, I've gotten in trouble for this before. (Laughs, laughter.) It'll be, obviously, some of the conclusions of our report; I've always said yes. But I believed that when we started. So it's not -- to me it's not a new belief, and it's not blaming anybody.

It's just a whole series of events that I think, had they gone differently in one way or another, it might not have occurred.

MR. FELZENBERG: David.

Q David Corn from The Nation. At the end of today's hearings, some of the family members were quite upset. They walked out when Armitage was speaking, but they also called for the resignation of the executive director, Philip Zelikow, over there, citing his involvement in the transition briefings and his relationships -- working relationship with Condoleezza Rice and noting that a lot of the issues that you have or some of the conflict that you have involved the Presidential Daily Briefs, Condoleezza Rice's appearances here, what happened in that transition period. What do you say to the family members who now believe that the Commission is not being run by someone who they have full faith and confidence in?

MR. KEAN: Simply that we don't agree with them. I have full confidence in our executive director. If you had seen the candidates who appeared before us for the position, he was by far the most qualified. I don't have any question about his integrity. He's taken the same recusals as members of the Commission and other members of the staff. There is nothing that's come out in the last month or so that -- or more -- that we didn't know already as commissioners, and so nothing has come out that has changed our opinion. He will not participate in those areas of the work that were part of the transition.

Q Do you see any appearance issue when -- you know, without challenging his qualifications or even his integrity, that people -- these are very contentious issues, and the fellow in charge of the Commission is in some ways a participant and in some ways close to key participants.

MR. HAMILTON: I must say I don't know that I have heard from the families specifically what they mean by conflict of interest and why there is a conflict of interest beyond the fact that he was a part of the transition team.

Now, as you'll recall, in the Bush administration the transition was a very abbreviated period of time because of the Florida controversy, so Mr. Zelikow worked on that transition team for a very short period. We apply the same rules to him as we apply to the Commissioners, and that is, they recuse themselves from those matters in which they were directly involved, and he has done that.

I would reinforce what the chairman has said. I've worked now with Phil Zelikow for about a year and three or four months. I'm not of the same political party that he is. I have found him extremely competent, very knowledgeable. I have never once found him, I think, in any way pulling his punches with regard to this investigation. Indeed, my experience with him has been the opposite, that he has been very aggressive in trying to fulfill the mandate of the Commission.

So I share the chairman's confidence in him. We've got a very talented staff. It's a very diverse staff. It is not an easy staff to lead, for a variety of reasons, and I think he's done a very, very good job.

MR. FELZENBERG: The lady up here, please.

Q Anne Hoy with Newsday. The Democrats on the Commission seem to stress one line of questioning and the Republicans another. Is the Commission too divided along partisan lines, and would that in any way affect the way you're going to write the report?

MR. KEAN: No, I don't believe so. Every now and then there's a question or two from somebody that may cross the line a bit and be seen as partisan.

But if you take the fact that, you know, we're in an election year in this town, which is -- this town is more divided than I've ever seen it; it's an awful atmosphere. I'm getting on a train shortly, and I'll be very happy. (Laughter.) But in that atmosphere -- we've now been working a year; we've had some very contentious issues -- there's never been a vote on the Commission where five Republicans have opposed five Democrats. We've had differences, but they've been across party line, not on party lines. And I believe, you know, these are 10 Americans that want

to a job together, and I know all of us have talked, and we're going to do our very best to get a unanimous report. I mean, whether we'll be able to achieve that, I don't know, but I suspect if we're not able to achieve it, it may not be on partisan ground. It may be because some of us just have very strong feelings on how things are going to be worded or issues are going to be handled.

But I believe that -- as I say, well, it's very hard, and occasionally a bit of partisanship breaks out, but I think that overall, this is a commission that is -- this is a commission who's struggling to be nonpartisan or bipartisan at a very difficult time in this country's history.

MR. HAMILTON: I might just say that I think your question and your observation is a correct one. We certainly did have in the last two days some questions and comments that had more of a partisan tinge to them than they -- we've had in the past. But just keep in mind when this hearing occurred. I mean -- (laughs) -- it occurred right at the point of Dick Clarke's book coming out. It occurred right after a weekend in which the partisan guns were firing at full blaze here. And this commission does not operate in a sterile vacuum. We're part of the process that goes on here in Washington.

