

RPTS BULKLEY

DCMN MAYER

**JOINT INQUIRY BRIEFING BY STAFF ON  
U.S. GOVERNMENT COUNTERTERRORISM  
ORGANIZATIONS (BEFORE SEPTEMBER 11, 2001)  
AND ON THE EVOLUTION OF THE TERRORIST  
THREAT AND U.S. RESPONSE: 1986-2001**

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**Tuesday, June 11, 2002**

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United States Senate  
Select Committee on Intelligence  
And  
U.S. House of Representatives  
Permanent Select Committee on  
Intelligence  
Washington, D.C.

The Committees met, pursuant to notice, at 10:10 a.m., in Room S-407, The Capitol, the Honorable Bob Graham, Chairman of the Senate Select Committee on Intelligence, presiding.

Senate Select Committee on Intelligence Members Present: Senators Graham, Shelby, Levin, Rockefeller, Feinstein, Wyden, Durbin, Bayh, Edwards, Mikulski, Kyl, Inhofe, Hatch, Roberts, DeWine, and Thompson.

House Permanent Select Committee on Intelligence Members Present: Representatives Goss, Bereuter, Castle, Boehlert, Gibbons, LaHood, Hoekstra, Burr, Chambliss, Everett, Pelosi, Bishop, Harman, Roemer, Reyes, Boswell, and Cramer.

Senate Select Committee Staff Members Present: Alfred Cumming, Staff Director; William Duhnke, Minority Staff Director; Vicki Divoll, General Counsel; Kathleen McGhee, Chief Clerk; James Barnett, Randy Bookout, Steve Cash, Paula DeSutter, Pete Dorn, Melvin Dubee, Bob Filippone, Chris Ford, Lorenzo Goco, James Hensler, Andrew Johnson, Ken Johnson, Mary Pat Lawrence, Mark Magee, Ken Myers, Matt Pollard, Vera Redding, Linda Taylor, Jim Wolfe, and Randy DeValck, Majority Leader Designee.

House Permanent Select Committee on Intelligence Staff Members Present: Timothy R. Sample, Staff Director; Christopher Barton, Acting Chief Counsel; Michael W. Sheehy, Minority Counsel; Brant Bassett, Merrell Moorhead, Michael Ennis, James Lewis, L. Christine Healey, Carolyn Bartholomew, T. Kirk McConnell, Elizabeth Larson, Wyndee Parker, Bob Emmett, Marcel Lettre, William P. McFarland, and Brett O'Brien, Minority Leader's Designee.

Joint Inquiry Staff Members Present: David Barton, Daniel Byman, Rick Cinquegrana, Rahul Gupta, Eleanor Hill, Kay Holt, John Ivicic, Everette Jordan, Miles Kara, John Keefe, Dana Lesemann, Patti Litman, Arthur Menna, Lewis Moon, Alonzo Robertson, and Michael Smith.

CHAIRMAN GRAHAM: I will call the meeting to order.

This week we will have closed briefings in this room hosted by the Senate Select Committee on Intelligence. As is and will be our practice, Chairman Goss and I will be sharing the gavel on a week-by-week basis, and this week, with his concurrence and unless there is a pull of the members, it is my privilege to chair the proceeding.

Does the Vice Chairman have a motion?

SENATOR SHELBY: Mr. Chairman, pursuant to Rule 2-1 of the Rules of Procedure of the Senate Select Committee on Intelligence and as provided for in S.Res. 9 of the Senate, I hereby move that this meeting of the committee be closed to the public on the grounds that the national security of the United States might be compromised were a proceeding to become public.

CHAIRMAN GRAHAM: Is there a second?

There is a second.

Is there any objection?

Without objection, the motion is agreed to.

Chairman Goss.

CHAIRMAN GOSS: Mr. Chairman, I understand that since this is just a briefing, we don't have a vote and members will be guided by their leadership of the United States Senate in treating this as a closed matter.

MR. BOEHLERT: Second that.

SENATOR SHELBY: What does that mean?

CHAIRMAN GRAHAM: That means we don't legally need a vote.

I want to say that I believe we got off to a very good commencement last week with excellent staff presentations and excellent discussion. We also need the foundation for our future activities with the adoption of our scope of inquiry and the rules that will govern this investigation.

Today we will begin our examination of the development in the years prior to September 11, 2001, of the counterterrorism policy of the National Security Council. Our briefer is Mr. Richard Clarke, who served in the position of Coordinator of Counterterrorism for the NSC from 1993 until October of 2001. Mr. Clarke now works for the Executive Office of the President and Special Adviser to the President for Cyberspace Security.

We are using a briefing format today as requested at NSC because of the preference of the White House

not to have officials of the National Security Council testify before Congress. In using this format, however, we do not foreclose the possibility of receiving in a more formal manner information from NSC officials that we may determine is important to our inquiry. That is a bridge that we do not have to cross today.

Under our rules, we had -- we are committed to administer the oath to all witnesses. We will not be administering the oath to Mr. Clarke, because he is here in the position of a briefer rather than as a witness.

I want to extend my thanks to Mr. Clarke for coming today. We look forward to receiving your views, which are especially informed, and then responses to members' questions.

Chairman Goss, would you have any opening comments?

CHAIRMAN GOSS: No, sir. I would just join you in welcoming our guests today, who are going to assist us in our inquiry.

CHAIRMAN GRAHAM: Vice Chairman Shelby.

SENATOR SHELBY: I have no comments. I look forward to hearing from Mr. Clarke.

CHAIRMAN GRAHAM: Mr. Clarke, thank you again for your being with us today, and we look forward to hearing your comments.

**STATEMENT OF RICHARD A. CLARKE, SPECIAL ADVISER TO THE PRESIDENT FOR CYBERSPACE SECURITY, EXECUTIVE OFFICE OF THE PRESIDENT, ACCOMPANIED BY ROGER CRESSEY AND JOHN BELLINGER, NATIONAL SECURITY COUNCIL**

MR. CLARKE: Thank you, Mr. Chairman, Mr. Chairman, and members. Thank you for this opportunity to brief you today, and thank you for honoring the White House's request that it be in a briefing format.

My understanding is that you would like me to walk through the last 10 years, during which I have chaired the Interagency Counterterrorism Coordinating Committee, and I will be glad to do that. We have a PowerPoint briefing to do that for you. I will try to move through that rapidly, though, because I recognize your desire to get to the questions.

Let me first say, again, who I am and what I did. My name is Richard Clarke, and I was the chairman of the NSC Counterterrorism Committee from 1992 -- late in 1992, through October of 2002. Prior to that, in the Reagan administration, I was a Deputy Assistant Secretary of State for Intelligence in the Bureau of Intelligence at the State Department, in charge of analysis.

In the first Bush administration, I was the Assistant Secretary of State for Political Military Affairs.

I welcome this opportunity, because since September, I and others who worked on al-Qa'ida over the course of the last many years have had many long, sleepless nights wondering what more we could have done in preparation for today's briefing.

I watched last night again the videotapes of the attacks on the Pentagon and the World Trade Center. The seriousness of this matter could not be greater. We do need to learn what we did and reflect on it, and ask ourselves what more we should have done; and I welcome any contribution I may have to helping this committee answer those questions.

The overview I would like to give you before showing you the individual slides to walk you through the 10 years -- the overview is of a story of the CIA, the FBI, the State Department, the White House having an evolving awareness beginning almost 9 years ago of a problem related to someone named Usama bin Laden.

That awareness grows through the decade. By the mid-decade, in 1995, there were a cadre of people in those agencies who recognized that we were facing something different and something special, that a cancer had been let loose in the world and was spreading rapidly.

By 1998, that was well recognized, but still there was a cadre of people in CIA, FBI, the White House, Treasury, the State Department who believed it fervently and did as much as they could to stop it. That cadre of people grew from 1995 to 1998, but that cadre, a handful of people in each of those departments, had to fight their bureaucracies within their agencies; and if at the end of the day the question is, who did things the right way, I think there is a short list, and they are people in each of those departments who were fervent, obsessive, but who did run into bureaucratic resistance in each department, in each agency.

If we begin the chronology, I joined the NSC in 1992, became Chairman of the Counterterrorism Committee shortly thereafter. President Bush approved the first in his administration policies on terrorism. It was a narrow document looking only at the issue of whether or not we could snatch terrorists and others who the United States had warrants for.

The President laid down a procedure under which we could do snatches; that was NSD-77. Shortly thereafter, the administration ended, the Clinton administration came into office; and the furthest thing from the Clinton administration's mind in terms of their policy agenda was terrorism.

That changed within a month. Within a month, there had been two serious terrorist attacks in the United States, the first time in anyone's memory that foreign terrorists had come to the United States to commit attacks. The first was the attack on the CIA gatehouse in McLean, Virginia. The second was the bombing of the World Trade Center.

Those two coming so early in the administration were a wake-up call and a one-two punch that focused the administration on counterterrorism in a way that it had never intended to be focused.

Almost as rapidly as those two events unfolded, the FBI, working with CIA, uncovered and broke a conspiracy in New York to do another round of bombings against the tunnels and the United Nations; and at about the same time we discovered that there had been an attempt by the Iraqi Government to kill former President Bush in Kuwait. And after several months of joint FBI, CIA investigation and forensic analysis, we determined that we had enough proof; and we recommended military action, which President Clinton then carried out in early June. The first time that there had been a military use of force because of terrorism since 1986.

Over the 5 years following the World Trade Center bombing, the FBI and CIA worked carefully to find as many people as they knew were involved in the World Trade Center bombing to track them down wherever

they were, and they successfully did that, except for a gentleman who is still in jail in Baghdad. Other than that, they found all over the world the terrorists who were engaged in that bombing and brought them back to justice.

The leitmotif in this story for the first 5 or 6 years is also the growing willingness of the administration to fund counterterrorism activities. At the beginning of the administration, there was about a \$3 billion program across all agencies. By the end of the administration, that funding had quadrupled and included new programs against cyberterrorism and new programs to prepare against weapons of mass destruction terrorism in the United States.

It took 2 years for the Clinton administration to publish its first formal counterterrorism policy, PDD-39. That was the first counterterrorism policy the United States had in 8 years. It laid out a policy that was aggressive, that labeled agency responsibilities and, for the first time, discussed the need to do preemptive disruption and to do activities to prevent the acquisition of weapons of mass destruction by terrorist groups.

The effect of PDD-39 when it spoke about weapons of mass destruction was to lower the bar, lower the hurdle that the Intelligence Community had to present in order for the administration to react.

By 1995, the administration was focused again on terrorism, when Ramzi Ahmed Yousef, who had been the ring leader of the World Trade Center bombing, surfaced again in the Philippines in a plot to blow up 12 American airliners in the Pacific.

That same year sarin nerve gas was used in the Tokyo subway by the Aum Shinrikyo terrorist group, and the Oklahoma City bombing occurred. Those events again enforced terrorism onto the agenda, forced increases in funding and forced the expansion of the weapons of mass destruction preparedness program.

It was by 1995 that we began to realize that Usama bin Laden was a lot more than what he had been called earlier. He had been called earlier "terrorist financier." By 1995, it became clear to us that he was more than that. He was the leader of an organization, a network of networks; and we requested that the CIA establish a special program to follow, gather information, disrupt and prevent activities by al-Qa'ida.

1996, our attention shifted to Iranian terrorism. Tensions between Iran and the United States were at fever pitch. In the House of Representatives in Washington, there was open debate of a finding and funding for a finding to topple the Iranian regime. Iran responded with open debate in the majlis on a finding and funding for a finding to respond to American aggression. Iranian intelligence officers began to surveil

American facilities around the world, and it was clear to us from the intelligence that they planned to attack us.

And then they did. Iranian intelligence, working with Saudi Hezbollah, blew up the American Air Force facility at Khobar Towers in Saudi Arabia. The investigation of that by the FBI went on for several years, but it was clear, at least to us at the NSC, from the outset, that this was an attack by Iran, by Iranian-backed terrorists.

[REDACTED]

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At the same time, the CIA was working with FBI to identify and disrupt al-Qa'ida cells throughout the world -- "disrupt" means "arrest," if possible, have the host country arrest, or if there is any reason to bring them back to the United States, to arrest them and bring them back here. It also means to arrest them on behalf of a third country and bring them back to that country.

We had a very successful program [REDACTED] where we were able to identify al-Qa'ida members throughout the world and bring them back [REDACTED]

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By 1998, it became clear to the administration that terrorism was, if not the major foreign policy issue, certainly one of two or three at the top of the foreign policy agenda; and therefore a second Presidential policy directive was issued. It did not change policy, but it did create a management program that allowed us to have accountability. It had 10 programs, and for each program there were one or more lead agencies and a clear articulation of what those lead agencies should be doing. One of those ten programs was dealing with the potential foreign terrorist presence in the United States.

Also in 1998, Usama bin Laden was secretly indicted by a New York Federal grand jury. This allowed us,



for the first time, to think of snatch operations, snatching him in Afghanistan and bringing him back to the United States. CIA agents went to Afghanistan, worked with local Afghans in the CIA's employ and tried to arrange an opportunity to snatch him. They failed in that attempt -- those attempts, but nonetheless, they continued to work with the local Afghans to look for opportunities to snatch or attack bin Laden and his cadre.

After the East African embassy bombings later that year, the President authorized a new intelligence finding and memorandum of notification, which expanded the authorities of CIA to use lethal force going after bin Laden. That is one of a series of four Presidential authorizations in the next 3 years that gradually expanded the authority of CIA to use lethal operations to go after bin Laden and his lieutenants.

In effect, not my reading as a lawyer since I am not one, but in effect, those findings and memorandums of notification allowed the CIA to use lethal force by the directive or through surrogates and found that the use of lethal force was not inconsistent with the ban on assassinations in the executive order on intelligence operations.

At the same time, we began to step up pressure against the Taliban, informing them directly that we would hold them responsible for any further activity by al-Qa'ida.

At the end of 1999, we became aware, through CIA efforts, of a plot by al-Qa'ida to stage numerous simultaneous terrorist attacks in the United States and overseas on or about the millennium rollover date. A massive FBI and CIA operation was put in place that lasted for about a month. It was worldwide. It disrupted cells. It arrested people here and abroad. And it successfully stopped terrorist attacks during the millennium period.

But having the entire principals committee, the Cabinet members, spend a full day every month down in the weeds of license plate numbers and descriptions of vehicles, worrying about stopping terrorist attacks, caused the principals, the Cabinet members, to ask us after the millennium to do a review, a lessons-learned, an after-action report.

That after-action report concluded that we needed significantly to step up FBI and other Federal law enforcement activities in the United States in order to find, to root out and to prevent al-Qa'ida sleeper cells in the United States. The Senate Intelligence Committee asked me to brief on the results of that after-action review, and I briefed Senator Shelby and others in February of 2000. A copy of that briefing has been provided today for you.

At about the same time, we contemplated additional military strikes against Afghanistan on three occasions. We had missiles ready to launch against facilities in which we believed bin Laden to be at the time. The decision was made by the CIA Director -- on the recommendation of the CIA Director not to launch those attacks, because the intelligence was not of sufficient quality to ensure that bin Laden would have been there.

In retrospect, we now know that on only one of those three occasions was the intelligence correct. On the other two occasions, we would have been attacking facilities that were al-Qa'ida, but bin Laden would not have been present.

That caused us to look for another way of finding bin Laden, and we asked the community management staff and the JCS J-3 to look at finding a second source of information about where bin Laden was, so that when we had intelligence information from HUMINT sources that he was at a particular location, we could confirm it.

And by October of 2000, we had the Predator flying over Afghanistan. We flew 11 missions before the weather prevented further operations for the winter, and on those 11 missions we found bin Laden either twice or three times, definitively twice, potentially a third time.

In October of 2000, the USS Cole was attacked in Yemen. The CIA and FBI did not conclude in the remaining months of the Clinton administration that bin Laden and al-Qa'ida was culpable for that attack. However, it seemed clear to us at the time that he was.

In 2001, the Bush administration, immediately upon coming into office, asked for a review of how we were organized on terrorism, on homeland security and on cybersecurity. The recommendation of that review was that we split the counterterrorism portfolio from the cyberterrorism portfolio. That was agreed by May in the principals committee, and I asked to be assigned to the cybersecurity portfolio, since I had done counterterrorism for 10 years.

The Bush administration also tasked in February a policy review of al-Qa'ida. That was developed over the course of the spring and resulted in a draft Presidential directive to eliminate al-Qa'ida. That Presidential directive was finalized by the principals in the first week in September.

I think perhaps I should stop there. I know many of you are eager to ask questions, and it perhaps is best to allow the maximum time for that. So, Mr. Chairman, let me halt at that point.

[The information follows:]

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CHAIRMAN GRAHAM: Thank you very much, Mr. Clarke.

SENATOR THOMPSON: Mr. Chairman, could I ask, is this chronology in the book anywhere here?

CHAIRMAN GRAHAM: There is a 9-11 Commission briefing by Richard A. Clarke, which I believe has all of the slides that were presented.

The order of questioning will be the four chairs and vice chairs, then in order, Senator Roberts, Senator Hatch, Senator DeWine, Senator Thompson, Congressman Roemer, Congressman Bereuter, Senator Inhofe, Senator Levin, Senator Rockefeller, Congressman Boehlert and Congressman LaHood; Senator Feinstein, Congressman Boswell, Senator Bayh, Congressman Burr, Senator Mikulski, Senator Kyl and Congressman Hoekstra.

Mr. Clarke, I would like your assessment of some of the agencies with whom you were collaborating during your period as head of the counterterrorism program in the NSC. Could you give us your evaluation of the effectiveness of the CIA's Counterterrorism Center during this period?

MR. CLARKE: Mr. Chairman, the CIA's Counterterrorism Center grew enormously during this period, and its emphasis on bin Laden grew enormously.

I think in 1992 bin Laden was just another name and really hadn't any focus in the Counterterrorism Center. After the World Trade Center bombings, while we now know in retrospect that that was probably almost certainly an al-Qa'ida operation, that was not known at the time. But after the World Trade Center bombings for about a year, year and a half, the CIA began increasingly to see bin Laden-related activities around the world, and although they kept calling him -- CIA's title for him was Terrorist Financier bin Laden, it became pretty clear to us that there was more to that going on. And so we requested them to form a special unit within the Counterterrorism Center. They did that in 1995.

In 1996, they called it a base and moved it outside of the building so that they would operate as a virtual CIA station dedicated to going after bin Laden worldwide.

We asked them in particular to go after his money, because initially -- because he was said to be a 1.4c financier. They were unable to do that, [REDACTED]

CIA was from 1995 to this day unable to tell us what it cost to be bin Laden, what it cost to be al-Qa'ida, how much was their annual operating budget within some parameters, where did the money come from, where did it stay when it wasn't being used, how was it transmitted. They were unable to find answers to those

questions.

Beginning in 1995, however, they began to look for the network. They began to look for the cells in various countries around the world, working with liaison services, and I would say they were very good at finding the cells. They found cells in Latin America, Asia, Europe, the Middle East, South Asia, Southeast Asia; and working with local liaison services, they were able to disrupt those cells. On a regular basis they were able to intercept the travel of al-Qa'ida, individuals, and have them rendered [REDACTED] or other cooperative countries. 1.4c

We became aware, however, that al-Qa'ida, and particularly bin Laden, was interested in weapons of mass destruction; and because of PDD-39, we said there was no higher priority than finding out what a terrorist was doing with interest in weapons of mass destruction. The CIA was notably unable to provide any information, other than "he is interested in it," any information that was actionable, any information that would have allowed us to intercept precursors or components or really to know the status of any of the programs. So I think our frustrations with the Counterterrorism Center focused on the financing issue and the WMD issue.

By 1997 and 1998, they were operating an Afghan cell inside Afghanistan to surveil bin Laden, to provide information of where he was, so that we could perhaps snatch him. Their information was never timely. For the most part, the information was where bin Laden had been the day before, and we were able, using that information, to paint a picture of his travels, but we were never able to mount the snatch. And although we authorized the use of lethal force, lethal force was never successfully used against him by the CIA-hired Afghans. And so that was another source of growing frustration.

But I think overall, on the warning-of-attack issue, the Intelligence Community -- notably NSA, but also occasionally CIA -- provided very good warning of attacks -- not where the attacks were going to be, but in general when they were going to be.

CHAIRMAN GRAHAM: Thank you, Mr. Clarke.

Each question period will be for 5 minutes. No question will be asked after the yellow light has come on. We will complete a round of questions, and then if there are further questions, as I assume there will be, we will have a second round.

Mr. Clarke has agreed to stay here almost as long as we are willing to continue to ask him questions. He will not be able to be with us tomorrow. So questions of Mr. Clarke will be asked today.

Chairman Goss.

CHAIRMAN GOSS: Thank you, Mr. Chairman. I am going to yield my time to Mr. Burr from North Carolina.

MR. BURR: Thank you, Mr. Chairman. I would like to concentrate on the 1998-1999 time frame.

You said that it was your assessment that lethal force could be used by the CIA or by a surrogate, and then you went on to say, on three occasions we were ready to shoot missiles. In hindsight, only one of those bin Laden would have been at.

What would that have been?

MR. CLARKE: Congressman, I don't remember the date.

MR. BURR: What location?

MR. CLARKE: I think the location of which we confirmed subsequently his presence was the Tarnak Farms, so-called Tarnak Farms Kilo, which was his large -- very large terrorist camp and housing area just outside of dahar.

MR. BURR: In late March or early April of 1998, did the CIA brief you on a capture operation of Usama bin Laden, and during this briefing, did you comment that the planned operation meant to assassinate the target and was called a "capture op" only to disguise the reality? Do you remember that?

MR. CLARKE: I remember that there was an examination of a snatch in 1998. Again, the Afghan tribal group that was in the employ of CIA was looking at what turned out to be a frontal assault of the Tarnak Kilo. Tarnak Kilo is a heavily walled installation with tanks and machine gun nests. The CIA eventually came to believe that that operation was not going to be effective, that the attackers would be killed.

It seemed to me that on several occasions the snatch operations that were planned probably would have resulted in bin Laden being killed, because he certainly would not have voluntarily gone along with a capture.

MR. BURR: Did you make the assertion to the CIA at that briefing that this was an assassination attempt of the target and not just a capture op?

MR. CLARKE: It is hard for me to remember my exact words from 4 years ago in a meeting -- specific meeting, but it certainly -- that is entirely possible, because it did seem in some of the planned CIA operations that they recognized that the use of lethal force, which was authorized, would have to be employed and that bin Laden would probably be killed and the prospects of bin Laden actually being captured and

brought back here for trial were very, very remote.

MR. BARR: In March of 1999, you were briefed by the Intelligence Community that bin Laden was meeting with members of the UAE royal family in a desert south of Kandahar where the family was reported to be hunting. I believe that the camp was Sheik Ali's camp.

Did the CIA brief you that bin Laden was visiting that camp on a periodic basis and that he was -- that they were receiving near real-time reporting of bin Laden's arrivals, departures [REDACTED]

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MR. CLARKE: I think that is a somewhat distorted rendition of what happened. What happened was that we were in a period where we were telling the CIA, find him so that we could launch a cruise missile attack against whatever facility he was in. We were keeping destroyers and submarines within range off the coast of Pakistan on 24-hour alert to fire on very short notice.

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The CIA reported [REDACTED] that bin Laden was living near a particular facility. CIA did not identify the facility as a UAE royal hunting facility. I did. The CIA was of the belief that bin Laden came into the camp every morning, but when pressed, they could not confirm it. They had what they called a single-threaded source.

They did not recommend the use of force by the submarines and destroyers at that time. And once we got confirmation that I was right, that it was a UAE royal family hunting facility that we were targeting, the CIA recommended no action be taken by the cruise missiles.

MR. BARR: This was not one of the three occasions where cruise missiles were ready to be fired?

MR. CLARKE: Yes, Congressman, it was one of the three.

MR. BARR: Did the CIA, in fact, brief you that the camp was an ideal situation, that they did have real-time intelligence, that the collateral damage would be extremely limited, involving only the camp facility? And as a follow-up as my last question, Mr. Clarke, did, in fact, you call the royal family and inform them of the information that we had about the intelligence of that camp and that exercise?

MR. CLARKE: I think those facts are slightly wrong.

The CIA did not tell us they had real-time information, and my firm belief is they did not have real-time information. The CIA did not recommend military operations.

Subsequent to our decision -- subsequent to our decision not to act, and after bin Laden left the area, I

did ask members of the UAE royal family to give us locations of any facilities that they might have in Afghanistan, and they did. And one of their facilities, in fact the only facility that they had in Afghanistan, was at the exact location we had been thinking of bombing.

MR. BURR: I thank the Chair.

CHAIRMAN GRAHAM: Thank you, Mr. Burr.

Senator Shelby.

SENATOR SHELBY: Thank you, Mr. Chairman.

Mr. Clarke, I have been informed that in your interview with the Joint inquiry staff, that you expressed considerable concern about the CIA's inability to penetrate al-Qa'ida. I recall that you told our investigators that for a long time, the Counterterrorism Center was not even trying to accomplish unilateral penetrations of al-Qa'ida.

Tell our members, if you would, more about the state of U.S. unilateral penetration of al-Qa'ida over time and the ways in which you felt it was inadequate, if you feel that way.

MR. CLARKE: The Counterterrorism Center either did not try or was unsuccessful at getting penetrations of al-Qa'ida until 1999. A new Director, Cofer Black, took over the Counterterrorism Center in 1999. He was instructed by George Tenet to get human penetrations of al-Qa'ida, and over the course of the subsequent 3 years, they did go from [REDACTED] penetrations of one sort or another, none of them very high level.

SENATOR SHELBY: What do you mean by "one sort or another"?

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MR. CLARKE: Well, none of them very high level. They had people who, [REDACTED] -- never had anyone in position to tell us what was going to happen in advance, or even where bin Laden was going to be in advance; so that we could not conduct those military strikes to kill bin Laden, because we never knew where he was going to be in advance. And usually we were only informed about his -- where he was after the fact.

And on the three occasions where they were able to tell us where they thought he was at the moment, on those three occasions, the CIA itself recommended against action, because they said their sources were not very good, or not good enough to recommend military action.

SENATOR SHELBY: Mr. Clarke, going to the Sudan, you told the Joint Inquiry Staff that it was merely a



"might have" that the Sudan had offered to turn over Usama bin Laden to the U.S. would you elaborate on that? And what did they actually offer to do, if anything, and under what circumstances?

MR. CLARKE: Sudan, during that period, was about the worst government in the world. They had invited every terrorist group that you can imagine to set up shop in Khartoum. The government was effectively run by Hassan Turabi, who was not only an ideological bedfellow of bin Laden, he was a close personal friend of bin Laden. They have known each other for a very long time. They live near each other in Khartoum.

SENATOR SHELBY: Where is he today?

MR. CLARKE: He is in jail in Sudan --

SENATOR SHELBY: Okay. Good.

MR. CLARKE: -- there having been something of an in-house coup.

But, at the time, he was effectively running the government, and they were plotting terrorist attacks. They were supporting terrorist attacks on the United States in Ethiopia. They were involved in an attempt to kill President Mubarak. They were so bad that even the United Nations sanctioned them, even the United Nations passed a resolution in the Security Council sanctioning Sudan against terrorism. So that is the kind of government that is allegedly -- according to some people that I think had self-serving interests, allegedly offered us bin Laden.

The notion that Turabi would ever have allowed bin Laden to be arrested and brought to the United States, I think is laughable, and I am unaware of any such offer. I have interviewed everybody else who would have known in Washington of any such offer. They are unaware of any such offer.

It is true that in 1996 the Justice Department had been unable to indict bin Laden, and therefore we were unable, if he had been offered, to bring him back here to stand trial. It is also true, in 1996, that we had talked to Egypt and Israel and Jordan and Saudi Arabia, and other countries, to see if any of them had warrants or if any of them were willing to take him and put him in custody, and no country was.

SENATOR SHELBY: Mr. Chairman, I am following your rule on the questions on the yellow.

CHAIRMAN GRAHAM: Thank you. You are setting a very good example.

Senator Roberts.

SENATOR ROBERTS: Yes. Thank you, Mr. Chairman.

And, Dick, thank you for persevering and for pushing the envelope all these years. I am interested in the

memoranda of notification of the findings, as it was described by someone as the authority to use lethal action by shooting on one foot.

Could you describe, in your view -- you stated that we had the ability, or not the ability, but the authorization to use lethal action; but then it had to be broadened and then broadened and broadened again. From an effective standpoint, could you simply go into that?

MR. CLARKE: Yes, Senator. 1.4c

[REDACTED] there was a memorandum of notification modifying the global antiterrorism finding from 1986, and it recognized that in operations against al-Qa'ida, and particularly bin Laden, lethal force was authorized. And in attempting to capture him, we recognized that the possibility of capturing him was remote and that he might be killed in the attempt to capture him. That didn't work. Obviously the attempt [REDACTED] to capture him didn't work. 1.4c

[REDACTED] there was an additional expansion of authority, [REDACTED] memorandums of understanding that provided specific, narrow authorization. 1.4c

[REDACTED] And then the authorization for attacking named lieutenants, [REDACTED]

Now, what looks like a very Talmudic and somewhat bizarre series of documents I think has to be understood in the context that the administration, and particularly the Justice Department, did not want to throw out the ban on assassination in a way that threw the baby out with the bathwater. They wanted the expansion of authorities to be limited and limited to what CIA was specifically asking for at the time.

And so I think the way you need to look at this is, CIA would ask for an authority. They would rapidly get it. We would wait. Nothing would happen. We would ask them for more plans and more options. They would come forward and say they needed more authority, specific, narrow authority, and they would be given that authority -- all the while a growing sense of frustration, I think, on behalf of the principals that none of these authorities were being utilized effectively to kill him or his lieutenants or to capture, in the remote possibility that capture could have occurred.

But I know if you look at them now, it does look like authority to assassinate him, if you do it under a full

moon or on the third Wednesday of the month, each one of them taken separately looks like a very narrow casting. But that, I think, is because of this desire not to throw out altogether the ban on assassinations and create an American hit list.

SENATOR ROBERTS: That was a decision primarily by Justice and the CIA on a very incremental basis then?

MR. CLARKE: It was a decision by the President ultimately, but largely on the recommendations of CIA and the Justice Department.

SENATOR ROBERTS: But now you have stated you found bin Laden in three of the 11 flights in regards to the Predator; and if this was not -- I mean, if successful, which it was, there was contemplated -- I am on the yellow light. Is that --

CHAIRMAN GRAHAM: You can complete this question.

SENATOR ROBERTS: I was on green. Now I am yellow. All right. It is the first time I have been green in a long time.

But at any rate, you did locate him three straight times, and the plan was to use missiles. I am still not quite understanding if the memorandum of understanding and the lethal authority covered the use of missiles and why we didn't do that.

MR. CLARKE: Senator, let me take that as two questions.

The lethal authority did not cover the use of missiles because our interpretation of the military's authority is that they can fire missiles when ordered to do so by the commander in chief without regard of whether or not there is a finding or an MoN. The finding and the MoN are not designed for overt military activity; they are designed for covert CIA activity.

Why didn't we fire cruise missiles in September and October of 2000, when we did find him, using the Predator? The CIA had recommended that the initial use of Predator during those 6 weeks in September and October be a trial, be an experiment, to see if they could get Predator to work, to see if we could find him, to see if subsequently they could use human sources to verify that what we thought we saw on the video was in fact him.

They said it was a trial concept, a proof of operations, and that they would recommend that we not use it for military targeting during that period. They recommended that we start again in 2001, after the winter,

when the aircraft could fly again, and they recommended at that point -- this was what they were saying in the summer of 2000 -- that at that point in 2001, that the reconnaissance operations be tied to the possible use of cruise missiles. However, when 2001 came around, they recommended against that.

CHAIRMAN GRAHAM: Thank you, Senator Roberts.

Senator Hatch is not here. Orrin is not here, is he?

Senator DeWine.

SENATOR DeWINE: I believe you told the staff that 90 percent of the quality work on al-Qa'ida came from NSA. Do you want to expand on that? If that was your statement, can you expand on it?

[REDACTED]

1.4c

SENATOR DeWINE: Thank you. Give us a general overview of where you think we are on analysis today: basically, of all the controversy, of all the things we are looking at, our ability to do an overall analysis, combined with the FBI, the NSA, what everybody has, some guidance to this committee.

MR. CLARKE: I think the CIA and DIA both provided very good analysis of al-Qa'ida's foreign operations at a general level, and DIA's was quite good, by the way. FBI did not provide analysis. FBI, as far as I could tell, didn't have an analytical shop. They never provided analysis to us, even when we asked for it, and I don't think that throughout that 10-year period we really had an analytical capability of what was going on in this country.

SENATOR DeWINE: As we look at the chronology that you have put together, I am still a little confused about how many different times a decision was made where we actually felt that we might have had bin Laden in our grasp and a decision was made to go or no go?

You talked about three, but then I get the impression earlier on there was other times. Can you just give us the quick total?

MR. CLARKE: Senator, let me put it in three categories: the number of times when the principals, which was convened, in the situation room. That is the cabinet-level committee, where the issue was, should we recommend to the President that he fire cruise missiles because we think we know where bin Laden is?

In my recollection, there were three such occasions separately. The number of times when in October -- September and October of 2000 we thought we saw bin Laden on the Predator video, I believe there were three occasions, others believe there were two occasions, when we saw bin Laden live on the Predator video.

The third category, times when we authorized covert action, specific activity in Afghanistan, there was one particular operation for a snatch which was developed in detail. There were multiple times when the CIA so-called "tribal assets" authorized in general to take action, multiple times when they acted on their own, and I believe on two of those occasions, they [REDACTED] attack convoys that they believed bin Laden to be in.

1.4c

SENATOR DeWINE: Final question: In any of those circumstances, were those decisions directly made by the President?

MR. CLARKE: The President --

SENATOR DeWINE: If you know.

MR. CLARKE: Yes. The President, of course, would have to authorize any intelligence activity. The President obviously would be apprised of all of these things.

On the three occasions where the principals looked at the use of military force, they did not bring that recommendation to the President, because CIA, among others, did not feel it was an appropriate thing to recommend.

SENATOR DeWINE: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you.

Senator Thompson.

SENATOR THOMPSON: Thank you, Mr. Chairman.

Mr. Clarke, why did the -- of what benefit did the CIA think keeping the Predator flights as experiments would be? As I understand it, by being experiments, they were not armed, and they were deemed to be

experiments. In their view, as you understand it, what was their reason for doing that?

MR. CLARKE: Well, first in September and October of 2000, there was no such thing as an armed Predator. There was an experimental program; it was not very far along. So the armed option didn't exist at that point.

The reason I think -- it is hard for me to think, hard for me to say what they thought. I do know there was massive resistance in the Directorate of Operations against flying Predator in Afghanistan in the first place. They had severe doubts about whether it should happen and recommended against it. They wanted to rely instead on human intelligence.

I think perhaps -- if you want me to guess their view, I guess they wanted to see what was on the video and then use human sources to corroborate it, because before it happened, they probably thought that you couldn't tell from the video whether or not a particular individual was bin Laden.

SENATOR THOMPSON: So their concern might have been then that a cruise missile might be fired precipitously?

MR. CLARKE: I suspect --

SENATOR THOMPSON: You see what I am getting at. Why not go ahead -- in case you were to get a clear shot at him, why not have the Predator capable of doing that?

MR. CLARKE: Certainly that was what some people recommended, Senator.

SENATOR THOMPSON: And I believe you indicated in your interview that the Predator situation was an example of the fact that the Agency was having some problem institutionally getting on board with the counterterrorism mission.

Could you elaborate on that a bit?

MR. CLARKE: Well, I don't think I would use those words. I think that there were elements within the Directorate of Operations that thought that counterterrorism was eating up a lot of their assets, financial assets, a lot of their time. I think there were people who saw the growth in the Counterterrorism Center as taking away capabilities from the Directorate of Operations in general. They were certainly -- the Directorate of Operations was certainly very, very opposed to the use of Predator.

SENATOR THOMPSON: On another subject -- I may be mixing apples and oranges here -- but on the occasions that we have discussed where you thought you knew where bin Laden was, you called the

principals meeting, and the decision was made not to strike; and one of the reasons that the CIA and DOJ recommended that, or the CIA recommended that, apparently was that they only had one source. I believe you referred to that as the one-source problem.

You also at another time indicated that there was some reluctance within the Department of Justice, I suppose, and perhaps the CIA, concerning the assassination policy and not wanting to violate that.

Did both of those considerations come into play, as you understand it, when the recommendations by Justice and CIA were being made? Or, I guess, decisions were being made by the principals group because apparently those decisions never went to the President, but am I comparing apples to oranges here? Or to what extent did each of those considerations play a part, as you recall?

RPTS THOMAS

DCMN HERZFELD

[11 a.m.]

MR. CLARKE: Senator, I think the legal view and the view under which we all operated was we needed no intelligence finding or memorandum of notification to use military force. And the use of DOD assets did not raise the issue of the assassination ban in the executive order. However, to use lethal force in the way where it was very clear, I think, to all of us that even though the authority was to arrest him, it really was very, very likely that the authority was to kill him, that that raised an issue that we had very little precedent for, and there was concern in both the Justice Department and in some elements of the White House and some elements of the CIA that we not create an American hit list that would become an ongoing institution that we could just keep adding names to and have hit teams go out and assassinate people. And so every time the authority was expanded, it was expanded in a very narrow way because of that reluctance.

SENATOR THOMPSON: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you, Senator Thompson.

Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman.

Mr. Clarke, thank you for joining us today. You said in your opening testimony that there was awareness of the UBL problem in 1992, that there was a cancer let loose and spread in the world in 1995, and it was a well recognized problem in 1998. You then go on to say that there was a cadre of people aware of the problem, but that you had to fight the bureaucracy to get help and focus. I would appreciate specifically, not to blame anybody, but specifically to help the committee focus on solving the problem in the future, where was the resistance?

MR. CLARKE: Well, I think there was resistance in each of the departments.

MR. ROEMER: Each of what departments?

MR. CLARKE: State, Treasury, Defense, FBI.

MR. ROEMER: Specifically in the CIA and FBI tell me where the problems were so we can fix them.

MR. CLARKE: Let me give you the FBI case, because I think it is the most clear. Following this millennium alert that I discussed, and following the millennium review, it became very clear to Dale Watson, who is the



Assistant Director for Counterterrorism, there was the potential for sleeper cells in the United States, people that in the United States had been involved in the planned attacks.

MR. ROEMER: This is what year, Mr. Clarke?

MR. CLARKE: This was in 2000. The Assistant Director Dale Watson then began a program to try to get more control of the 56 FBI field offices, and I visited five or six of the field offices and asked them what they were doing about al-Qa'ida. I got sort of blank looks of what is al-Qa'ida.

So what Watson tried to do was to change his authority so that he could give the priorities to the field offices and that he could be part of their annual evaluation for promotion and financial awards, and the Director of the FBI finally granted him that authority. But what Watson was trying to do was sort of turn this big Queen Mary luxury liner, not easy to turn, trying to turn it so that the Bureau recognized that there was a terrorism potential in the United States and that the field offices of the FBI needed to make that their priority.

MR. ROEMER: Is it a fair characterization in your view to say that you evaluated the New York City field office as excellent and the other 55 as extremely poor and not coordinated?

MR. CLARKE: I think that is a fair statement. John O'Neill, who was the special agent in charge in New York, had been part of my committee in Washington before taking that job, and he was at least as obsessed as I was. He used the New York field office as a worldwide field office to go after bin Laden around the world, but he couldn't cross the bridge to New Jersey because that was a separate field office. So he could go to South Africa and arrest people, which he did, but he couldn't go to Newark.

MR. ROEMER: And so that is why you concentrate in some of your recommendations on the FBI in terms of sharing information and revamping their field offices.

Let me ask you a specific question about the CIA. Did the Directorate of Operations -- were they supportive or hostile to covert actions against al-Qa'ida?

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MR. CLARKE: They were hostile to some of them. [REDACTED]

[REDACTED] They saw in that the potential for a covert operation that could go bad, that could end up in corruption or drug-running. And so every time we pushed for expanding cooperation [REDACTED]

1.4c

[REDACTED] we ran into resistance from the Directorate of Operations.

MR. ROEMER: Resistance is different than hostility.

MR. CLARKE: I think hostility and resistance both describe what we ran into when we asked for proactive

measures that would involve funding a major covert action to [REDACTED] 1.4c

MR. ROEMER: And was the CIA supportive of the armed Predator once it was developed?

MR. CLARKE: CIA's position on the armed Predator changed.

MR. ROEMER: Initially.

MR. CLARKE: Initially they said they wanted to use it, and I think they believed it would take a very long time to develop it. In fact, we accelerated the development, and we were able to test it [REDACTED]

[REDACTED] 1.4c  
So we recommended

going ahead with the armed Predator.

The CIA demurred on two grounds. One, they said the warhead wasn't effective. I think it turns out, as was proven in October of 2001, the warhead was quite effective, killed Muhammad Atef when it was used. They also demurred on grounds they didn't think it was CIA's role to fly armed aircraft.

MR. ROEMER: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you, Congressman.

Congressman Bereuter.