So I can understand the question, but I fully agree with what the chairman has said. And I believe in the hearings that'll follow, you'll see a different tone and fewer partisan shots.

MR. KEAN: I might say, by the way, working with the Vice Chair is one of the real joys of this job, and I think since we've -- since we've been working together, I think we've had only one disagreement where we voted different ways, and at that point, he voted with the Republicans and I voted with the Democrats.

(Laughs.)

MR. FELZENBERG: Larry?

MR. HAMILTON: And only one instance when the chairman was wrong. (Laughter.)

MR. FELZENBERG: Larry, please.

Q Larry Arnold, Bloomberg News. Do you believe that the document that Mr. Clarke helped put together at the end of the

Clinton administration and was handed over to members of the Bush administration in that first week was a plan? The word clearly has become important as to whether a plan was handed over from one administration to the other.

MR. KEAN: I don't know. Again, how do you use the word "plan"? Obviously they had some strategies; whether it was a complete plan, I don't know. But I think everybody has their own definitions of that.

MR. HAMILTON: I must say, I don't have a precise recollection of what's in that document. I think I have seen it. But it does seem to me to be a very semantic kind of a problem, but I don't think I can comment directly on your question.

MR. FELZENBERG: The gentleman in the yellow tie back there.

Q David Goldin from the New York-1. Do you find that Mr. Clarke's book coming out this week may have been a distraction? And would the Commission and those of us watching the Commission and people at home reading about it and watching about it had been better off if this book had come out, say, even next week? (Laughter.)

MR. KEAN: Well, he moved the publication date on us, to the same date as the hearing. We couldn't do anything about that. But he -- and so here we were, and we handled it as best we could. Mr. Clarke's been very helpful to us over time. He gave us 15 hours of testimony in private. He's a pivotal figure. He said today, I guess, his change in tone from his private testimony to his public testimony was because of his very strong opposition to the war in Iraq, I guess -- the position on Iraq and what he felt that did to the war on terrorism. So that may have changed his position a bit.

But it's not anything we can do anything about, that timing of that book.

Q So was it appropriate for him to move the publication date?

MR. KEAN: I think his publisher must have thought it was very appropriate -- (laughter) -- and it's been very successful. (Laughs.) As somebody said in the Commission, would it were my book! (Laughs.)

MR. FELZENBERG: The gentleman in the back. Mr. Morris. In the back, yeah.

Q Vince Morris with the New York Post. There's a fair amount of testimony that suggests that Director Tenet was very cautious the last few years, maybe cautious to a fault. Do you agree with that?

MR. KEAN: I believe that -- and I accept what Director Tenet said, that -- while he says the CIA did not get gun-shy, I think -- and this is my personal opinion, it's not a commission opinion, but that the events of the '80s, early '90s, where the Congress, as he said -- or somebody else, I guess Armitage said, where really director after director, and operative after operative was called up and sort of reamed out by the United States Congress, or in some cases brought up on charges, really did have a dampening effect not only on what they felt they could do, but also on recruitment. I mean, he said it would take him -- what did he say, six -- five, six, seven years to rebuild the CIA from that period.

The CIA was not a very good thing to go into for a while. When I was in college, I think the guy who recruited for the CIA was the dean of the college. It was a very prestigious organization to go into. Some years later, the CIA was kicked off campus and most good colleges didn't even allow them to recruit on campus because of the kind of reputation they got after some of those hearings.

And so, yes, I think they were a little gun-shy -- my own opinion.

But secondly, there was some reason. And thirdly, it's a national tragedy that we lost a tremendous -- a generation of very good people who might have been into the -- gone into the CIA, might have had the language skills, might have had the expertise, and might have really been out there helping the country very dramatically at this point.

MR. HAMILTON: One of the things that impressed me in the two-day hearings was the fact that the policymakers, many of whom obviously have different parties and different views, the policy makers almost unanimously were very cautious in their -- in their use of force, in their approval of the use of force. While those of us who do not have the official responsibility of sending young men and women into battle were a little more enthusiastic about the use of force, I don't know that that's a bad thing. It's an awesome decision.