If would you hold a minute. Let me read what will be the order after Congressman Bereuter. We have been joined by Congresswoman Pelosi, and she will be asking her questions shortly. Senator Inhofe and Mr. Levin, Mr. Rockefeller, Mr. Boehlert, Mr. LaHood, Ms. Feinstein, Mr. Boswell, Mr. Bayh, Mr. Burr has already questioned, Ms. Mikulski, Mr. Kyle, Mr. Hoekstra, Mr. Edwards and Mr. Chambliss are next.

Mr. Bereuter.

MR. BEREUTER: Thank you, Mr. Chairman.

Mr. Clarke, I want to follow up on what Senator Roberts and Senator DeWine were proceeding with. You are saying that perhaps one of the reasons why the decision was not made to go to the President with a recommendation to use cruise missiles in those two or three instances where you convened and thought that Usama bin Ladin was clearly at a particular place was the assassination policy or concern about the ban; is that not correct?

MR. CLARKE: No, Congressman. I tried to separate these two things. The instance where we considered

the use of military force, the ban on assassinations never arose because we didn't think that applied to the use of overt military force.

MR. BEREUTER: As long as you are using DOD assets. So that would not be an impediment. It wasn't then and it is not an impediment now as far as you see it.

MR. CLARKE: [Nodded head.]

MR. BEREUTER: Another subject is the financing issue. Was the CIA unable or unwilling to go after the finances? Was there, for example, any direction from the White House or from the Department of Treasury that prohibited the CIA from tracking or attacking finances in order to maintain, for example, credibility in the international banking system or for other reasons?

MR. CLARKE:

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MR. BEREUTER: Mr. Clarke, in your judgment has Treasury changed their views on that subject now?

MR. CLARKE: I am not sure I know that.

MR. BEREUTER: All right. I think that is an important question. Is the financing of terrorism a very important priority? We have been told, for example, that the attacks that had been launched against the World Trade Center and the Pentagon were very inexpensive operations. So how much progress do we make if, in fact, we can track and then perhaps move funds around ? 1.4c

MR. CLARKE: Whenever we pressed the various agencies to do more on finding bin Laden's money, we would hear that they didn't consider it as important as the White House did for the reason you specified, that you were able to stage an operation for a small amount of money.

My view was that it may have been true that you could stage an operation for a small amount of money, but you couldn't run al-Qa'ida for a small amount of money. Al-Qa'ida was a vast worldwide organization that was creating terrorist groups in various countries that would not be called al-Qa'ida, but would be called names associated with that particular country. But they were creating terrorist groups, they were funding them from the start. They were taking preexisting terrorist groups and buying their allegiance and buying

them additional capability. It seemed to me it must have cost a very great deal of money to be al-Qa'ida, but I was never able to get the Intelligence Community to tell me within any range of magnitude how much money the annual operating budget of al-Qa'ida may have been.

MR. BEREUTER: Thank you. Since I have a few minutes remaining -- or perhaps move back again to now the armed Predator. And what do you sense to be the attitude about the Department of Defense and the CIA regarding who should control the assets and the willingness to use armed Predator against Usama bin Ladin or key people in the al-Qa'ida?

MR. CLARKE: I think it is accurate to say that neither the Department of Defense nor the CIA wanted to use, wanted to be responsible for or be in charge of the use of armed Predator. The Defense Department said that if we wanted to shoot things from aircraft, that they had other aircraft that they preferred to use, like B-52s. The problem with that is the B-52s can't acquire the target as well as the Predator can. And the CIA's view ultimately was that, as I said, shooting missiles from aircraft was not their mission.

MR. BEREUTER: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you, Mr. Bereuter.

Senator Inhofe.

Senator Rockefeller.

SENATOR ROCKEFELLER: Thank you, Mr. Chairman.

Several questions, Mr. Clarke. And thank you for your, I think, excellent presentation.

You -- in talking about, you know, the CTC reports through the Directorate of Operations or to the Directorate of Operations, you have described the Directorate of Operations as being -- and this is a cultural question, all these questions will be cultural -- as being wanting to do HUMINT, which is, you know -- is not covert, but is clandestine, is not therefore totally removed from the concept of covert activity, but fairly much shuts that off, shuts off the budget, doesn't want to hear about it, doesn't do the Predator and generally is hostile to that. And then this very interesting thing about CTC constantly claimed it is too hard. Again cultural question. DO is hostile to covert action. DO leaders believe that covert action is risky, unsuccessful and could get them as individuals into trouble.

Question number one is the -- I would suppose when Black came in, there appeared to be a change that you could posit that whoever the leader of this is can make a difference or a leader could make no difference

whatsoever because there are enough people in the bureaucracy so that the culture will not change regardless of the leader.

I am just curious as to why if one works for the CIA, you know, goes there, trains there, spends a lifetime there, and then again this may be pre-9/11, you don't sort of warm up to that kind of activity when given its -- when given a chance to do something about it. Why is that?

MR. CLARKE: I think if you look at the 1980s and 1970s, the individuals who held the job of Directorate of Operations, one after another after another of them was either fired or indicted or condemned by a Senate committee. I think under those circumstances, if you become Directorate of Operations, you would want to be a little careful not to launch off on the covert operations that will get you personally in trouble and will also hurt the institution.

The history of covert operations in the 1950s and 1960s and 1970s was not a happy one, and I think that lesson got overlearned by people who at the time were probably in their twenties and thirties, but by the time they became in their fifties, and they were managers in the DO, I think that they had institutionalized a sense of covert action is risky and is likely to blow up in your face. And the wise guys at the White House who are pushing to you do covert action will be nowhere to be found when SSCI calls you up to explain the mess that the covert action became.

SENATOR ROCKEFELLER: And I accept that answer, but I am still sort of stunned by it, because I don't know how many of these folks were done in by our committees, and that I need to find out.

But, again, the concept of being pushed back into your, you know, inner recesses, not doing what you are meant to be doing when it is so obvious and sits there before you, or is relatively obvious and sits there before you, and declining to do it is an extraordinary thing for something called the Central Intelligence Agency. Can that shift be changed on a -- because of 9/11? Will it be changed because of 9/11? Will that make a difference, or is that that Director, or is it us?

MR. CLARKE: I think it is changed because of 9/11. I think it is changed because George Tenet has been pushing them to change it. You said that the Director of CTC reports to the Director of Operations, and on paper that is true. But it became practice that the Director of CTC reported very often directly to the DCI, and other elements of the Intelligence Community were brought there to help. The Community management staff, particularly the ADCI Charlie Allen, who is in charge of collection capabilities, technical capabilities, he

was brought in to help by the DCI, and he didn't have this HUMINT kind of hang-up. He knew about all of the technical things we could do, which frankly CTC hadn't been doing. They had been doing only traditional HUMINT. And Allen was able to give them ideas and to help them, get them money to do increasingly sophisticated technical operations which proved very fruitful.

SENATOR ROCKEFELLER: Thank you.

CHAIRMAN GRAHAM: Thank you, Senator.

Congressman Boehlert.

MR. BOEHLERT: Thank you, Mr. Chairman.

Mr. Clarke, from May of 1998 when the President signed PDD 62 creating the 10-program counterterrorism effort, up until 9/11, are there any other examples of complaints from within the Intelligence Community of perceived failure of follow-through on the part of the leadership? In other words, are there more Phoenix memos out there, more Crowley letters?

MR. CLARKE: I don't know of any, but that doesn't mean they don't exist. What I do know is that the Intelligence Community never came to the White House and asked for a memorandum of understanding, an approval of a specific operation where they were denied.

MR. BOEHLERT: Is someone making a check of the records to see if from within the FBI, for example, there have been others who have sought whistle-blower protection?

MR. CLARKE: I have no idea, Congressman. I do not know if that has happened.

MR. BOEHLERT: Is that something that should be checked, would you think?

MR. CLARKE: I would think you would want to know. I would think we would all want to know.

MR. BOEHLERT: Thank you. Help me understand. I guess I am guilty of being subjected to the popular wisdom. I have always been led to believe that the infamous Deutch memorandum of 1995, which, as I understand it, in effect said our operatives were not to deal with people who were not nice, who had criminal records, were felons, human rights abusers, is that, in fact, what the memorandum really said and intended? And does that in any way hamper the activities of our covert operatives?

MR. CLARKE: My understanding is that the memorandum said only with the approval of the Director of Operations or the Director of CIA could the Agency use assets that were known to be engaged in human rights violations. This is a great debate, as you know, in the Intelligence Community and among retired

members of the Intelligence Community. I never could figure out where the truth was. I never had anyone come to me either directly or through a back channel or secretly, never had a station chief tell me this is really getting in the way. But I understand from former DCI Jim Woolsey and others that they believe there were cases where it got in the way. I was never aware of one, but I really -- I don't know where to come down on that.

MR. BOEHLERT: We know from the Phoenix memo and the Crowley letter that there are a lot of things that a lot of us were not aware of, but it seems to me that that was unduly restrictive. But that no longer is operative, am I correct in my understanding?

MR. CLARKE: I don't know.

MR. BOEHLERT: Maybe staff could help us find that out.

The other thing I have, we know we are severely handicapped by a lack of language capability. That is something that Congressman Roemer and I have been concerned about for some time. You talked about we have a snatch policy that has been in operation since 1992, but that our CIA hired Afghans who were not able to succeed in a snatch operation. Are all snatch operations dependent upon hired guns?

MR. CLARKE: No. We have looked at snatch operations involving U.S. special Forces, and the President authorized several of them. We have looked at snatch operations involving combinations of CIA personnel and U.S. special Forces.

MR. BOEHLERT: Would you care to comment? Are our capabilities severely restricted by the lack of language capability?

MR. CLARKE: Our capabilities are enormously restricted by our lack of language capability, particularly in the FBI. One of the things we recommended in the millennium review, the follow-up from the millennium alert, was that FBI, when it is wiretapping people around the country, to remote the wiretap back to Washington to be analyzed here, because the way they do it now, they have people in each city where the wiretap is occurring, listening and translating in various languages, Urdu, Farsi, Pashtu, and there just aren't enough Urdu, Pashtu, Farsi translators available to FBI.

So what we sought was to do it the way that NSA does it, that they collect it around the world and beam it back to one place where that speciality in language skills is present. The FBI does not seek funding for that, and therefore we don't have that capability yet.

MR. BOEHLERT: Then it was beamed back.

MR. CLARKE: Yeah.

CHAIRMAN GRAHAM: Thank you, Congressman.

Senator Feinstein.

SENATOR FEINSTEIN: Thank you, Mr. Chairman.

I wanted to go to the 1998 year and discuss it a little bit with you, Mr. Clarke. As I understand it, in February of 1998, a fatwah was issued which launched war against America, and then UBL was indicted by the United States grand jury in New York City. Then later in the fall we hit the training camp with cruise missiles in Afghanistan and the factory in Khartoum. I assume we hit the wrong factory is my -- we hit the right factory?

MR. CLARKE: This is one of the great controversies, as you know. I believe and I think the DCI believes that we hit a factory that was associated with al-Qa'ida, that we hit a factory that was associated with a unique precursor chemical that its only known use is for a particular kind of nerve agent. I think we did the right thing.

I refer you back to what I said at the beginning when I talked about PDD 39. PDD 39 lowered the barrier for the use of force when we had any evidence that terrorists and weapons of mass destruction were coming together. Now, when you say that, when you talk about PDD 39 and you say that is what the PDD did, everybody nods, yes, that was a good thing to do. When talk about the fact that we implemented that decision and blew up a factory in Khartoum, everybody says, you screwed up.

SENATOR FEINSTEIN: Then the thing that is curious to me is that at that point we knew that Usama bin Ladin was coming after us. We made two strikes, and that was it, and for the life of me I have a hard time understanding why we stopped, why we didn't move then with the Northern Alliance. Why wasn't there more aggressive steps taken, that there were just two kind of token hits and then it ended? Can you respond to that?

MR. CLARKE: Yeah. It didn't end. We tried on three more occasions to find him and launch cruise missiles again. [REDACTED] We got five different Presidential authorities expanding our authority to use lethal force against him. I don't think it ever ended.

SENATOR FEINSTEIN: Why wouldn't we, for example, at that point begin to work with the Northern



Alliance?

MR. CLARKE: Well, we had been working with the Northern Alliance. What we did not have and what was under review in 1998 and under review in 2000 and under review in 2001 prior to September 11th was having an expanded covert action operation

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But the fact we didn't do that does not mean we stopped. We were extremely active in trying to disrupt al-Qa'ida, in trying to find opportunities to use overt military force and covert force.

SENATOR FEINSTEIN: At one point you said you urged more massive retaliation against the Taliban and al-Qa'ida in Afghanistan. When was that? And what was the rationale not to engage more massively?

MR. CLARKE: I recommended a number of times in 1998, 1999, 2000 and 2001 that we -- rather than just trying to find bin Laden and blow up the building in which he was present, that we forget that, since that wasn't being very successful, and that we just blow up all the buildings that were related to al-Qa'ida. There were enormous facilities. There were Tarnak Kilo, there was Kandahar. These are huge military bases through which al-Qa'ida was processing thousands of people, training them to be terrorists, recruiting them from 50, 60 countries around the world, bringing them there, indoctrinating them, giving them skills to be terrorists, and then sending them back out in the world to do evil. I never understood and I don't understand to this day any rationale for not eliminating those infrastructures.

SENATOR FEINSTEIN: Could you tell me at that time what you did about that, with the recommendations you made to eliminate those infrastructures, to whom you made them, and where they went?

MR. CLARKE: Well, I have to be careful on executive privilege issues here. But I made them in the course of the NSC system in the Counterterrorism Committee and the Principals Committee.

SENATOR FEINSTEIN: What was done with the recommendations?

MR. CLARKE: There was no decision taken to bomb the camps.

SENATOR FEINSTEIN: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Congressman LaHood, apologize. I missed your name on the list.

MR. LaHOOD: Mr. Chairman, you are doing a great job. Thank you very much.

Mr. Clarke, in this culture today of survivors, you are the ultimate survivor. How many administrations have you worked for? Bush I? Did you start before Bush I?

MR. CLARKE: I started in the Nixon administration.

MR. LaHOOD: Wow. Thank you for your service to our country. You have done a great job.

Do you think that if we would have gotten bin Laden before 9/11 that 9/11 would have happened?

MR. CLARKE: One of my nightmares is that despite the opposition in CIA, CIA would have been ordered to use armed Predator and use it in April or May, and that in May or June we would have found bin Laden and killed him with the armed Predator. And then on September 11th, the World Trade Center would have blown up, and the people in CIA and elsewhere who were opposed to the use of armed Predator would have said, look what Clarke did. He assassinated bin Laden, and in retaliation for that they blew up the World Trade Center.

That scenario seems to me entirely possible that if we had assassinated bin Laden and then the World Trade Center had blown up, which it would have anyway, that those of us who had been aggressive in seeking the use of force would have been blamed by others who had opposed it.

MR. LaHOOD: So the 19 people who were committed to bombing the -- or running -- you know, slamming the airplanes into the Trade Center, they were destined do that irrespective -- obviously they weren't taking direct orders from bin Laden, they were on a course on their own, and they were determined to do it; is that what you are saying?

MR. CLARKE: I think they were taking orders, not -- some of them actually probably did meet with bin Laden and get general orders before they left, but I think we always knew from 1997 on that if we decapitated al-Qa'ida, that it would grow other heads. And we just had to be willing to accept the negative criticism that we would have gotten at any point in the process for killing bin Laden and then having terrorism by al-Qa'ida continue. I think there was an acceptance by a lot of people in the principals level and elsewhere that killing bin Laden was only the beginning and not the end of the process of uprooting al-Qa'ida.

MR. LaHOOD: Do you think our government should change its policy on assassinations?

MR. CLARKE: I think you have to be very careful about how broadly you authorize the use of lethal force. I think it is something that the two committees need to be involved in in consultation with the CIA and the

White House. I don't think the Israeli experience of having a broad hit list has been terribly successful. It doesn't -- certainly hasn't stopped terrorism or stopped the organizations where they have assassinated people. You can make his mistake.

I think the four or five MONs give -- rather, if you take them together, I know they look silly when you take them separately, but taken together there is a very clear authority there to use lethal force even though you know that there is only 1 percent chance of arresting somebody.

MR. LAHOOD: In your opinion why haven't we been able to get bin Laden? Do you think he is still around? Let me ask you this, do you think he is still around, and then why haven't we been able to get him?

MR. CLARKE: Well, Congressman, I stopped reading intelligence on these issues when I changed jobs to cyberspace advisor. So I don't know whether he is alive or not, and I don't know of the specific efforts to find him, but I do know that the terrain in Afghanistan and western Pakistan is quite incredible, and it is quite easy to hang out in those countries for a very long time and never be found. When you have already thought about doing that, when you have surveilled the country, surveyed the country, and you know it like the back of your hand, when you must have thought that at some point this could have happened, the United States could come after you, it would seem to me that the al-Qa'ida leadership probably had all sorts of contingency plans for places to run and hide. And there are a lot of places out there to run and hide.

MR. LAHOOD: Thank you.

CHAIRMAN GRAHAM: Thank you, Mr. LaHood, and I express my apologies again.

Congressman Boswell.

Senator Bayh.

SENATOR BAYH: Mr. Clarke, very grateful for your time here today. You have made a very impressive presentation. You have expressed some disagreements, reservations or doubts about a variety of actions or steps that were not taken along the way, and you began your initial presentation talking about the sleepless nights you have had since September the 11th. During the course of those sleepless nights, if you could condense for us what do you think we should have done differently, and most importantly, reflecting on that experience, what do we need to do differently going forward to minimize the chances of something like this happening again? Can you condense the list of recommendations for us?

MR. CLARKE: Well, I hear all of these comments about the Phoenix memo, the Minnesota case, whatever.

I think they miss the point that the failures were years earlier. It was a failure on the part of the United States to not have a domestic intelligence collection capability. I understand the reasons for the lack of the ability, I know the abuses that the FBI engaged in the 1950s and 1960s, I know the reason we have the Attorney General levied guidelines. But I think the pendulum swung too far, and when we became aware of the fact that there were forces in the world such as al-Qa'ida, and others, Iran, Hezbollah, that meant us ill, by certainly the 1980s or 1990s we should have recognized the need for a domestic intelligence collection capability. Other democracies with civil rights and civil liberties have that. It doesn't mean you become a totalitarian state if you do a good job of oversight and control. We needed to have a domestic intelligence collection and analysis capability, and we did not have it, and only now are we beginning to get it.

And I think that is the conclusion I ultimately come to, which is I don't know what would have happened if I knew or others knew about Moussaoui or the Phoenix memo or the two people in Los Angeles. It is impossible to guess what we would have done or how successful we would have been in finding the entire cell and pulling the threads and trying to stop it in time. It is pointless to go there and trying to speculate, I think. It is clear that we did not have a domestic intelligence collection capability. If we had that, if we had a serious effort going back 10 years or more, then a lot of this foreign terrorist activity in the United States, not just the attack on 9/11, a lot of the foreign terrorist activity in the United States, the fund-raising, the propaganda, the Web sites, the recruitment, the safe haven that the United States was for many of them, that wouldn't have happened if we had had a domestic intelligence collection and analysis capability.

SENATOR BAYH: What are the most important steps we can take going forward to give us the domestic intelligence gathering and analysis capability?

MR. CLARKE: I think the proposals that Director Mueller has made pretty well mirror what we said in February of 2000, that we need a Washington-based flying squad of FBI agents investigating these things, not people restricted geographically to one district or another; that we need a national capability, and it needs to be analytical as well as law enforcement. It needs to fuse all of the data that all of the Federal agencies have. It needs to know the IRS information. It needs to know the INS information. It needs access to credit card information and telephone call information without having to go to prove the standard that we now need to get a subpoena.

SENATOR BAYH: From your comments it sounds we are bearing the burdens of some history domestically.

It sounds as if we are bearing the burdens somewhat in the reluctance of the CIA to engage in aggressive covert operations. Is that your assessment as well?

MR. CLARKE: I believe that a culture developed in the Directorate of Operations that said when you have large scale of covert operations, they get messy, and they get out of control, and they end up splattering mud back on the Agency.

SENATOR BAYH: Are we beyond that now?

MR. CLARKE: Yeah, I think we are. In the wake of 9/11, almost everything we proposed prior to 9/11 is being done.

SENATOR BAYH: Mr. Clarke, last question.

CHAIRMAN GRAHAM: We are going to have to enforce the rule of no question after the yellow light. Congressman Hoekstra.

MR. HOEKSTRA: Thank you, Mr. Chairman.

SENATOR BAYH: I was under the impression that the yellow light meant slow down.

CHAIRMAN GRAHAM: We have reinterpreted it.

SENATOR BAYH: Apologize for my infraction.

CHAIRMAN GOSS: We got you on camera.

CHAIRMAN GRAHAM: There will be another opportunity this afternoon.

MR. HOEKSTRA: Mr. Clarke, the questions that you talked about in your chronology in events of 1997, 1998, 1999 that a number of individuals -- or that we were engaged with other countries to detain, disrupt activities, do we have some idea as to how many people were actually detained, arrested or transferred to third countries?

MR. CLARKE: I can't give you an exact number, Congressman. I would say in the hundreds of people were arrested and detained either by the host country where cells were broken up -- cells were broken up in probably 20 or 25 countries -- or they were exfiltrated and held in the third country. I think would you have to ask CIA for specific numbers.

MR. HOEKSTRA: As these individuals were detained or arrested or held, how much information did we actually get from them?

MR. CLARKE: That depends on the country. If they were held in a West European democracy, we didn't

get very much information. If they were held [REDACTED] we got a lot. 1.4c

MR. HOEKSTRA: All right. I might have thought -- why is that? The Western democracies just can't get the information from them, and these other countries have ways of getting information that --

MR. CLARKE: I always made it a point not to ask. I don't mean to be funny. I didn't want to interfere with what seemed to be productive.

MR. HOEKSTRA: All right. You talked about in 1998 the 10-program counterterrorism effort, the 10 different initiatives, separate committees or separate groups of individuals.

MR. CLARKE: Separate subcommittees.

MR. HOEKSTRA: Are they still in place?

MR. CLARKE: No. I think the new organizational structure of Homeland Security has taken many of these functions, and they have committees that do some of these things now. Some of them have been swallowed up into the Committee of the Whole on the NSC side and the Counterterrorism Committee. So these specific 10 committees don't exist anymore, but all these jobs are continuing to be done somewhere.

MR. HOEKSTRA: Reading a lot of the MONs and the Predator and the CIA -- like CIA talking about who is responsible for the funding if one gets shot down and gets into a little bit of a contest between the Air Force and the CIA, and you have got all of these organizations, when does it -- did these organizations focus on their territorial boundaries, and did it take the massive event of 9/11 to finally say we have got a job to do, and we have got to focus on that job rather than these territorial things, territorial issues?

MR. CLARKE: I think in the case of the armed Predator, we were unable to make a decision prior to 9/11 to deploy and utilize it and who would do it, and I think within a week of 9/11, it was being utilized.

MR. HOEKSTRA: How about cooperation between CIA, FBI, DOJ and -- same thing?

MR. CLARKE: I think the issue of there not being cooperation between FBI and CIA is vastly overblown. There was enormous amounts of cooperation between FBI and CIA throughout the period of the 10 years that I chaired the CSG.

MR. HOEKSTRA: Okay. Thank you.

CHAIRMAN GRAHAM: Congresswoman Pelosi will be the final questioner for the morning, after which I would ask Mr. Clarke if he has any summary comments that he would like to make relative to the morning, and then we will recess until 2:30 and reconvene for further questions.

MS. PELOSI: Thank you very much, Mr. Chairman.

Mr. Clarke, thank you for this briefing. I am sorry I missed the beginning of it. We had a meeting with the President on this new Homeland Security Department with the leadership this morning. I mentioned that because some of what we are talking about here relates to what we talked about there.

And while I am very interested in historic record of what happened when, and that is important to us, I want to ask you a couple of questions about how we go forward since we have such a tremendous resource here with your great experience. As you know, our goal is to, in addition to finding answers, to reduce the risk of terrorism to the American people. And I was interested in your last comment that there was enormous cooperation between the CIA and the FBI in your view and your capacity.

I wonder if would you talk about the interagency cooperation, since you have already expressed your view on that. In your work with the critical infrastructure protection effort, you have emphasized improving the sharing of information both among Federal agencies and between local and private -- government and the private -- well, you said government and the private sector. Did you make any similar efforts with regard to counterterrorism and -- in your previous position to improve cooperation and sharing of information? For example, with the INS and with Customs, did they receive actionable intelligence in a timely fashion on terrorism?

MR. CLARKE: We tried to get Customs and INS to assign officers to each of the 28 joint terrorism task forces around the country. One of the specific recommendations in the millennium after action review was that INS, Customs, IRS, Secret Service agents be assigned to each of the 28 counterterrorism task forces, the word being joint. And they were joint not only with all the Federal agencies, but they were joint with the city police and the State police and the other communities around the cities in which we had the terrorism task forces. And what we tried to ensure was that every member of the joint terrorism task forces, regardless of whether they were from the New York City Police or INS or the FBI or CIA, had access to all the same information.

MS. PELOSI: Well, I appreciate that because that is one of the criticisms that we have received from the local police is that they were not given as much information as they should have had so that they could be more aware of what to be on the lookout for. In fact, the point I made with the President this morning was that terrorism is a threat locally, with tremendous resources locally in terms of first responders, emergency

services and the rest to prevent and to respond, but the resources are intellectual, they are not financial. So we have to -- as we go forward, we have to recognize the important role localities, not just States, but that localities play in responding. So I am pleased that you are mentioning that in your recommendation and your initiation. I assume you did some of the sharing with the State and local police.

I am interested also in what you had to say about our collecting in the U.S. of course, this is a very important and sensitive subject. My view is that perhaps because of the change in technology, we may have to change how we surf the Internet, and the rest we may have to -- I think we should subject that to pretty tough review, but that we cannot, when we fail in analysis and we fail in dissemination, just respond that we need more collection. Maybe we do. So I am just -- my question is to the analysis. We knew that, we knew we needed more analysts, we knew we needed more linguists, more variety of language. And, of course, we come to sharing and dissemination of information.

So does your recommendation for domestic spying spring from the need for more collection and more information, or do you see analysis and dissemination being so weak that the only way we can really get to the information is to have more of it to corroborate the bit that we have?

MR. CLARKE: I think there was no domestic collection, there was no domestic analysis, and there was no domestic action, all three.

MS. PELOSI: I cannot pursue this because the yellow light is on, but we look forward to seeing you this afternoon. Thank you, Mr. Clarke, for the briefing.

Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you very much, Congresswoman Pelosi, and thank you for your adherence to our Draconian rules.

Mr. Clarke, if you have any comments that you would like to make as to subjects that we have discussed this morning, this would be an opportunity. And when you conclude, we will adjourn until 2:30.

SENATOR SHELBY: Mr. Chairman, would he elaborate a little on the Sudan situation, because there has been a lot of controversy regarding that on both sides, as he knows. I am speaking of the rocket attack.

MR. CLARKE: I understand. Let me make two comments then address the Sudan. I don't want to leave the impression in saying that there was no domestic collection or analysis, that the FBI was totally bereft of anyone who knew what was coming or was working hard on this issue. Two people in the FBI were obsessed



with bin Laden and al-Qa'ida: the special agent in charge in New York John O'Neill, who died in the World Trade Center, and the Assistant Director of the FBI for Counterterrorism Dale Watson. Both of those individuals tried heroically to turn the FBI around and to get it to address these issues.

Second point, I have used the word "assassination" here too liberally. Let me be clear what I mean. And I shouldn't have said assassination. What I should have said was the use of lethal force where the probability of lethality was extremely high and the probability of arrest was extremely low.

On Sudan, again, against the backdrop where we knew bin Laden was trying to get chemical weapons from lots of intelligence reporting, where we knew that bin Laden had a very close relationship to the leadership in Sudan and had invested money in factories and other facilities in Sudan, against that backdrop the CIA collected information on site which, when put under chemical analysis by an independent and very reliable laboratory, indicated the presence of a chemical that is only ever used in a nerve agent.

We also had lots of reporting of the presence of Iraqis from the Iraqi chemical corps in Khartoum working with the Sudanese military on the development of chemical weapons. With that as a backdrop, when the embassy bombings occurred, the JSCs and CIA were tasked by the President to work together to come up with a target list, and the JSCs and CIA came back together with a target list that recommended an attack on the chemical facility.

Enough people have a vested interest in saying that was wrong, that it was a baby milk factory or whatever. I think the record is pretty clear that it was a chemical factory, that among the chemicals that were produced there was a precursor for nerve agent, that there was a Sudanese nerve agent program under way.

And if you look at the testimony of some of the witnesses that have been brought forward in New York City in the 1998 related prosecutions, there is a very fascinating statement by one al-Qa'ida member who said, yes, he was sent to Khartoum by bin Laden to keep an eye on the chemical weapons factory there. That little statement seems to have been overlooked by most people, but it is in the record in New York. I find it just even further corroboration that that factory was engaged in the production of precursors that were going to be used for chemical weapons.

CHAIRMAN GRAHAM: Thank you, Mr. Clarke.

We have been joined by Congressmen Bishop and Gibbons. We have completed our questioning for this morning, and Mr. Clarke was just making a final summary statement. We are going to reconvene here at

2:30. We will continue with further questions of Mr. Clarke. The meeting is recessed until 2:30.

[Recess.]

RPTS BULKLEY

DCMN HERZFELD

[2:33 p.m.]

CHAIRMAN GRAHAM: Call the meeting to order.

Mr. Clarke, thank you for your excellent presentation this morning, and I think at least for myself this afternoon I would like to move my questions from the what category to the why category. And one of my why questions, it relates to the Intelligence Community in the broad sense, is why was there such difficulty in making the transition from the Cold War to the fight-different environment of the post-Cold War, particularly the emergence of smaller nongovernmental adversaries such as al-Qa'ida and other terrorist groups? What do you think were the reasons for that difficulty in making the transition, and what does it say about what we should be doing as we think about reforming these agencies for the future?

MR. CLARKE: Mr. Chairman, that is a difficult question. I think the leadership of the Intelligence Community recognized that when the Cold War was over, they needed to change the way they did business. There was the recognition at the top, I think, of all of the intelligence agencies. But giving the operators and giving the analysts the training they needed to make that shift was a little hard when we didn't know what we were shifting to.

I think we had a very vague notion of exactly what the new threats were going to be. We knew there were going to be new threats. We knew they would be different. In fact, many Members of the Congress were in the lead in pointing that out, but it was difficult to figure out how you take an institution whose whole existence was predicated for 50 years on the Cold War and change the way they do business and change the way they think at the operator and analyst level. I think it was difficult to train people when there was not a clear understanding of what the new paradigm was going to look like.

That is not a very satisfactory answer, but --

CHAIRMAN GRAHAM: Well, let me ask you a related question. For a decade or so you were in one of the agencies that was somewhat removed from the day-to-day operation of the Intelligence Community, and so are we as members of the congressional oversight committees. We both have a somewhat similar responsibility to be evaluating how well the Intelligence Community is doing its business, and, if we find deficiencies, to attempt to correct them. You have in your morning testimony made some quite harsh

comments about the state of intelligence in the decade of the 1990s particularly.

What should the NSC and what should congressional oversight committees do to more effectively understand what is going on in the Intelligence Community and be able to carry out our oversight and corrective responsibilities?

MR. CLARKE: Well, one thing the NSC should do is try to give priority to the Intelligence Community, and in the Clinton administration, there was a Presidential decision directive that established a process for determining intelligence priorities. And, frankly, while it was great in concept, it never worked. Everyone wanted that issue to be a tier 1 issue, as a result of which they created tier zero, which was even more important.

We never really gave good systematic, timely guidance to the Intelligence Community about what priorities were at the national level. So I am sure that people in the Intelligence Community heard from me about my issues and other senior directors on the NSC staff about their issues, and probably the people who got service the best were people who knew about how to get the Intelligence Community to help them. They weren't really national priorities.

CHAIRMAN GRAHAM: Chairman Goss.

CHAIRMAN GOSS: Thank you. I am going to yield to Mr. Gibbons.

MR. GIBBONS: Thank you very much, Mr. Chairman, and, Mr. Clarke, I apologize for missing this morning's earlier part of the session, and we had some very pressing and urgent business before another committee.

I want to start off by simply talking about the role of counterterrorism in the administration during the 1990s. We sitting on this committee have heard many, many times the fact that during the 1990s, there began to be an incremental encroachment of risk avoidance in many of our intelligence-gathering agencies. Would you agree with that risk avoidance?

MR. CLARKE: Absolutely.

MR. GIBBONS: The memorandum of notifications that came out as a result of some of the immediate incidents of actions that were taking place are really kind of guidance to people in the field; are they not?

MR. CLARKE: Yes, sir, they are.

MR. GIBBONS: On December 20 -- or 24 December of 1998, a memorandum of notification came from

the White House which, if I may paraphrase the scope of it, if I can, it said, in light of the continuing serious imminent threat of violence and death to U.S. persons or others posed by UBL, his principal lieutenants and his terrorist organization, CIA is authorized to direct its assets to undertake lethal offensive operations against UBL and his principal lieutenants if a successful capture operation is not feasible.

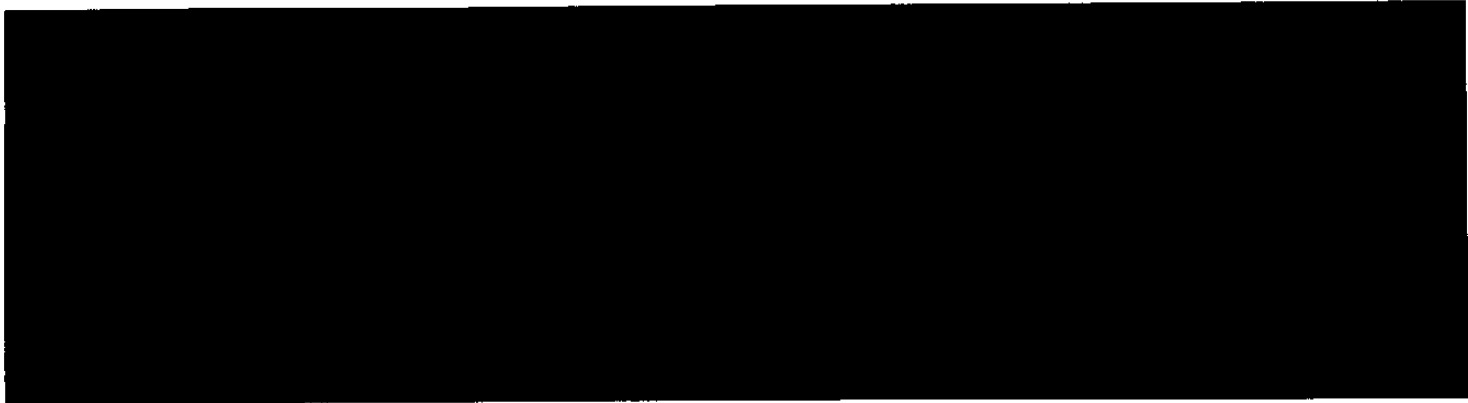
In essence, would you not agree that that says we could use lethal force on him if we couldn't then effect a terrorist -- I mean, a capture of bin Laden?

MR. CLARKE: That is what it says.

1.4c

MR. GIBBONS: Well, let us jump, if we can, Mr. Clarke, [REDACTED]

[REDACTED] and again another notification comes out from the White House, and if you will look at page 2 of that memorandum of notification, of course it is signed by President Clinton, has Presidential approval, and then on page 3 of the same notification is a message that goes out to the field.



Mr. Clarke, would you tell me for my understanding what the purpose was for changing that? If you had already given him -- or given the Intelligence Community lethal authority, why was it necessary to take it back and give it, quote, something less than lethal authority? It is like a mixed message. Why was it necessary to do that?

MR. CLARKE: I believe the CIA requested the additional finding, the additional MoN, to make -- to include a very specific message that they could send to the station chiefs involved. It was their request.

MR. GIBBONS: Well, the MoN would have, if you read it, without the change, said that there was lethal authority granted to the station chiefs. However, when it is read with the changes and the handwritten notification, it changes that completely. You were part of the discussion, obviously part of the decision process in determining this. What was the intent by this change?

MR. CLARKE: Well, Congressman, I think, as I tried to explain this morning, we wanted to give authority to CIA to engage in operations which would probably be lethal. We preferred in the remote possibility that bin Laden could be arrested and brought back to trial, because he was indicted in 1998 -- now, in the remote possibility where he could be brought back, we preferred that. We recognized, however, that that was a very remote possibility, and we wanted to make clear to the people in the field that we preferred arrest, but we recognized that that probably wasn't going to be possible.

The CIA requested this additional February document in order to get language that they could send to the field, and I think if you look at, there are five or six of these MoNs in rapid succession over the course of 18 months. I think if you look at any one of them, you can split hairs and parse them and wonder about why is it worded in this funny way. The overall reason was we wanted to use force. We recognized it could be lethal, but we didn't want to create a broad precedent that would allow intelligence officials in the future to have hit lists and routinely engage in something that approximated assassination.

I think the overall message, however, of any individual MoN or all five of them taken together is that <sup>was</sup> <sub>1.4c</sub> for the first time in history, that I certainly know about, were telling CIA go ahead, use lethal force, [REDACTED] and we know that in the process bin Laden is almost surely going to be killed. And we kept sending them these MoNs to make sure that they had all the authority they wanted. If they came up with another idea that wasn't covered in the previous MoN, we gave them another one and another one and another one so that they understood this was a high priority. The President was personally involved. We were willing to allow lethal force to be used. [REDACTED] 1.4c

[REDACTED] All of these different entities were authorized one after another to be used by CIA in lethal operations, and none of us were in any doubt that those lethal operations would probably result in the death rather than the capture of bin Laden.

MR. GIBBONS: My time is expired, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you, Mr. Gibbons.

Senator Shelby.

SENATOR SHELBY: Thank you.

Mr. Clarke, I would like to stay on the pharmaceutical plant in Khartoum and the bin Laden facilities in

Afghanistan, if I could. Were those attacks simultaneous, and if so, what was the thinking behind that decision?

MR. CLARKE: They were attacked. The camp in Afghanistan was attacked simultaneously with the facility in Sudan at the request of the Pentagon. The military planners, and particularly the JCS leadership, wanted the two attacks to occur almost exactly the same time so that one being attacked wouldn't tip the other.

SENATOR SHELBY: And were they actually attacked within a minute or so of each other?

MR. CLARKE: It was a very few minutes of each other.

SENATOR SHELBY: Did we know if bin Laden was in the camp on that date, or was that information dated?

MR. CLARKE: We received information. I believe, [REDACTED] -- don't hold me to that, Senator, but [REDACTED] before the attack.  
1.4c

SENATOR SHELBY: So it was dated information.

MR. CLARKE: But it was predictive information rather than he is there now.

SENATOR SHELBY: What do you mean predictive?

MR. CLARKE: Usually the intelligence we got was of one of two things, either bin Laden has been at site X, but he's not now, or bin Laden is now at site X, but we don't know if he will be there when you get there with your attack.  
1.4c

This was of a third type. This intelligence said, [REDACTED] days from now, bin Laden will be at this camp for a high-level meeting.

SENATOR SHELBY: When did you have that information, do you recall?

MR. CLARKE: I believe it was [REDACTED] before the attack.  
1.4c

SENATOR SHELBY: So you had [REDACTED] days to plan the attack?

MR. CLARKE: It was [REDACTED] days. It may have been [REDACTED] but it was in that order of magnitude.

SENATOR SHELBY: Do you have any information that he was there or near there when the missiles struck the camp?

MR. CLARKE: We have reports -- and I don't want to attest to their reliability, but we have reports that he had just left the camp before the missiles hit.

SENATOR SHELBY: What does "just left" mean?

MR. CLARKE: Within the hour.

SENATOR SHELBY: Okay. In your interview with the investigative staff, Mr. Clarke, you described the CIA as essentially refusing to reprogram money in order to do more against al-Qa'ida, in large part, as I recall, because you said that the Directorate of Operations preferred to fund other activities that it felt to be of higher priority. Director Tenet, however, has told this committee that the CIA has been, to use his words, at war with al-Qa'ida for 5 years. Why was it so difficult for the CIA to reprogram money to fight this war when we were hearing other things before the committee?

MR. CLARKE:

1.4c

We in the NSC and we in the OMB asked CIA repeatedly to find programs of lesser priority, either in the CIA budget or in the Intelligence Community budget, to increase the size of these activities, and they claimed that there was no program anywhere in the intelligence budget where they could get any funding to reprogram.

SENATOR SHELBY: Mr. Clarke, going on farther into the facility in the Sudan, did you know -- did we know who owned the building that was hit by the missiles? I think you talked about that a little bit earlier this morning.

MR. CLARKE: I am not sure that question ever arose when the CIA and JCS briefed us on the target. Recall that the CIA and JCS were asked to come up with a target list. They brought up the chemical plant, and they briefed us on the chemical plant. I don't recall that they briefed us on who owned it.