I've had to vote any number of times on sending young men and women into battle. And you may think it's a casual thing, but believe you me, it's not, because you know your vote, even though it may be a large margin or a small margin, is going to mean the end of somebody's life. So I think there's an awesome sense of responsibility that comes upon a policymaker when they make this decision. And it's very easy for those of us to look back and say, oh, my gosh, we should have used force there; it's now clear that if we'd have knocked out bin Ladin, we'd have saved ourselves a lot of trouble.

And I think Madeleine Albright said to -- said to someone, I guess you were right. I think she said that to Senator Kerrey. It's easy in retrospect to do this.

But believe me, I want public -- personally -- I'm expressing a personal opinion here -- I want public officials who look at this question of the use of force with very great care and who demand, as Director Tenet did, a second opinion or a second source, and who weigh carefully the consequences of the use of force. We cannot predict the consequences of force. And some good things happen as a result of it, but almost invariably some bad things happen as well.

So this came through to me as one of the important comments or the important themes, if you would, of the hearings.

MR. FELZENBERG: Shawn Waterman. Why don't we go over here.

Q Yes, Shawn Waterman from UPI. Just picking up on that point, sir, and without wishing to appear enthusiastic about the use of force, it seems from staff statements and the testimony over the last couple of days that there was at least one occasion on which a consideration other than actionable intelligence -- viz, the presence of members of the royal family of the United Arab Emirates -- might have been -- you know, might have impinged on the decision to use force. I'd like to hear your opinions about that.

And secondly, Congressman Hamilton, you said invasion was out of the question. You talked about cruise missile strikes. Missing from the list was the use of special forces. And I wondered whether you might have any initial reflections on the direction policy-wise you might be thinking in now that it's clear the Custer plan was there, that there was -- you know, that there may have been missed opportunities in that regard as well.

MR. HAMILTON: I'm not sure I can comment on the first one, because I don't feel like I know that much about the circumstances of it.

With regard to the second point, I think that you always want to have the capability of special forces available. It does give the policymaker an additional tool. And I think we've been moving in that direction now for some time, and I think it's been accelerated under Secretary Rumsfeld. Now, special forces can mean an awful lot of different things, but you want the capability that special forces can give. But even if you think of special forces as being 10 or 20 or 50 or several hundred people, you're still putting them into risks and you're still talking about killing people and you're still talking about the possibility of them being killed, and so it's a very serious matter.

MR. KEAN: Yeah. This is the choice, by the way, which fascinated me that Director Tenet was talking about we had. We were trying to use surrogates. I guess we didn't want to use special forces, so we were trying to get these -- some of these Afghan groups, who we knew because they had worked with the CIA I guess in the jihad against the Soviets, and use them as surrogates. And some of them went to change sides and some of them were taking money, and I guess we weren't quite sure who was who, and it's very, very difficult. So in some cases, you know, you make a decision: special force or no special forces, but when you try to use surrogates it's not always so successful.

MR. FELZENBERG: The gentleman in the back next to Mr. Kerrey up here. Okay.

Q Yes, hi. I'm Rich Dubrath from NBC News. After listening to the testimony for the past two days, are you accepting of Dr. Rice's reluctance to testify publicly?

MR. KEAN: Well, there's one thing -- the first thing about Dr. Rice is that she will answer all our questions, so there is not a question that we have today that she will not answer or a question we've had in the past that she won't answer.

Q Is that under oath?

MR. KEAN: The problem is that she has not done it in public.

We would like her to do it in public, and we'd like her to do it in public, frankly, because she's so good. I mean, in my own

personal opinion, she is one of the most able people that's currently serving in the government, and she was integral to the kind of story which we're investigating. So when we have a whole bunch of people testifying, and she doesn't come, there's a gap there. And what we heard in private, we would like to have the public hear also, not because there's anything to hide, but because there's stuff to learn.

And I think this Administration shot itself it in the foot by not letting her testify in public. I think she would have been a real asset, not only to the hearing, but an asset to this Administration, had she testified today.

MR. FELZENBERG: The gentleman over here. The red tie. Sorry.

Q Dick Stevenson with The New York Times. Mr. Clarke testified today that the Bush administration pre-9/11 brought less urgency to the job of confronting terrorism than had the Clinton administration. Does that, do you think, accurately capture your impression of what they did in those seven or eight months? And what do you make of what was or wasn't in NSPD 9 as of September 10th? And do you think that that adequately would have addressed the problem that we saw erupt on 9/11?