SENATOR SHELBY: Director Tenet testified here -- Mr. Chairman, let me ask another question. I just want to clarify this -- testified on October the 12th of 1999 before this committee in answer to a question from Senator Bob Kerrey, and he says, and this is a transcript, in this instance we did not know who owned this facility. It would have been interesting to have, but I don't think -- I don't think it would have changed the outcome of any of the evidence we laid down. That is just part of our records.

No comment?

MR. CLARKE: I think that is right. They probably didn't know who owned it, because I don't recall them



briefing us at the time that they did know who owned it.

SENATOR SHELBY: Thank you.

CHAIRMAN GRAHAM: The order of questioning will be -- after Congresswoman Pelosi, it will be Harman, Roberts, Gibbons, Lugar, DeWine, Bereuter, Hoekstra, Everett, Boehlert, Roemer, Rockefeller, Bishop, Edwards, Durbin, Burr, LaHood, Reyes, Bayh, Castle and Cramer in that order. And Feinstein. And Wyden. Congressman Pelosi.

MS. PELOSI: Thank you, Mr. Chairman. I just sought recognition for just 10 seconds to remind Members that these memoranda of notification were held to the most restricted form of notification at the highest level in the Congress. It is extraordinary and only because of this inquiry that this information is being shared here today. I just say that as a reminder. There is no way that we can confirm, deny, stipulate to, acknowledge knowledge of the memoranda of notification. I know you all know that, but with the kind of conversation that we have going back and forth, I just wanted to remind Members, this is the most restrictive of notification of any of the intelligence that comes to the Congress, and, again, this is extraordinary that it is being shared at this level.

So as my usual concern about the press and leaks, et cetera, Mr. Chairman, I just wanted to make that intervention. And I am going to hold my questions until the end of the round. Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you very much. And those were very appropriate commentaries relative to the sensitivity of this information.

Congresswoman Harman.

MS. HARMAN: Thank you, Mr. Chairman. I want to apologize to you and Mr. Clarke and colleagues that Jim Gibbons and I were testifying this morning on the new Department of Homeland Security, which is why we missed Mr. Clarke's testimony.

There are lots of specific questions that others will ask. I have a general question. As our Chairman Porter Goss always says, what changed on 9/11 was the audience, and looking back on many of the actions that you are involved in, Mr. Clarke, including things like those just mentioned by Mr. Gibbons, how much of the response was dictated by the fact that the audience wasn't listening at that point, that there was very little political will to act, in contrast to post-9/11, when everyone is listening, and there is enormous political will to act?

MR. CLARKE: Congresswoman, I think there were always Members of Congress in throughout the 1990s who were not only aware of these threats, but sort of leading the charge. Many of them are at the table in front of me. I think fewer Congressmen than Senators, obviously, were aware than are aware now, but there were people in both Houses who were very seized with this issue. There were people in the administration who were very seized with this issue, beginning with the President.

You know, it is very rare in my experience when the President of the United States picks an issue after his administration has begun, because the world has changed, and says, this is a priority, guys. I want you to create some new programs and deal with it. But that happened, and I think both national security advisers and the Clinton administration spent an enormous amount of time on the overall issue of counterterrorism and the new threats.

So in terms of my audience, I had no problem, but I know people in the Treasury Department, in the State Department, the CIA and the FBI had a very hard time with their audience, their internal audience, because they were accused of grandstanding. They were accused of exaggerating the threat. They were accused of empire-building, not playing with the team. It was tough for them, but it was even tough for us in the White House.

MS. HARMAN: As I understand it, this morning, Mr. Clarke, you discussed the conclusions of the millennium threat after-action review and briefed those who were here on material concerning the review. Could you just enlighten us on what the review concluded with respect to the presence of al-Qa'ida in the United States and what actions Federal agencies were supposed to take as a result of the review?

MR. CLARKE: I think, Congresswoman, you may have in front of you the briefing that Senator Shelby requested at the time in February of 2000, and one of the -- unfortunately the slides aren't numbered, but one of the conclusions you will see in the back is that there are sleeper cells. There are al-Qa'ida sleeper cells in North America engaged in recruitment propaganda, fund-raising. They are often violating immigration laws and criminal statutes, and the conclusion was that we should therefore beef up the counterterrorism task forces around the country, make more of them than the 28 that we had, and put INS officers and Treasury officials on those task forces.

MS. HARMAN: I see that, and so those were the recommendations, again, before the audience was listening. What became of all of that, in your view? Obviously not enough came of it, but I would just like to

say, I think time is about to run out, and I want to be fair to everybody else, that I think there is a huge difference post-9/11. There were people like you who diligently did everything you could to protect us, and there were members on these committees, and, in fact, these committees in general did everything we could, but there wasn't a big enough audience no matter who worked hard to cause everything to fall into place. Now, I hope there is, and I hope that on a bipartisan basis we do everything we can to get it right. Thank you.

CHAIRMAN GRAHAM: Any comments to that statement, Mr. Clarke?

MR. CLARKE: I think it speaks for itself, Mr. Chairman.

CHAIRMAN GRAHAM: Senator Roberts.

SENATOR ROBERTS: Yes, thank you, Mr. Chairman. Thank you, Dick.

The L.A. times had a piece today in what I call the leak of the week kind of story, and it really featured the miscommunication in reference to Mr. Padilla, who is now in the news with the dirty bomb business. But down at the bottom of it, it started quoting a lot of experts about the challenge we face now with U.S. citizens, not so much the al-Qa'ida coming here, but either the criminal element -- and it wouldn't even have to be somebody who was in charge of anything or, for that matter, let out -- but American citizens doing great damage in regards to all of the things the terrorists may or may not do.

What kind of a problem or opportunity or challenge does that pose in the reorganization of the FBI? What do you think about that in terms of any kind of nuisance? It would seem to me that is so obvious, and yet I never stopped to think about that. It is like the small boat with the Cole; well, hell, nobody is going to do that. That is exactly what they did. So now we have a situation that is not so much the al-Qa'ida coming in, but American citizens doing their bidding, either criminal or otherwise. What are your thoughts about that?

MR. CLARKE: Senator, if you go back to this chart from the February 2000 briefing, you will see that there were two simultaneous plots, one in Jordan and one in the United States, and they both involved American citizens. [REDACTED] 1.4c

[REDACTED] I think that was an eye-opening thing for those of us informed, and we began to think that just because you are an American citizen doesn't mean you shouldn't be subject to some scrutiny if you show up having connections to these people. But prior to the recent changes

in the Attorney General guidelines, that was hard, if not impossible, for the FBI to do.

SENATOR ROBERTS: In the PDD-62 framework, I think it is No. 9, the directive states that Justice, INS, FBI, State will develop a strategy to be implemented by the Department of Justice, INS, FBI to limit the duration of stay of the students from terrorist countries to track them while they are in the U.S. and to know when they depart. Obviously some of the 9/11 terrorists were here on student visas. I think the obvious question is -- or observation is -- is that do you believe that the full implementation of this directive could have impeded the 9/11 attacks? Where are we in that effort, and where are we with it now?

MR. CLARKE: The Congress actually mandated an experimental program to implement part of this, and I believe it was funded for 1 year, and then the funding lapsed. It was not enthusiastically supported by the Justice Department or the State Department.

SENATOR ROBERTS: Or the schools.

MR. CLARKE: Because of the schools, because the universities pointed out the major American universities make most of their profit, or at least most of their money, from foreign graduate students and undergraduates, and they did not want to cast a pall on that cash crop.

SENATOR ROBERTS: On Khartoum, I am going to go over that one more time. It is your position that we did not hit the wrong plant; that basically the plant that was hit made a precursor element. There was another plant that was talked about, [REDACTED] 1.4c [REDACTED] which led to a lot of speculation that we did hit the wrong plant, that that was in a runoff area, and that is -- and the only reason I am bringing it up is that I have been saying it was a mistake now for about 5 years -- well, 3. Anyway, that is your contention, that that was the -- the accurate account?

MR. CLARKE: Our belief is that there was a chemical weapons program involving Sudan and al-Qa'ida. The witness, Mr. Fadhil, in the New York trial testified that his job was to go back and forth from Afghanistan to Sudan to supervise the al-Qa'ida involvement in the Sudanese chemical program. [REDACTED] 1.4c [REDACTED]

1.4c

[REDACTED] although we thought that that was involved. We thought that we could attack the pharmaceutical plant with little collateral damage, and we thought it was involved in making the precursor [REDACTED] 1.4c

1.4c

The CIA briefed us that they believed that [REDACTED] that that was typical of a chemical plant; that either it comes off in a runoff, or it transits in the air, [REDACTED] 1.4c

Also the plant was capable of making that precursor. So it [REDACTED]

[REDACTED] was the type of plant that you would use to make the precursor; appeared there was no other plant in the area where you would make that precursor. 1.4c

CHAIRMAN GRAHAM: Thank you, Senator.

Senator DeWine.

SENATOR DeWINE: Mr. Clarke, you talked this morning and this afternoon about the reorganization in the FBI, and you seemed to be fairly satisfied with what you have seen. I wonder if you could talk a little bit about where we need to go in regard to the CIA in the future. You covered that a little bit, but I would like to kind of revisit that and talk about the big picture. And as you do that, share with us your experience and your wisdom in regard to what we are likely to miss as a country.

A lot of things are emerging now as conventional wisdom as to what we should have done differently. We have got a list that the newspaper has, everybody on this committee has, and they are all pretty much the same, frankly. What are we likely to miss in the CIA question?

MR. CLARKE: Let me start with the CIA question, which is a little bit easier. [REDACTED]

1.4c

SENATOR DeWINE: Excuse me. Are you convinced that the current -- that we are moving forward,

though, well enough?

MR. CLARKE:

[REDACTED]

1.4c

I think it is a message which the Congress has to give and the administration has to give to the career officers, which is don't be so risk-averse. You don't have to bat 1,000. We are not going to crucify you if you get one wrong.

That message has not come through; in fact, quite the opposite historically over the last two decades. And I don't think CIA will be as effective as we all want it to be until that message does come across from the Congress, as well as from the administration.

As to what we are likely to miss, a very difficult question. I suspect what we are likely to miss is a country that we think is unsophisticated technologically being able to do something against us in a sophisticated way. I worry about their cyberwarfare -- information warfare abilities, which are very hard to detect, or a nonstate actor that is not a terrorist group, a nonstate actor that is a criminal enterprise. There are very major criminal cartels in the world that have more assets, more money at their disposal than dozens of nations put together, and they can buy almost any capability they want. I do not think we have done a very good job of penetrating those criminal cartels, and that is one of the things -- if you want a list of things that we are not paying attention to sufficiently, that is one of the things I would put on the list.

SENATOR DeWINE: Thank you very much.

CHAIRMAN GRAHAM: Thank you, Senator.

Congressman Bereuter.

MR. BEREUTER: Thank you, Mr. Chairman.

Mr. Clarke, in late 2000, the CIA reportedly drafted two memoranda of notification for covert actions: one, Afghanistan work against the Taliban; No. 2, greatly enhanced support [REDACTED] to conduct counterterrorism ops, military ops against UBL forces. I understand that through the spring and summer of 2001, the CTC continued to press for the approval of these MoNs, but reportedly did not receive

1.4c

full support at the NSC. After 9/11, those MoNs, I understand, were combined, changed slightly, signed by the President on September 17th of 2001.

Do you recall these draft MoNs, and what was the reason for their nonapproval, if that was, in fact, the case? If signed, what impact would they have had, if you care to speculate?

MR. CLARKE: I would amend your statement of the facts in two respects. Yes, CIA did draft them. They drafted them at my request. I think that is one key fact that needs to be added to that record.

You said they were not supported by the NSC during this administration in 2001. I think that is inaccurate. What occurred during the spring was that the Deputies Committee of the NSC, Deputy CIA Director, Deputy Secretary of State, et cetera, met four times or five times to go over our policy with regard to those MoNs and with regard to [REDACTED] Afghanistan, al-Qa'ida in general. Those MoNs were designed to be signed after the President signed the national security directive. Now, that national security directive on the elimination of al-Qa'ida was approved by the principals on September 4th and was on its way to the President's desk on 9/11. So they were never disapproved. In fact, they were being incorporated in an overall package.

MR. BEREUTER: Are you saying that they in all probability would have been signed if it hadn't been for the intervening of that, and it would have been signed shortly after September 4th?

MR. CLARKE: Yes, they would have. And the remaining question and the big question is where the money was going to come from and when the money was going to arrive. CIA had agreed to the MoNs, and everyone else had. What had not been determined in early September of 2001 was how much money to give to the implementation of these MoNs and where that money would come from and in what fiscal year.

MR. BEREUTER: All right. Mr. Clarke, I would like to return to financial assets, a subject that I started to pursue this morning. Earlier today you noted that Treasury personnel were not supportive or perhaps hostile to the idea of using covert actions [REDACTED]

[REDACTED] How would you propose that we could push a Treasury culture so that it could be engaged more aggressively in working terrorist financial targets such as al-Qa'ida, Hezbollah and the FARC, and relatedly, what steps did the NSC take to ensure that Treasury entities such as the Office of Foreign Asset Control gained access to all the relevant access on terrorist financing?

MR. CLARKE: Well, let me start with the latter. You mentioned the Office of Foreign Asset Control, the Treasury, and again, as I said this morning, there were heroes in every department. The Director of the

Office of Foreign Asset Control in the Treasury Department, Rick Newcomb, career civil servant, was extremely aggressive in trying to go after terrorists and terrorist money, and he did so at the risk of his career, because the rest of his department didn't want to do it. And I think that is the kind of story you saw over and over again in every department.

What we did to get them intelligence, whenever we saw intelligence at the NSC that we thought would have been useful to obtain, we called them up and invited them over and either read the intelligence over the phone or invited them to come over and read it. We also asked the Treasury Department to create a foreign terrorist asset tracking center that could receive all of the intelligence, even the high-classification intelligence, directly. And ultimately, Treasury Department did set up such a foreign asset tracking center.

I think the thing that we could do more is to recognize when we are talking about money laundering and suspicious activity, reporting requirements for banks in the United States -- and there is some -- has been some opposition in some parts of the Congress to such reporting requirements -- that money laundering is key to the FARC, to al-Qa'ida and to others, and while we may object to strenuous requirements on banks in the United States, if we are going to be serious about going after the money of people like the FARC and al-Qa'ida, we have to have tough anti-money-laundering laws here.

MR. BEREUTER: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you, Doug.

Congressman Hoekstra.

MR. HOEKSTRA: Thank you, Mr. Chairman.

Mr. Clarke, the memorandum of notification, you said that, you know, the CIA got everything they want, but that is the one -- the one that I am talking about is the one where the President crossed off if successful capture operations are not feasible, we would request that you undertake offensive operations. Now, that is obviously what the folks in the field asked for, and that is one thing that they did not get.

MR. CLARKE: Again, my impression is that the folks in the field knew exactly what was being asked of them. What was being asked of them was to do more than they were doing; that the White House was continuing to sign MoNs asking them to do something aggressive about going after bin Laden, including killing him if that were necessary or possible.

I would put it the other way around. Rather than saying the folk in the field didn't get what they want, I



would say that the President didn't get what he wanted. The President wanted him dead. The President signed five documents authorizing him to be killed, and nothing happened.

MR. HOEKSTRA: I guess reading that language, why would that have been crossed off then? I thought that language would be very, very clear and would remove any doubt from the people in the field that they were carrying out his orders. And if you take a look at the other language, it kind of casts some doubt as to what he really does want.

MR. CLARKE: I don't think it will be productive to parse the words here in this particular MoN, but I think the overall message is of five MoNs in a year and a half, all of which set new precedents in terms of authorization to use lethal authority. I think the message from the White House to the CIA taken at whole in those five MoNs was do something, go out there and get him one way or the other.

MR. HOEKSTRA: You also talked about the lack of perhaps willingness to take risks by operatives because they might not have had the clarity, or they might -- you know, something may go wrong, and they would get called before Congress and those types of things. Isn't that what they are really looking for is the clarity in the language that said, no, look, we had approval to do this, because they recognized that somewhere down the line if they did get held more accountable, they said, wait a minute, you didn't have the authorization to do that, and here is a clear example where we didn't give you the authorization to do that?

MR. CLARKE: I think, again, as I said this morning, we did not want to establish the notion that it was easy to go out and kill people, that we did not want to establish an assassination program. We did not want to establish a hit list or a precedent that would allow for that in the future. We wanted a very narrowly cast authorization to kill bin Laden and his lieutenants under certain circumstances, and that would have to include proving that there wasn't an option to capture him. The CIA believed, people both in the field and at headquarters believed, that there was not an option to capture him. So they believed -- and I asked them at the time, if they had clarity, and they believed they had clarity, that if it was possible to stage a capture, they could do that, but if it wasn't, they didn't have to.

MR. HOEKSTRA: Later on in -- I think today or whatever, we may get more briefings on the U.S. as a possible terrorist target, and it goes through the chronology of the different potential attacks, the attacks that are thwarted and these types of things, and then it also -- it kind of concludes that a December 2000 joint FBI/FAA classified threat assessment said -- and it goes on, but the conclusion, terrorist activity within the U.S.

has focused primarily on fund-raising, recruiting new members and disseminating propaganda, while international terrorists have conducted attacks on U.S. soil. These acts represent anomalies in their traditional targeting, which focuses on U.S. interests overseas.

Is that the -- that was the primary mind-set within the intelligence agencies in December of 2000?

MR. CLARKE: No. I think you could have gotten a debate. What you just read was certainly a mantra of one heard over and over again. They are not going to mess up their own sanctuary. The U.S. is a sanctuary where they can recruit and raise money, and therefore they will never do anything here, because after all, then we would get mad and do something. Some people believe that, and you did hear that. Other people said, excuse me, World Trade Center bombing in 1993, attempt to blow up the local land tunnel and the Lincoln Tunnel in the U.N. building in New York in 1993, attack on the CIA headquarters in 1993. Doesn't that paint a picture of the opposite?

And so I think there was disagreement in the Intelligence Community about whether or not an attack would ever occur here.

MR. HOEKSTRA: Thank you.

CHAIRMAN GRAHAM: Congressman Boehlert.

Excuse me. Congressman Everett.

MR. EVERETT: I will pass.

MR. BOEHLERT: I will pass, too, Mr. Chairman.

CHAIRMAN GRAHAM: Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman.

Mr. Clarke, I want to thank you again for your straightforward and very apparently honest responses to our questions. It is refreshing to see that, and I don't think you have tried to duck one of these yet.

In your answers this morning, you seem to note a certain degree of frustration that there were times that the FBI offices, the field offices specifically, were not well organized. In fact, you have much more pejorative terms for that, that the CIA did not take aggressive enough actions in two or three different areas, whether it is covert or Predators or whatever. What kind of frustration was being expressed by people like you and others at NSC and executive branch agencies about this kind of -- this lack of aggressive action being taken or implemented?

MR. CLARKE: Well, I think if you take the issue of al-Qa'ida financing and funding and money, I think the first Clinton administration, the NSC adviser Tony Lake spent a great deal of time asking CIA why they weren't producing more information.

MR. ROEMER: And you have memos and --

MR. CLARKE: No. I am not sure I could produce a memo that says that.

MR. ROEMER: So you know that from phone calls or from hearing him, or how do you know he did that?

MR. CLARKE: These are weekly meetings. There was traditionally --

MR. ROEMER: With the CIA?

MR. CLARKE: With the CIA Director and national security adviser. There was always a weekly meeting.

MR. ROEMER: Which you were attending?

MR. CLARKE: I would be invited in when the topic was counterterrorism and invited out when the meeting went on to other things.

But even back in the first Clinton administration, there was a frustration that Dr. Lake felt, certainly a frustration that -- in the second administration that Sandy Berger felt as national security adviser on why we couldn't find out how much money al-Qa'ida had, how much did they spend, where did it come from, where did they keep it, and it was years of demanding answers to this question, both in these weekly meetings and in Principals Committee meetings, and the answer came back, we hear you, we are trying, it is just too hard to find the answer.

MR. ROEMER: And did that extend into other areas as well, too, besides the financing?

MR. CLARKE: As I said this morning, the other area that comes to mind was weapons of mass destruction, where the only intelligence we would get was sort of hand-waving, that they are doing something about weapons of mass destruction. Well, that sends chills into anybody in the NSC or White House, and we therefore say, well, what can we do about it? And we never were given a single actionable piece of intelligence. So we would be told, there is this bad thing going on, and when we say, yes, we understand it is very bad, we want to do something about it, why don't you, Intelligence Community, do more collections so that we can authorize some action? We were never able to get actionable intelligence.

MR. ROEMER: With respect to the new initiative that has been offered by the President to create -- and I am specifically talking about a new intelligence division. This would not be collecting information. I think it

would be analyzing information. You have said a couple times this morning that we didn't have enough good communication between the FBI and the CIA communicating. How do we try to get the appropriate degree of communication between three branches of analysts now?

MR. CLARKE: I am not sure I said that there was poor communication between FBI and CIA. I think that contention is overblown. I think there was good communication. You can find the exceptions, but I think overall there was very good communications between the CIA and FBI.

The second Reagan administration for 4 years ran the analytical section of the Intelligence Bureau at the State Department. I had about 100 analysts. I had nobody doing any collection. We did tremendous analysis, if I may say so, because we had good analysts who knew how collection occurred and who knew how to make requests to those who were doing the collection, but also knew how to do open-source research. All too often we ignore open sources. If we don't pay for it or steal it, we don't believe it.

I think having in the Department of Homeland Security a bunch of really good analysts who know how to do tasking of collection, but don't do the collection themselves, I think having that additional third voice is a very good idea, and we want it to be a real center of excellence for analysis, where there is no reason to say yes or no to something so that you are defending your own collection program, because they are not going to have a collection program.

MR. ROEMER: Thank you.

CHAIRMAN GRAHAM: Thank you.

Senator Rockefeller.

MR. ROCKEFELLER: Thank you, Mr. Chairman.

Mr. Clarke, you made, I thought, a very interesting statement this morning when you indicated that we are spending -- and then you talked about the Phoenix memo, and you said, we are not obsessing, but we are spending so much time on that, and you said if you want to find out what the problem is, you have got to go back 10 or 20 years. It is accumulated, aggregated, the whole cultural thing.

I would be interested in your advising us, and please feel free to do so, on where the line is between where there are important dots on a short-term basis that people want to get connected, even though they may be on separate pages, and, therefore, they are unconnectable, but they -- that is what the press wants. That is what some of us want. It is the way America works -- and where that point comes where in the

carrying out of that exercise, you begin to diminish what it is that I think a lot of us want to do, and that is to make a system that works for the future, where the short-term begins to hurt the long-term.

MR. CLARKE: The point I was trying to make in the morning, and I may not have been clear, was we are never going to know whether if Gail Watson, the Assistant Director of the FBI, or me, or any of us knew about the Phoenix memo or the two folks in Los Angeles who were on the watch list and the Minnesota case, we are never going to be able to answer the unanswerable question, what would we have done, and could we have found the thread which, if we pulled it, would have unraveled this plot. We don't know.

What we do know is that we have never had, since the 1970s, a domestic intelligence collection and analysis program, and what I meant to suggest was that is where the blame lies; that we do know that if we had developed over the course of the past 25 years a domestic analysis and intelligence collection program, we would have had a better chance of preventing not just individuals like Moussaoui or another person, but the whole network. We would have had a chance of preventing the whole network from growing up in the United States, but we weren't looking. And when I would go to FBI offices and ask them if they were looking, they would frankly say, no, it wasn't a priority. It wasn't something that headquarters could enforce.

In one particular office they said they were looking for the IRA with the terrorism task force. In another field office they told me they were looking for the Tamil Tigers, because that was what they wanted to do in that field office with the joint terrorism task force, and headquarters didn't really have a way of mandating priorities.

I believe if we had had a real domestic intelligence collection and analysis program for the last 20 years or so, we would have had an institution capable of preventing 9/11.

MR. ROCKEFELLER: One more question, and that is in the FBI where you have people investigating crimes that have taken place traditionally, they don't put something on the Internet, because their Internet doesn't work. They can't communicate with each other even if they did that, but they don't because they prefer to have case files, and so would I, because I wouldn't want -- you know, I am trying to do something, and I carry around my information in a folder, and that is mine, and I have worked on that. And it is not just proprietary, it is good prosecution potential. Now, that is an enormous mind-set which fights against a lot of what you have been talking about. How does that get overcome?

MR. CLARKE: Well, I think there are two problems there that have to be overcome: one, the notion of

focusing on prosecutions. When I would ask the FBI agents in the field, why aren't you going after these guys who are here violating their visas or committing petty felonies? You could get them thrown out of the United States because of that. You may not be able to prove in court they are a terrorist, but you could prove in court they are doing this or that minor infraction and get them thrown out. The answer was, the U.S. attorneys don't want us to bother with minor things like that.

Now we want the -- the U.S. attorneys want and the head of the FBI office in our city wants big scalps on the wall, big prosecutions that result in long sentences. And, you know, going after the petty little crime in order to get somebody who might be a terrorist or related to a terrorist, that is not a priority.

I think we have to change that notion, that the only thing we are interested in doing is the big prosecution that gets the big arrests and the big sentences.

The other thing we have to get over is the notion of withholding information from headquarters, and you are right, a lot of that went on. There was not an understanding of intelligence fusion within the FBI, that the way you really can put a case together across a country is by getting a little fact here and a little fact there and putting it all together. They didn't understand that.

MR. ROCKEFELLER: Thank you.

CHAIRMAN GRAHAM: Thank you.

Congressman Bishop.

MR. BISHOP: Thank you, Mr. Chairman.

Mr. Clarke, in your presentation this morning, you stated that the Counterterrorism Security Group met with the Coast Guard, the FAA, Customs, INS and FBI on July 5th 2001 as actions were being taken to tighten security at the U.S. facilities overseas. What information was shared at that meeting? What actions were supposed to take place as a result of the meeting, and did they?

MR. CLARKE: CIA had been issuing a series of threat warnings beginning in early June saying that there was a major terrorist -- al-Qa'ida terrorist attack about to occur in the next couple of months, and on the basis of that, we had warned all of our embassies. We had warned all of our military facilities overseas. Now, that is because CIA's analysis, the attack would probably take place in the Persian Gulf or in Israel. But we asked in the CSG, can you rule out that the attack will occur in the United States, and their answer was no. In fact, there is the possibility of multiple, simultaneous attacks, some overseas and some in the United States. Even

though they had no intelligence indicating specifically that an attack would occur, they knew of al-Qa'ida's interest in attacking the United States, and there had been the attempt in January of 2000 at the Los Angeles airport.

So with that information, we called in the domestic law enforcement agencies and asked CIA to brief them on all of the information that CIA had that led them to the conclusion that an attack was coming, all of the intercepted communications, all of the human reporting, and they did that. On the basis of that, FAA issued another warning to the airports and the airlines. They had already issued one the week before. And on the basis of that, the FBI issued another warning to the 18,000 State and local police departments. But both the FAA warnings and the FBI warnings were necessarily general. They couldn't say, we expect the attack to occur during this time frame, or we expect the attack to be using a car bomb or a truck bomb or a boat or an airplane, because we didn't know.

MR. BISHOP: What -- was the dates of these warnings subsequent to the July 5th meeting?

MR. CLARKE: Well, some of them were before, and some of them were after. We had an FAA warning issued on June 22nd --

MR. BISHOP: No, no. I meant following the July 5th, 2001, meeting.

MR. CLARKE: Right. And all I wanted to point out was all of them that occurred around that time. FAA warning on June 22nd. FBI warning on July 2nd. The meeting then on July 5th. FAA warning on July 18th. FBI warning again on July 18th. An FAA warning again on July 31st. An FBI warning again on August 1st. And an FAA warning again on August 16th.

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MR. BISHOP: And these warnings were issued to whom?

MR. CLARKE: The FBI warnings were issued to 18,000 State and local police departments. The FAA warnings were issued to all airports and airlines.

MR. BISHOP: Okay. Did these, the recipients, have any idea what they were supposed to do with these warnings and how they were to respond?

MR. CLARKE: The warnings, as I said, were not specific about when the attack would occur or how the attack would occur. So the warnings did not and could not, in the absence of that information, give specific guidance other than to increase awareness, increase alert status, look for unusual activity, enforce to the book.

But in the absence of specifics about when and where and how, the warnings do not provide terribly specific or useful information.

MR. BISHOP: I guess what I am asking, I am really trying to get at is, does it tell them what to do if they picked up on any information? What was their response to be; should they come into information that might have raised suspicions, what were they supposed to do specifically?

MR. CLARKE: Well, I don't know this for certain without reading them, but my belief is the recipients of these so-called "information circulars" from the FAA were typically to the security directors at airports and security directors at airlines, all of whom had close working relationships with FAA security; and they knew what to do -- in effect, to call FAA security.

With regard to the 18,000 State and local police departments, obviously some of them had no close working relationship with the Joint Terrorism Task Forces. Others, particularly those in the 28 metropolitan areas where we had Joint Terrorism Task Forces, knew what to do, which was raise it directly in the Joint Terrorism Task Force.

MR. BISHOP: So the people, the 18,000 law enforcement agencies, State and local law enforcement agencies, had no preplanned response in the event that there was such an incident; they were just being given information, but there was no prearranged, no emergency plan, emergency response in place at that time which they were to follow in the event that these -- that these things occurred.



MR. CLARKE: I am sorry, Congressman, I misunderstood your first question. I thought you were saying, what were they supposed to do if they got information.

I think they generally understood if they got information they were supposed to contact the local FBI.

Your question, what are they supposed to do if there is an incident or attack, that varied from city to city. In many, many cities and probably most metropolitan areas, the FBI had worked with the State and local authorities to plan responses to certain kinds of terrorist attacks. We then held a series of exercises around the country. For example, on weapons of mass destruction attacks, we had had a whole series of exercises about hijackings of aircraft.

CHAIRMAN GRAHAM: I am sorry, Congressman. We have been, I am afraid, pretty harsh in enforcing the red light rule.

MR. BISHOP: I yield.

CHAIRMAN GRAHAM: Senator Edwards.

SENATOR EDWARDS: Thank you very much, Mr. Chairman.

Mr. Clarke, with respect to your comments both this morning and this afternoon about the FBI not functioning as a domestic intelligence agency, I want to ask you a couple of specific questions about the time during which the FBI was under the direction of Director Freeh.

During that time, did the intelligence elements of the FBI take direction from the Director of the CIA, in your judgment?

MR. CLARKE: The intelligence elements of the FBI, I am not sure what particular parts of the FBI you mean. I mean, the FBI is notionally a member of the Intelligence Community, and the FBI does send people to Intelligence Community meetings. But I don't think there is any real guidance that they receive from the Director of CIA.

SENATOR EDWARDS: Okay. We know, both from briefings and from press accounts, that, for example, Director Freeh was apparently very interested in the Khobar Towers bombing; and there have been some suggestions, both in press accounts and otherwise, that he was more focused on the law enforcement officer aspects than the intelligence aspects of it.

Do you know whether the FBI-collected Khobar Towers intelligence information was shared with the other intelligence agencies?

MR. CLARKE: I think in both Khobar and the embassy bombings in East Africa, and also in the Cole attack, the FBI collected information which CIA had missed, or CIA had not been able to collect because the FBI does a different type of collection. It does forensics work, incredible, marvelous work at forensics, putting together pieces after an attack, little bits and pieces that actually lead to information. They also flood an area with investigators who question everybody. And that is not what CIA does after a terrorist attack.

So the FBI does have -- did generate information after the attacks by going to the locations. And all of that information, to the best of my knowledge, was shared with CIA.

SENATOR EDWARDS: Do you know whether the ongoing investigation being conducted by the FBI about Khobar Towers, whether that information was also shared with senior White House officials like you and others at NSC?

MR. CLARKE: I certainly received very frequent briefings from the FBI about that investigation.

SENATOR EDWARDS: Let me ask you about this, some information that we have been given by the staff about some witnesses who said that in the May 1998 time frame, before the African embassy bombings, that, and I quote, "The CIA was ready to go with a capture operation with bin Laden in Afghanistan, but that policymakers at NSC called it off."

We have heard some conflicting information about that. I wonder if you could comment on that and, at least from your perspective, set the record straight.

MR. CLARKE: I find that sort of ironic. The NSC was pushing CIA to come up with operations, not the other way around. CIA never brought to the White House a request for an operation with regard to al-Qa'ida that was not approved. That is a double negative. Every operation that CIA ever brought to the White House for approval against al-Qa'ida was approved.

SENATOR EDWARDS: Mr. Chairman, that is all I have at this time.

CHAIRMAN GRAHAM: Thank you, Senator.

Congressman -- or Senator Durbin.

SENATOR DURBIN: Thank you very much.

Mr. Clarke, let me ask you, following Senator Edwards, as members of Judiciary Committee, we have been following the FBI. I am trying to come to an understanding about what we need to do to improve the FBI, and there appear to be two levels of concern. One is a culture within the Agency and another is a technical

capability.

From what we have been told by Director Mueller repeatedly, the FBI computer capability is awful. They don't have keyword search at the FBI, which is on most basic software in America.

Your comments to staff before this hearing and today really have brought me to the point where I want to ask you to pursue that a little bit. Is the problem in the sharing of information from the FBI a reflection of a culture within the Agency, or a technical incapacity, or both?

Is it known within the Intelligence Community that when it comes to dealing with computer capability, the FBI is light years behind others, or is this even discussed?

MR. CLARKE: I think the answer is clearly both. But let me provide a more detailed answer.

The people -- there are people in the FBI who understand information science, computer science, as well as anybody in this country. They are the people who are doing computer crime and computer forensics. They do not, however, as a Bureau have an information management system nationwide or, for that matter, in any city that is anything short of antediluvian. It is the most basic, primitive kind of information technology. And that does make it difficult for them.

There is also a cultural problem. You can't ask an FBI agent who has spent 20 years doing bank robbery investigations and drug busts to overnight become an expert in Islamic fundamentalist cell structure. And that is what we do. And if you look at the priorities that were given to the FBI over the course of the last 20 years, they were increasingly bank robberies, violent crime, white collar crime. We asked them to go and help cities where there was a high incidence of homicide and do homicide investigations, because local police departments were unable to successfully suppress the homicide rates in some cities.

You can't ask an agency to have that kind of priority and then ask it to be an effective domestic intelligence collection and analysis capability.

So I think the answer is, very definitely both are problems.

SENATOR DURBIN: Let me give you a specific question then.

When the Inspector General for the Department of Justice recently testified to the Judiciary Committee, he testified that when he examined the congressional mandate to the Immigration and Naturalization Service to establish a database for exit visas to compare to visas issued, so we would have some notion of the inventory of the people in the United States beyond their visa allowance, that mandate was given by Congress 6 years

ago, and according to the Inspector General, they are years away from developing that capacity.

He also went on to say that when, 3 years ago, we issued a mandate to the INS and FBI to coordinate their fingerprint databases, they still haven't reached that point and, he believes, are years away from coordinating existing fingerprint databases.

Please put those two facts into the context of a proposal where we are going to fingerprint and photograph between 100,000 and 35 million new entrants to the United States on an annual basis. Is this even in the realm of possibility in our lifetime?

MR. CLARKE: I think it is if you outsource it.

SENATOR DURBIN: Contract it out?

MR. CLARKE: I don't mean that as a joke. If you ask an agency like the FBI or the INS with its existing in-house capability and expertise to do anything as hard as those database projects, it is not going to happen. But if you give Oracle -- not to mention a particular company, but if you give any leading IT integrator -- IBM, ED S -- the contract to do it, it will happen.

Now, sometimes they will get it wrong and you have to have another outside company doing project management and audit. But there are ways to get this sort of thing done. We have done it before with NASA and other departments; it is possible. The Defense Department has pulled a few things off that work.

It is possible to do difficult, complex IT information technology projects, but not if you rely heavily on personnel in the department who were not trained or skilled in the way of doing it.

SENATOR DURBIN: Mr. Chairman, I would say in closing, as my time expires, I would hope we would listen to those responses in the context of these issues. After we get beyond the very difficult issues of racial profiling and civil liberties and the question of what is the most effective way to defend America, we get down to the basics of what are we technically capable of achieving in a short term that will make this a safer country? And I think Mr. Clarke's answers point to some of the real serious shortcomings.

CHAIRMAN GRAHAM: Thank you, Senator. I agree with those observations.

Congressman Burr.

MR. BURR: Thank you, Mr. Chairman.

Mr. Clarke, let me go to where Senator Edwards just was, and that is back to an earlier line of questions that I was on this morning relative to this March -- early April, I guess, request by the CIA to do a capture

option. I think you were somewhat fuzzy on whether you had phrased it as "to assassinate the target."

But I want to go past there to May when the decision was made by the CIA not to pursue this op. And they gave three specific reasons. Those reasons were collateral loss, assets would be killed, characterized as an assassination.

Now, you have said several times today that the CIA should have known with all the MONs that

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the taking out of bin Laden, was approved. Am I correct?

MR. CLARKE: After the MONs were signed, yes, not before.

MR. BURR: Would that have been the case in May of 1998?

MR. CLARKE: Yes.

MR. BURR: So it is your opinion that there is no way that the CIA could have misinterpreted and should have listed as one of the reasons to stop this op having been the characterization of an "assassination"?

MR. CLARKE: Let me come back to the way you started the question, which was, CIA asked the White House. I think the record is, actually, the White House asked CIA to develop options for a snatch because bin Laden at that point had been indicted. CIA did not -- having developed the options and briefed the NSC staff, CIA did not, as an institution, then recommend that those options be carried out. So I think what you are looking at is one part of a spectrum. You are looking at the part where CIA comes back to us at our request with a design for an operation, but they do not formally propose it as an agency.

I think the two parts that we need to add on either end of that spectrum are, one, why did they do it -- and that is because we asked them to, the White House asked them to develop the operation. And the other end of the spectrum, having briefed us on the plan, did they recommend -- did the DCI recommend that it be carried out; and the answer to that is, no, he did not.

MR. BURR: In fact, he pulled the plug on the operation on 29 May of 1998 and listed those reasons being the reasons they made the decision that they had. And I am curious, just personally with all that we see, why, number three, if bin Laden was killed in the operation, it would be characterized as an assassination.

I go back to the Joint Inquiry Staff's interview with you, and let me just ask you about one specific point, and I quote from those notes, "In general, the DO was hostile to covert actions. DO leaders believe that covert action is risky, unsuccessful, and gets them, as individuals, in trouble."

What did you mean when you said "gets them in trouble"?

MR. CLARKE: I think the reference, in particular, was to our request that they develop a plan [REDACTED]

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[REDACTED] against al-Qa'ida.

I think if you talk to DO officers who have been in the Agency for a very long time, what you hear very often is, you know, there is a history over the last 20 or 30 years of you guys at the White House who are only at the White House for a few years; you come in all worked up about an issue, and you ask us, CIA, who are here for 20 or 30 years -- you ask us to go out and do something for you that pushes the envelope, that gets people killed, that gets us involved with unsavory people; and very often the operation, because it is risky, goes bad in a way that reflects badly on CIA. And then when we turn around to get support from the White House, the people who asked to us do that have moved on, or they abandon us; and we are stuck in front of the press, we are stuck in front of the Congress justifying an operation which we never proposed in the first place -- some White House Republican or Democrat asked us to do it.

And I am sympathetic with that because I think history does show a pattern of that kind of thing; and if I were working in the DO, I think I would have that concern as well.

I am not trying to say they were wrong, I am just trying to say why it is that that kind of cultural bias occurs.

MR. BURR: I thank the Chair.

CHAIRMAN GRAHAM: Thank you.

Congressman LaHood.

Congressman Reyes.

Congressman, if you would hold just a minute, I would like to read the list of the next person who will be coming in order: Bayh, Castle, Cramer, and then Ms. Pelosi, Feinstein, Wyden, Levin and Boswell.

MR. REYES: Thank you, Mr. Chairman.

Mr. Clarke, there are several areas that I want to get your comments on. Before I do that, I spent 26-1/2 years in INS, most of that in the Border Patrol.

There are a number of things that are broken with our system of intelligence. Let me just give you one example. As the chief in south Texas during the Gulf War, we -- I had 535 agents, and I considered each one of them a potential intelligence tentacle out there and urged them to work that way. Our directions were to

pass intelligence on to the FBI.

Periodically, I would get visited by a CIA person working either Central America, or Latin America in general -- that never was very clear -- who wanted information about certain things that they were working in Latin America and specifically told me, now, we don't want the Bureau to know that these inquiries are going on.

So we have -- I don't know who makes the decisions to somehow coordinate this kind of stuff, because it is all done in the cloak of secrecy, and those of us in charge of sectors, or police departments, take your pick, but predominantly my experience on the border, which gives it an international component, is that -- perhaps other areas wouldn't have to consider, but my question to you is, who makes those decisions? How would those be coordinated? And that puts first line managers on the border and in other areas in a great deal of dilemma, doing those kinds of things.

MR. CLARKE: Congressman, we tried to do some institutional fixes to make sure that CIA and FBI couldn't hide secrets from each other. Both CIA and FBI had counterterrorism offices. And what we did was to ensure that the Deputy Director at CIA in the Counterterrorism Center was an FBI officer and the Deputy Director at the FBI in the counterterrorism shop was a CIA officer.