MR. KEAN: Well, that second part first -- I think it would have been -- it was too late, obviously, at that point. I mean, had it been done a couple years earlier, it might have.

But the first part -- we're going to have to sort that out as a commission.

I mean, we have very different degrees of testimony, from what we heard today from Mr. Clarke, to people who said, no, there was a heightened sense of interest in this Administration. And as a matter of fact, Mr. Tenet said "I was meeting every day with the President, which I wasn't in the last administration, giving him this stuff. And he was engaged, and he was actively working on it." And so, we've got a lot of -- we've got some conflicts here. And as a commission, we've just got to go over the various testimony, over all the various conflicts, and come out where we come out.

Q Can you give us a personal view on that at this point?

MR. KEAN: I do not -- I get in great trouble with fellow commissioners when I express too many personal views. So I'd

rather wait till we have a full discussion on the Commission, and --

MR. FELZENBERG: This gentleman in the first row here.

MR. HAMILTON: I -- I might just say --

Q Sorry.

MR. HAMILTON: I -- I'm sorry, go ahead.

Q No, go ahead, sir.

MR. HAMILTON: Well, on the question of where do you rank the terrorism in the list of national security threats, we had a lot of testimony from both administrations about how high they ranked it. And that's -- that's a question I have on my mind, frankly, and I don't pretend to have a conclusion at this point. And I think it's one of the key questions that the Commission will have to address.

I think it was Dick Clarke who said that the Bush administration looked at the counterterrorism policy as important but not urgent, if I recall his language.

And I remember thinking to myself, that's something we've really got to come to a conclusion on. This is the toughest problem of government, ranking of priorities. And it is one that it's very, very hard to pin a policymaker down on because it is so tough. And yet it's so critically important that they do it because you don't have resources to do everything and you don't have the time to do everything.

So that's a roundabout way of saying that that question is still very active in my mind.

MR. FELZENBERG: Why don't we take two more questions. One up here, the gentleman.

Q Brad Wright from CNN. Of the systemic failures that -- or of the poor systems that Director Tenet talked about in his testimony today, how many do you think are still in place, if the same thing were to happen over again?

MR. KEAN: Oh, that's a tough question and one I'm not sure I'm ready to answer. We're looking at those things and we're getting testimony from a number of areas on the various systems

that were in place on 9/11 and the changes that have been made, both the CIA, FBI, a number of other agencies. But I'm not sure I'm ready to make a conclusion at this point.

MR. HAMILTON: I don't have any doubt that the Administration officials are trying very hard to reduce the so-called systemic failures or the connecting-of-the-dots problem. And I basically found myself nodding in agreement as Dr. Tenet talked about the systemic failures. Now, the difficulty with this is it is such a huge task. The government receives at any given point in time literally hundreds of thousands if not millions of bytes of data.

And the problem is to get the right information to the right person at the right time. And a lot of that data comes to you in languages other than English.

So the director's correct I think. We have to see what can be done to improve the management, if you would, of an enormous amount of data, I mean, unbelievable amounts of data. You just cannot imagine unless you've seen it how much data we can produce in a matter of seconds in this -- with this technological capability that we have. And 99.999 percent of it is totally irrelevant and has nothing to do with what you're interested in. But whatever the percentage is left there -- (laughs) -- becomes absolutely crucial to you when it is connected -- maybe not by itself, but when it is connected to other bits of data. And so you've got to extract that, you've got to put it together, and you've got then to get it to the right person. It doesn't do you a bit of good if the President of the United States knows the information, and the commander in the field at the barracks, the Marine barracks in Lebanon did not have the information. I'm not suggesting that was the case there, but you see the illustration. If the commander doesn't have the information, it doesn't help you.

MR. FELZENBERG: Jason, did you have one back there?

Q I was just wondering -- Jason Ryan with ABC News. When do you intend to meet with President Bush and Vice President Cheney, and also with former presidents (sic) Clinton and Gore?

MR. KEAN: We haven't got the Bush-Cheney meetings on the schedule as yet. We've -- we're still hoping that he'll -- he will meet with the whole commission. The whole commission very much wants to meet with him. But at this point, it's the chairman and the vice chairman and a member of the staff. But we're still pushing on making our request.

MR. FELZENBERG: Alright. Thank you very much, gentlemen, ladies.

END.