And they saw all of the information; they were not prohibited from seeing certain types of information. The agreement was if you are the Deputy Director of CIA CTC, even though you are an FBI officer, you see everything that you would see if you were a CIA employee.

In addition to that, we held meetings more than once a week to coordinate at the head of the office level. Once a month, the top five people in CIA met with the top five people in FBI, which was a new idea. We tried as many of those institutional and structural fixes as we could to prevent the kind of thing that you talked about, where one agency says, well, don't tell the other agency.

What we tried to do is create transparency so that they couldn't hide information from each other. Apparently, we haven't been terribly successful. But the message we tried to get across, and I think the leadership of FBI and CIA tried to get across was, cooperate with each other.

MR. REYES: If I can switch to one of your other recommendations and that deals with INS and contracting out a project, as the Senator was referring to. I think, based on my experiences, that INS now has five independent databases that don't have the ability to talk to each other. There has got to be a better system,

given the consequences of not being able to have a comprehensive database that everybody can have access to.

We have got an agency that the Border Patrol cannot put an inquiry into the detention database, and the detention can't do the adjudication and that kind of thing.

MR. CLARKE: I think that is an example of INS employees making decisions incrementally over time, rather than taking the whole project and contracting it out. Let me contrast that with what the Department of the Navy just did last year.

The Department of the Navy is building the Navy-Marine Corps Internet, enormous multi -- in fact, billion dollar project. Now the Navy could have had their experts, you know, try to decide, well, this organization should do this and that organization should do that. Instead they said, here is what we want, here is the whole ball of wax, here is the whole information technology system that we want. We are going to give this billion dollar contract to one company and let them make all those little decisions.

That is what I am talking about.

MR. REYES: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you, Mr. Congressman.

Senator Bayh.

SENATOR BAYH: Mr. Clarke, for the purposes of just clarifying my understanding, I wanted to ask you about the Predator. In the written summary of your interview with the Investigative Staff, it says, before the Predator there were three occasions where the U.S. government knew where bin Laden was. I understood your testimony this morning to be that there were three occasions where we thought that we knew where he was, based on human intelligence, but in fact, he was only at one -- he was only where we thought he was on one occasion.

MR. CLARKE: That is right. We -- CIA told us at the time that they thought he might be at a particular location at a particular time.

SENATOR BAYH: But to say where he was on three occasions is not accurate? We knew where he was on one occasion?

MR. CLARKE: In retrospect, it is clear that we knew on one occasion and that we were told on three occasions.



SENATOR BAYH: And with regard to the Predator flights, there is some confusion about whether we knew where he was on two occasions, it is your belief that we saw him on three occasions, but on no occasion did we launch cruise missiles because, primarily, it was the CIA's view that these were experimental flights and shouldn't be used for that purpose?

MR. CLARKE: That is correct.

SENATOR BAYH: During this time, there were a whole host of covert operations, snatch operations, others for potential of lethal force; and it seems that the one that everyone is focusing on is the one that occurred in May of 1998. Is that the same one where our Afghan allies were contemplating a frontal assault on a heavily armed encampment, and the CIA itself recommended going against that snatch operation?

MR. CLARKE: That is correct.

SENATOR BAYH: Thank you.

Also, in your interview, you mentioned about Saudi Arabia, and the summary that we have been provided with says that Saudi Arabia was, at best, a lukewarm ally.

Could you give us the basis for your opinion in that regard?

MR. CLARKE: Saudi Arabia was a black box where information went out and you never saw what happened as a result.

Now, that having been said, the intelligence chief of Saudi Arabia, Prince Turki at the time, went twice to Afghanistan and in the strongest terms told the Taliban, you guys have to evict al-Qa'ida. And he thought that he had enough financial influence with the Taliban that if he threatened to cut off Saudi financial support to the Taliban, that would have some result.

It turned out al-Qa'ida had more financial aid going to the Taliban than the Saudis and that the Saudis were, in effect, outbid.

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SENATOR BAYH: They are supposed to be a major ally of ours. How do you explain this?

MR. CLARKE: They are insular. They have an exaggerated concern with their sovereignty. They are not one of the countries that has a tradition of cooperating on investigations or cooperating on intelligence

operations. They do their own thing, and they don't tell people about it.

SENATOR BAYH: Has that improved following the events of 9/11?

MR. CLARKE: I am not sure I could answer that on a good, factual basis since I am not doing this issue anymore.

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SENATOR BAYH: They wrapped up this one fellow pretty quickly.

MR. CLARKE: Following 9/11.

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SENATOR BAYH: Is there any evidence based upon your experience, Mr. Clarke, linking the Iraqi Government and al-Qa'ida in any significant way?

MR. CLARKE: No.

SENATOR BAYH: Thank you.

CHAIRMAN GRAHAM: Thank you, Senator.  
Congressman Castle.

MR. CASTLE: Thank you, Mr. Chairman. I am over here, Mr. Clarke. And I also can't see the light, so I may need some help with that. But I would like to talk to you about prevention a little bit.

I am very pleased in your interest about the CIA, FBI other agencies, and what we have to do; and also pleased about your answer about open sources, which I think is a horribly overlooked methodology of being able to receive the information. But I am worried about the next round of threats.

I don't fly much, and I flew yesterday and they inspected me in every possible way they could. I hit every inspection out there. But I do take the rail. I ride the train on a regular basis. I suppose about as many people are on those trains as are on a major aircraft when it is flying. And I suppose you could walk on one of those trains, leave a bomb, leave through another car and nobody would know the difference.

We have put a tremendous amount of Federal dollars into security at the airports. I worry about our ports, in which we put very little money. I worry about rail. I worry about food, air, and water obviously.

In the discussions of counterterrorism, in the area of prevention, they say you should -- a good detective puts himself in the mind of the criminal. I am concerned about where are we going next? We have seen

what airplanes can do, but what else can happen? Is anyone thinking that way, or am I just paranoid about what I am saying out there?

MR. CLARKE: You are paranoid, but you have good reason to be. When Congress established the Transportation Security agency, they did not -- you did not establish it with only the mandate of going after airport security. It also has a mandate about worrying about rail security and port security.

I think what we are going to see, as the Department of Homeland Security comes into effect, is a much greater concern about transportation security rather than just aviation security and an investment in R&D for ways of screening the cargo that comes into the United States.

We screen less than 1 percent of the containers that come into the United States. Now, that is because it is technically hard; it is physically hard to do, but I don't think it is beyond the realm of science to figure out ways of making it easier. It may mean that we have to change all the containers. But maybe that is something we should do. Not just for terrorism, but because of drugs as well. Drugs are flowing into our ports through containers that we never open and never inspect.

So I believe we are aware of those problems. We have been aware of them actually for a very long time. I believe there is now a commitment to do something about them. I believe that the Department of Homeland Security will have that mandate.

MR. CASTLE: My next question on prevention -- the green light is still on -- I believe lies along the lines of what you talked about earlier when you mentioned IBM, computers, et cetera. Are we using the private sector as well as we can?

I realize that there are certain walls that need to be put up because there are intelligence matters. And in answer to some of the earlier questions about computers at the FBI, my sense is that the integration sometimes is not as good as it could be and, in this day and age of supertechnology, that everything is getting ahead of our agencies in dealing with counterterrorism in this country.

Can you expand on that a little bit?

MR. CLARKE: After 9/11 several companies that engage in commercial marketing and commercial marketing databases came to the FBI with information about the hijackers, information that actually amazed the FBI that such information existed, information about how many times they received Federal Express deliveries or United Parcel deliveries, where those deliveries were, where they had accounts at Mail Boxes,

Etc.

It turns out that while the government is not Big Brother, the private sector really is; and the marketing firms, the commercial marketing mail order firms and other credit agencies and related organizations have much more information about us than the government does.

And under the Attorney General guidelines and other rules, the Justice Department prohibits, or has until now prohibited, the FBI and other people from accessing that kind of data. And that kind of data -- telephone records, credit card records, what deliveries occurred when -- does reside in the databases of large commercial enterprises.

I think we are going to try to make that information more readily available to investigators in the future. But it is an example of where information technology could make it easier for investigators, but rules and regulations have prevented them from utilizing it.

MR. CASTLE: Thank you, Mr. Clarke. I am seeing the yellow light, so I will yield back.

CHAIRMAN GRAHAM: Thank you very much. Those were excellent questions, Congressman.

Congresswoman Pelosi -- excuse me, I apologize. Congressman Cramer.

MR. CRAMER: Thank you, Mr. Chairman. You do have to be patient here and you have to talk fast. I will try to do both of those.

But, Mr. Clarke, if we could come back to the now much-talked-about May 1998 operation, the MONs that you referred to earlier regarding UBL [REDACTED]

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MR. CRAMER: The 1998 operation, was that a capture operation?

MR. CLARKE: It was intended to be a capture operation, because Usama bin Ladin had been indicted at that point.

MR. CRAMER: He had been spotted.

I am a little unclear about that. Had he been spotted by human intelligence one time successfully?

MR. CLARKE: No, I think he had been spotted by human intelligence several times.

MR. CRAMER: The use of the Predator, how many times was he spotted by the Predator?

MR. CLARKE: Definitely two times on the 11 flights, and I think actually a third time on the 11 flights.

MR. CRAMER: We had opportunities to strike on those occasions?

MR. CLARKE: No, we did not, because we did not have military assets in the appropriate part of the coastal area. Because the CIA had proposed that those flights not be connected to a strike operation, therefore, DOD had not deployed assets to fire missiles at that time.

MR. CRAMER: I wanted to give you the chance to comment further. I was not here this morning, but I understand that you mentioned that in other agencies there was bureaucratic resistance among middle management to new approaches to fight terrorism. Would you expand on that?

MR. CLARKE: I think, as I have said about the Treasury Department, although the Director of the Office of Foreign Asset Control was trying hard to work on terrorism, he ran into a lot of resistance elsewhere in the Treasury Department, people who did not want to do anything that would in any way corrupt the international banking system.

I think if you talked to the Coordinator of Counterterrorism in the State Department Ambassador Sheehan, he ran into an awful lot of difficulty with regional bureaus, the South Asia Bureau, the Middle East Bureau, the Proliferation Bureau, saying that other issues were a higher priority.

I think if you talk to the person who was the Assistant Secretary of Defense for Special Operations, he will tell you that he ran into a lot of resistance from the uniformed military on the notion of actually staging special operations against bin Laden.

So there were people in every department who were trying hard, but even though the word from the top was always do it, middle level bureaucrats frequently resisted because it wasn't their issue and they had other priorities.

MR. CRAMER: Do you think that has changed since 9/11?

MR. CLARKE: I think it has changed entirely since 9/11.

MR. CRAMER: Thank you.

CHAIRMAN GRAHAM: Thank you, Congressman.

Congresswoman Pelosi.

MS. PELOSI: Thank you very much, Mr. Chairman. I am very pleased that I yielded my time at the beginning because the many excellent questions asked by our colleagues affords me the opportunity to spring from some of the answers they received.

First, I want to make a couple of observations. I thank you again Mr. Clarke for your briefing. What you said about the state of technology in the FBI is interesting to me because many of us had fought the administration on relaxing the encryption rules, and they, the FBI, kept saying to us they wanted to have the same capability to collect as they always had. We thought that they wanted to have a qualitative advantage of what was out there. Little did we know they had a tremendous qualitative disadvantage already, and it explains a lot about their resistance to the realities of life in that regard.

I just want to get to Usama bin Ladin. He was -- in my view of what I have seen here, he was an overarching issue. He was a target unto himself as far as the administrations were concerned.

Go back a few years to when these memoranda were put out in that administration. Would you say that in light of Usama bin Ladin and his threats of terrorist threats, the administration was an aggressive consumer of intelligence in that regard?

MR. CLARKE: Very much so.

MS. PELOSI: I want to go to the point about domestic collection again, because you have reiterated your -- in a very strong way, you said we might have spared ourselves this if we had had domestic collection of intelligence. And I frankly, in the spirit of friendship, find that an easy way out.

We all knew what the circumstances were under which we were operating. We all knew we had a responsibility to protect the American people. And because some clues were missed which should have been obvious, and because the analysis wasn't what it should be and the dissemination wasn't what it should have been, I think it is too easy an answer to say that we should have domestic collection.

If we do, we certainly should follow the lead of our chairman and have the FBI, if they are doing that, to have two separate entities -- one for crime busters and prosecution and another -- so that these -- we don't get confused about the mission, and the American people do not get completely concerned about loss of freedom.

Isn't it so that in order for us to really protect the American people, we have to get inside the organizations, we have to know plans and intentions, as my chairman keeps reminding me? Do you think

there is any prospect of our getting inside the al-Qa'ida in a way that can really protect the American people?

MR. CLARKE: I think it is very difficult to place human sources high up in al-Qa'ida. I think it is possible to develop low-level sources. I think it is possible to develop technical means of collection that may provide us with information.

But my point about the FBI was not just a few hints were missed or dots weren't connected; it is -- my point was, they didn't have the mission. It was not their job to be a domestic intelligence service. It was not their job to do preventive intelligence collection. Their job was to do law enforcement. And they didn't have rules that permitted them to do domestic intelligence collection.

MS. PELOSI: I appreciate that point. Nonetheless, somebody did not analyze and disseminate properly the information that was available.

I have a serious concern. One of the concerns I have about the new domestic Homeland Security Department, as supportive as I am of it -- and I hope that we can implement it to meet the good intentions that everybody has about it. But the ability to have access to all-source information, clandestine and open, as well as you describe the publicly and commercially available information on the American people, I think is -- we should proceed very gingerly in that direction.

But the yellow light is on, and I don't know if that means you can respond.

CHAIRMAN GRAHAM: You can complete your question.

MS. PELOSI: Would you comment? Do you think that that diminution of freedom is necessary and worth it?

MR. CLARKE: I don't think it is a diminution of freedom. Whenever anybody asks me, do we have to amend the Constitution, do we have to infringe on civil rights or civil liberties to do counterterrorism, I say no. If we have to infringe on civil rights or civil liberties to do counterterrorism, then the bad guys have already won. I don't think it is necessary to infringe on civil rights or liberties.

I do think if you authorize domestic intelligence collection, you have to have very aggressive oversight so that what happened under J. Edgar Hoover doesn't happen again. We don't want domestic files about things that have nothing to do with domestic terrorism. But I really am at a loss to understand why a policeman or Secret Service officer can go to meetings or can go to Internet sites and the FBI couldn't until last week. That just made no sense at all.

And it seems to me that we had in the -- after the J. Edgar Hoover period and the abuses of the 1960s and 1970s, the pendulum had swung too far in the other direction.

I don't think it is an either/or choice. Every other democracy has domestic intelligence collection and analysis. We didn't have either domestic intelligence collection or analysis. And I think, you know, it has been done successfully in the United Kingdom and in other democracies; I think it can be done here. But I think a very big part of it is the Congress doing aggressive oversight.

MS. PELOSI: Thank you, Mr. Clarke.

Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you very much.

Senator Feinstein.

SENATOR FEINSTEIN: Mr. Clarke, I have just spent some time reading, at least as carefully as I can in this setting, the memorandums of notification. I had originally thought that perhaps the Clinton administration really didn't take this seriously. I changed my mind. These memoranda of notification are about as comprehensive as any I can imagine: authorizing money, lethal force, telling the State Department and entities to refuse any known terrorists' or suspected terrorists' entry into United States, saying that for sure there is going to be an attack on our soil and, in essence, authorizing the strongest possible covert activity, certainly, I could think of.

1.4c

In view of these memoranda, I am surprised that there were no results

And if you read these in sequence, they show a growing alarm and a growing authorization for use of force.

Question: What happened? Why was there no activity?

MR. CLARKE: Senator, at the risk of being a little controversial here --

SENATOR FEINSTEIN: No, please, do go ahead, say whatever you want.

MR. CLARKE: If 9/11 hadn't happened, I think historians could go back -- historians in the year 2020 could go back and look at what the Clinton administration did in 1998 and 1999 and 2000 and say, boy, were those guys overreacting.

Because, prior to 9/11, the provocation by the al-Qa'ida network was not huge. It was there, and they had



attacked two American embassies on the same day in August of 1998, but there wasn't a repeated series of attacks on a large number of American casualties.

SENATOR FEINSTEIN: Mr. Clarke, this points out, they killed 277 people.

MR. CLARKE: Yes, but they weren't all Americans.

What I am trying to say is that it is possible, had 9/11 never happened, for a historian in the future, in 2020, to go back and say and look at all these things this administration did to go after bin Laden, and there wasn't much of a provocation. Absent 9/11, people could have made a case that while bin Laden was a threat to various other countries, that he was a minor threat to the United States.

SENATOR FEINSTEIN: Mr. Clarke --

MR. CLARKE: We did not believe that.

SENATOR FEINSTEIN: -- respectfully, that is not my question. There was full authorization given in these memoranda for whatever activities were necessary to take them out, listing top lieutenants and a whole host of people. And nothing happened.

I mean, does no one listen to the President?

MR. CLARKE: It is not that nothing happened. I believe CIA tried, given its capabilities, to implement those instructions. There were at least two attempts when CIA assets, Afghan tribal assets staged attempted attacks, but missed. There were many occasions in which we tried to collect intelligence to mount operations but were unsuccessful.

It was a hard target and the CIA did not have the capabilities in the country necessary to effect the orders that they were given.

SENATOR FEINSTEIN: But how about [redacted] 1.4c It authorizes [redacted] essentially [redacted] if they get 1.4c him.

MR. CLARKE: If [redacted] 1.4c got him, that is right. And the CIA worked with [redacted] 1.4c The CIA put officers into Afghanistan to work with [redacted] to encourage [redacted] to do that. And [redacted] staged one attempted operation that I know of; it was not successful. 1.4c

[redacted] 1.4c after all, was engaged in a war for [redacted] very existence. And it may have been more important to [redacted] hold off the Taliban than [redacted] limited assets away and go after al-Qa'ida. In any event, [redacted] was not successful.

SENATOR FEINSTEIN: But is the failure the CIA's? I mean, let's talk turkey. Is the failure the CIA's for not mounting a sufficient operation to carry out these memoranda of notification?

MR. CLARKE: The CIA tried with the assets it had. They increased the assets they had. It was very difficult for them to operate inside Afghanistan or in the tribal areas of Pakistan. I believe that the CIA tried as best they could to carry out the MONs. There was a natural sense of frustration, which I think you can see in the MONs. One after another after another after another, there was a natural sense of frustration in the White House that these MONs hadn't resulted in the death of bin Laden and his lieutenants.

CHAIRMAN GRAHAM: Thank you, Senator.

Senator Wyden.

SENATOR WYDEN: Thank you, Mr. Chairman.

Mr. Clarke, first let me commend you for what you are doing with the private sector technology companies, the program you had done last week just got great reviews. As you know, the Commerce Committee has cleared legislation that hopefully is going to give you more tools to do that work. I appreciate it.

I want to zero in for a moment on this question of a domestic intelligence capability, because that is what everyone is going to walk out of here and talk about, that that is what Dick Clarke is particularly interested in.

Be as specific as you could in terms of what should be the capabilities of a domestic intelligence agency. Because I have been sitting here for the better part of 2 hours, and other than surfing the Web and going to Internet sites, I have not heard anything specific about what should constitute a domestic intelligence capability. And just walk us through that, if you would.

MR. CLARKE: Senator, when I went to FBI field offices, and I would say to the Director of the Joint Terrorism Task Force, is there an al-Qa'ida presence here in Philadelphia, Seattle, Chicago, Boston, wherever I was, they would say, well, no, we don't know of any.

I would say, have you gone on the campuses of the universities and looked for any organizations that were radical Islamic student organizations? No, we are not authorized to do that.

SENATOR WYDEN: That would be the second area. In addition to searching the Web sites, would you send people onto college campuses?

MR. CLARKE: I would send people onto college campuses to see if there were radical Islamic fundamentalist groups on the campuses. They were not authorized to do that. That was a violation of the

Attorney General guidelines.

I asked them if they ever knew what was being said in the mosques. Were the preachers in the mosques in their cities, were any of them preaching the kind of radical "hate America, kill the Americans" kind of preaching that went on in the Middle East? And they said they never knew what was being preached in any of the mosques in their cities because it was a violation of the Attorney General guidelines for them to go to the mosques or even to send people who were not FBI agents into the mosques to find out if such things were going on.

If fund-raising was going on for al-Qa'ida, if recruitment was going on for al-Qa'ida, they couldn't go to the two logical places in the metropolitan areas, the universities and mosques, to find out if that kind of activity was going on.

SENATOR WYDEN: So we have college campuses, we have got mosques. What other capabilities, again, can you think this new domestic intelligence effort should focus on?

MR. CLARKE: I think when a name does show up, a name of interest, they ought to be able to get the phone records, they ought to be able to see whether there were calls to Afghanistan or the UAE or Saudi Arabia.

Now, after 9/11, the phone companies produced a wealth of information about the 19 hijackers and who they had called in the United States and who they had called overseas. Wouldn't it have been nice if we had that information prior to 9/11? But you have to have probable cause and you have to have a warrant to get phone record information.

SENATOR WYDEN: How about the arrest capability? I just want to go down these functions. You have mentioned several times, I gather, today about the fact that overseas there are efforts of various sorts, some that have been successful, some that are being examined, that look to arrests as well. But I gather arrests and intelligence gathering are separate.

MR. CLARKE: In both Canada and the United Kingdom, the domestic intelligence service does not have an arrest power.

SENATOR WYDEN: So nobody does?

MR. CLARKE: The police do. If the domestic intelligence service in the UK or Canada find a violation of law, they refer it to the police.

SENATOR WYDEN: The assumption throughout all of this is that the FBI should be the agency that runs such a domestic intelligence capability; am I right on that?

Or should it be someone else? And do you envision someone else doing it?

MR. CLARKE: I am open to the idea of its being someone else. I think if it were to be the FBI, it certainly would have to be a very distinct and separate branch of the FBI that was not populated by people whose entire career had been criminal.

SENATOR WYDEN: How would such a new entity work with the President's Homeland Security initiative?

MR. CLARKE: In the President's Homeland Security initiative, there is a new analytical branch. I compared it this morning to the State Department Intelligence Bureau which does not collect intelligence, it receives all-source intelligence and does nothing but analyze it. But it also has the right to ask those agencies that do the collection to go out and collect more of this or look more at that.

The new Homeland Security Department, under the proposal would have analytical capability much like the state Department does on the foreign side now -- analysis only, all-source analysis, not collection.

CHAIRMAN GRAHAM: Thank you very much, Senator.

Mr. Boswell. Congressman Boswell.

MR. BOSWELL: Thank you, Mr. Chairman.

I wasn't able to stay the whole morning, but Mr. Clarke, you impressed upon me that you were professional and probably have the most expertise I have run into in this area. I appreciate your candor and your being here with us and your talking to us.

I know it is important, Mr. Chairman, for us to establish what happened and so on, and I have no quarrel with that. I think I am more interested maybe, though, in taking those lessons learned. What are we going to do now for today and tomorrow?

So we are going to have this new -- this new Cabinet-level position, and I have no quarrel with it. It is good. In fact, I would like to have seen it sooner. I can't imagine taking the responsibility that Governor Ridge has taken and not have the authority. So maybe that is going to be fixed. I hope it moves quickly, and hopefully it will.

But if you were to sit down, and you just need a little time probably, but give me some encouragement of some things that you would suggest as we start laying out the description, the order of things that ought to be

done, that must be; and also, how does -- if the FBI and CIA are going to stay separate, which seems to be the case for now, how do we ensure they literally, literally communicate together for our safety?

MR. CLARKE: Well, Congressman, as I mentioned a few minutes ago, we tried structural ways of making sure that the FBI and CIA were linked and that they exchanged information. And that worked most of the time, and it obviously didn't work all of the time.

I guess there is a legitimate question, which this committee -- these two committees should ask themselves as to whether or not having two separate organizations do the counterterrorism mission makes sense. And I don't know the answer to that, but I think it is an intriguing question.

MR. BOSWELL: You wouldn't venture out there and give us a little advice?

MR. CLARKE: I am not sure I know the answer.

RPTS BULKLEY

DCMN MAYER

MR. CLARKE: But I think it is at least worth asking whether or not there ought to be one Counterterrorism Center with a domestic branch and an international branch, rather than two separate organizations, both going after the same people.

Within the FBI there was this problem until we -- Director Mueller created a national team that if an al-Qa'ida suspect moved from one city to another, or simply took the PATH subway from New York to New Jersey, he moved from one FBI office to the other and therefore different people had to follow him and open case files.

Well, at another higher level, that same thing happens when someone is in a cell in Germany and now is in a cell in Brooklyn. The hand-off has to occur effectively between two organizations, and sometimes it didn't.

I think it's at least worth thinking about whether there should be one terrorism center rather than two.

MR. BOSWELL: I appreciate that, Mr. Chairman. I hope that we are all listening to this. This is something I think that we ought to recall when the time comes.

Maybe that is redundant, but would you have any thoughts on how they could improve their performance in the al-Qa'ida intercept or whatever?

MR. CLARKE: [REDACTED]

1.4c

MR. BOSWELL: Thank you, Mr. Chairman. The light is on.

CHAIRMAN GRAHAM: Thank you very much, Mr. Congressman. And I think one of the benefits of what we have done today is that we may have started from different points of view, but we have all heard the same information, and I believe that is going to facilitate us eventually coming to the kind of consensus that we are going to have to reach to carry out our task of explaining what happened, why it happened and what we

recommend to do about it.

So I thank you very much.

We have now completed the first round of the afternoon. I am going to use my august authority to impose a 5:15 adjournment on this meeting. We will have a second round from now until 5:15.

I want to say that there will be no reports given if you elect not to use your opportunity to ask questions.

I am going to use mine to ask what I hope are three rather quick follow-up questions. One, I believe in your presentation, you indicated that 10 years ago al-Qa'ida wasn't on our list of major terrorists, but place -- groups like the FARC were; and from some previous testimony, we heard that Hezbollah had been on the list.

What is your assessment of what we are doing today relative to other international terrorist groups such as those two, plus others, and where we might be trying to avoid some of the mistakes we made vis-a-vis al-Qa'ida?

MR. CLARKE: I think many of the groups that show up on terrorism lists are al-Qa'ida only under name. The Abu Sayyaf group in the Philippines was certainly, if not created then, taken from a very little nothing organization and made into a significant problem by al-Qa'ida training and money; and that is true in probably 20 countries.

These groups have names like the Uzbekistan Islamic Movement or whatever, but they are wholly owned subsidiaries, national chapters of al-Qa'ida.

The next largest threat, I think, in the terrorism world is Hezbollah in Iran. Now, they have been largely quiet against the American target since [REDACTED] 1997, but if we ever get into a fight with Hezbollah, it will be a big one. They are very good at what they do. They are very well trained, are well equipped. They have good tradecraft. They are a formidable enemy.

And we, throughout the latter half of the 1990s, carried two Tier 1 threats. I think -- as you will see in that briefing we gave in February 2000, there were two Tier 1 threats, and they were al-Qa'ida and Hezbollah/Iran.

CHAIRMAN GRAHAM: The second question is, you gave some of the reasons and answers to several questions about why we didn't effectively pursue al-Qa'ida in the late 1990s, and you mentioned a number of cultural and other restraints.

I would like your thoughts as to, should we have an alternative for covert actions, particularly where we

are prepared to have our name associated with those actions, other than relying on the CIA? For instance, should the President have the option, more freely than apparently he does today, to use the Department of Defense Special Operations to carry out a snatch as opposed to have to depend upon the CIA, which may not want to do the snatch?

MR. CLARKE: Senator, that is a question -- a very important question that we have grappled with a lot. On several occasions, the Defense Department was asked to develop snatch operations, and they did usually when they were asked to. But the overwhelming message to the White House from the uniformed military leadership was we don't want to do this, whether it was snatch operations in Serbia and Bosnia against the war criminals there or snatch operations in the Middle East against terrorists.

We spent an awful lot of time and money developing the Special Operations Command, the Special Operations forces, but whenever, in the 1990s, it was suggested that we might want to use them, the uniformed military leadership in the Pentagon thought that that was a very bad idea. And when you would go to the Special Operations Command and the units involved, they always thought it was the White House that was stopping them from being used. They always wanted to do the operations.

I will give you one example. For several months, a leading al-Qa'ida operative was in Khartoum. [REDACTED]

[REDACTED] 1.4c We knew what hotel he was in. We knew what room he was in in the hotel. [REDACTED] and we couldn't get him because CIA did not have a snatch capability; and when we suggested to the military that they send Special Forces in, we were told, well, that would never work. We couldn't do it. It would be too hard.

I happened upon a relatively low-level officer in Special Forces many months later, who said, you guys at the White House stopped us from doing that snatch operation. We had it all planned. We were going to do it with five people.

That option, that plan, never made it to my committee, never made it to the White House, because the uniformed military leadership didn't want that to happen, but they told their troops that the White House was stopping it.

CHAIRMAN GRAHAM: Thank you. Chairman Goss.

CHAIRMAN GOSS: Mr. Clarke, thank you very much. It's been very helpful, and particularly to see from the perch that you uniquely have enjoyed for the past decade, this kind of information has obviously been



beneficial to the committee. Not everybody agrees with the same perspective, of course, because they haven't been on the same perch, and I am sure you know that as well as I do.

I think there are certain things that I take away from this. First of all, our intelligence was not good enough; second of all, that we did not have all the capabilities we needed. Third of all, we did miss opportunities. Fourth, we didn't have the policies we needed and on and on.

There was plenty of blame to go around, and coupled with the remarks that you prepared for us in writing, other than the New York FBI office, Charlie Allen and NSA and perhaps the National Security Council, just about everybody screwed up somewhere in the last decade or missed something. And I don't mean that unkindly. It's just we all could have done better.

What I have not heard yet, though, and I would like to get your view on, are three areas. When you get rid of all of the extraneous stuff, why didn't the CIA have better plans and intentions info? That is a gut question for us.

A second question I think that comes into that area is, how do you deal with people who do not play by the Marquis of Queensbury rules? How do you deal with suicide people? Tell me why we didn't have somebody walking into a mall in Minnesota over Christmas with a bomb strapped under a skirt or a suit.

I am not sure how we play by those rules. I am confounded. I would appreciate your advice on that.

And thirdly, I would appreciate any observations you would like to make about congressional oversight in the decade at the time you were at the helm. Was it helpful? Was it hurtful? Were we on the right track trying to say the right things, advocate the right capabilities? Or were we causing problems? I think we are part of the discussion, too.

Thank you.

MR. CLARKE: Mr. Chairman, you named several people at the outset that I have named as people who were -- who got it and who were trying hard. I think the list is much longer than that.

CHAIRMAN GOSS: I abbreviated because of time.

MR. CLARKE: Right. But I think the point to be made is, within every Federal agency and department concerned there were people charged with the responsibility on this issue who were obsessed and who tried as hard as they could; and that there is not a single Federal agency that had some part of this, where you didn't find someone central to the issue who was obsessed and tried very hard.

Now, why did we not have better intelligence on the plans and intentions? I think two reasons. One, it was a decentralized organization, which makes it hard. It wasn't as hierarchical as a nation-state intelligence service. And secondly, it is very hard for any intelligence agent of the United States, or even of an allied country like Jordan, to pass himself off over years as a terrorist, because the only people who really hear about intentions, who really get in the meetings where they talk about plans, are people that they have known for years.

CHAIRMAN GOSS: But that is a reality. I mean, that is something we know, we have diagnosed. Why haven't we found a way to deal with that?

MR. CLARKE: I don't mean to be flippant, but not every problem has a solution, and I don't know of one with regard to penetrating the inner circle of a terrorist organization like that. Sometimes you get lucky on communications intercepts, and if you put the jigsaw puzzle together, sometimes you can see intentions, but it is not the same as having a successful human, high-level penetration.

One of the things that was helpful was capturing some of them, and we did capture some of them, [REDACTED] [REDACTED] And we did get information about intentions out of that.

How do we deal with suicide bombers? The fact that the Israelis, as expert as they are in counterterrorism and as seasoned as they are in counterterrorism, have not found a way of dealing with suicide bombers suggests to me there may not be a very good way of dealing with suicide bombers. It certainly makes it much harder to protect when the person that is going to be the terrorist actor doesn't mind if he dies in the process and, in fact, wants to die in the process. It makes the task of prevention much, much more difficult. That is an obvious thing, but I -- you asked for a solution with suicide bombers. I don't know of one.

With regard to congressional oversight, I think it was largely helpful to me from the two Intelligence Committees, from some of the other congressional committees, but there were also congressional committees that were not too eager to do things about money laundering, were not too eager to do things about student visas, because the focus of their committee was different. I think there needs to be a way of integrating the concerns of various committees so that if an Intelligence Committee or an Armed Services Subcommittee understands the problem and the administration witness comes and says, I have a real problem here, I am not getting any help on money laundering or student visas or whatever, that I could -- or my successor could

come to an Intelligence Committee and get some help rather than just saying, well, that is not in our jurisdiction.

CHAIRMAN GOSS: Thank you.

CHAIRMAN GRAHAM: Senator Shelby.

SENATOR SHELBY: Mr. Clarke, you told us earlier that the Sudan and Afghanistan strikes in 1998 were timed so as to be simultaneous, and that the attack missed Usama bin Laden by only an hour or so. Some have alleged that the strikes were timed so as to hit the Sudan plant after closing hours in order to minimize casualties and that the land they attacked in order to accomplish this resulted in missing Usama bin Laden with a simultaneous strike on Afghanistan.

Is this true, and if so, shouldn't we have simply taken the shot?

I know this -- we are looking back at UBL. As soon as we could, rather than risking missing him in order also to hit a factory in Sudan that we knew, or had been told had been recently sold to persons that we don't -- didn't even know --

MR. CLARKE: Senator, I would have to do the math. I think you are probably right, but I would need to go back and look at the times.

I know a decision was made which struck --

SENATOR SHELBY: Would you look at that and let us know?

MR. CLARKE: I will try. I know the decision was made to strike the chemical plant after the shift change, after everybody had left, but I don't know whether that -- how much time evolved after -- between the shift change and the military strike.

And I think that is researchable, but I --

SENATOR SHELBY: But timing is everything in these kinds of deals, isn't it?

MR. CLARKE: Right.

SENATOR SHELBY: You know this from your experience.

1.4c

[REDACTED]

1.4c

SENATOR SHELBY: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you very much, Senator.

I believe Congresswoman Pelosi is gone. Yes.

Congresswoman Harman.

MS. HARMAN: Thank you, Mr. Chairman.

Mr. Clarke, I would like to closely associate myself with your comments about Iran and Hezbollah as being extremely dangerous before -- you know, now and in the future -- and just ask two questions.

First of all, it seems to me we are really good at refighting the last war. Our defense budget is great at funding what won the last war, and it seems to me that a lot of what we are doing now is focused on what happened on 9-11, precisely what happened on 9-11 and funding massive programs to prevent that again, which may or may not work very well.

My question is, keeping in mind that Iran was, is and will have enormous capability, not just to aid terrorist groups on Iranian soil, but also it is now building a massive indigenous nuclear, chem, bio, and missile capability, how do we keep us focused on winning the next war, on looking as broadly as we have to look to win the next war? That is my first question.

And secondly, related to that, I just want to put them out before the light turns purple. Related to that, how do we take effective action against investigation by leak, [REDACTED] 1.4c

[REDACTED] and making it harder obviously to track the threats that we now increasingly believe could come our way?

MR. CLARKE: You are absolutely right that we are always fighting the last war. The reason for that may be, it is always difficult to figure out what the next war is going to be.

I think you can look at capabilities rather than intent, because intent changes, and I think you need to look at the countries that could pose significant political/military threats to the United States, as well as the

nonstate actors. And the countries, when you look at the country lists, in addition to China and North Korea, to some lesser extent certainly Iran is way high up on the list. And I think, while we are worrying about al-Qa'ida and worrying about China, worrying about all the other things on the front burner, we need not to lose attention to the struggle that continues inside Iran for the heart and soul of Iran.

There is still hope there, however fading it might be, that the hard liners could be pushed aside or their influence reduced. And I think we have to ask ourselves frequently, what are we doing to help? And sometimes the best answer is do nothing, because anything we would do might be -- might backfire. But I think Iran, its support for terrorism and its weapons of mass destruction program need to be a very high priority.

Investigation by leak, I think it is certainly true that the leaks about [REDACTED] bin Laden caused us to lose our ability to intercept bin Laden. There is no doubt in my mind. [REDACTED] I was listening to it. I was getting reports, [REDACTED] and that all dried up. Some of that was useful information.

We need to inculcate in everybody who has access to special intelligence how special it is, how fragile it is. And when I was first cleared into communications intelligence, I was given the message loud and clear that it is fragile. NSA has very specific examples it can show of how we have lost sources, good sources, because of leaks. Everyone ought to be taught when they get cleared in, and periodically they ought to be taught those specific examples of what it has cost us as a country, because somebody blabbed, because the information sources, committed sources, are very, very fragile.

MS. HARMAN: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you very much, Congresswoman.

Congressman Bereuter.

MR. BEREUTER: Thank you, Mr. Chairman.

And, Mr. Clarke, thank you so much for your candor to respond to our questions. I felt that you were direct in your responses today, and I benefited from it tremendously. I don't have a big-picture question, but I do want to follow up on a particular item.

You talked about the value of open-source intelligence, and Congressman Castle also commented on it. In light of that, would you have an opinion about the desirability of shifting the foreign broadcast information

service to the Homeland Security Department and beefing up their analytical capability to focus on transnational threats? It is now in the proposal, as I understand it.

MR. CLARKE: It is not now in the proposal. I would like to think about that. Almost by definition, in the name and the mission of the agency, it is foreign; and the Homeland Security Department is worrying about domestic security.

I have often asked myself why we have a Foreign Broadcast Information Service in the 21st century, why we can't just contract that work out as well. It doesn't strike me as immediately obvious that it should be part of the analytical division.

I assume you are thinking of the Homeland Security Department. Let me think about that.

MR. BEREUTER: All right. Fine.

1.4c

For the third time today, I want to come back to financial resources, tracking [REDACTED] and I do this because I serve on what used to be called the Banking Committee, and indeed we did have people and still do have people that are concerned about aggressively going after money laundering. But on the other hand, we have a Treasury Department that was, most specifically, not aggressive either in taking this on.

In any case, rather than be defensive about it, I have decided to focus on the European countries and other developed countries; and to the extent -- I want to know the extent to which they have cooperated prior to September 11th, particularly money center countries, on dealing with disrupting the financial resources of terrorist groups; and then the same would be true of countries in the Middle East -- [REDACTED] 1.4c [REDACTED] and then if you can, any kind of information you have about what these countries are doing, what our success rate is in legislation and implementation since September 11th.

MR. CLARKE: I can't really answer very much since September 11th.

MR. BEREUTER: All right.

MR. CLARKE: But I do believe that the problem we had was not so much getting them to be cooperative as being able to ask them the right questions.

1.4c

[REDACTED]  
[REDACTED] We were unable to test a

lot of the European and Middle Eastern banks' cooperation, because all we had was a sort of general request usually. We didn't usually have information that said, tell us about a particular bank account or a particular individual. Instead, I was left saying to this fellow [REDACTED] <sup>1.4c</sup> would you please look for al-Qa'ida's money; and it very clear to me he didn't know how to do that, and I didn't know how to do that, and therefore it didn't happen.

I think in Europe, though -- separate from the Middle East, in Europe, there tends to be more of a legal framework that sometimes might get in the way if we did have specific requests; but my experience was, we were never able to get very specific.

CHAIRMAN GRAHAM: Thank you, Doug.

Mr. Hoekstra.

MR. HOEKSTRA: Thank you.

Mr. Clarke, congratulations. You have worn out just about three-quarters of the committee, and you are still going strong.

In your opinion, if the CIA was allowed -- if the CIA had been allowed to conduct lethal operations against bin Laden not under the framework of a capture operation, do you think they would have been able to successfully conduct such a mission in 1998?

MR. CLARKE: No.

MR. HOEKSTRA: You don't think so?

MR. CLARKE: No, I do not.

MR. HOEKSTRA: 1999?

MR. CLARKE: No, I don't think so.

MR. HOEKSTRA: No time between 1998 and the current time would they have been able to conduct a lethal operation?

MR. CLARKE: [REDACTED]

1.4c

The CIA did not ever propose putting its own so-called paramilitary forces into the country, and I agree with that. I mean, if you are going to put American boots on the ground, why not the best and why not JSOC and the Special Operations Command? I wouldn't want to put something that we now know is less good than that into the country to do that mission. And I think that was CIA's view, that if you want to put American boots on the ground, don't ask us to do it, ask the military to do it. And the military was asked to develop plans, and they did reluctantly; and they came back and they said, here is a plan, but we really recommend against it.

MR. HOEKSTRA: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: I think maybe we ought to replay Mr. Lincoln's conversations with General McClellan about the military being willing to be called upon.

Mr. Everett.

MR. EVERETT: Thank you, Mr. Chairman.

Mr. Clarke, I appreciate your comment on the fact that we already have big brother, and it is the private sector. It is not the government. I think that is something we are going to face in the next few days.

To pick up on something that Chairman Goss was talking about, considering the fact that it is pretty obvious that someone could strap explosives around themselves and walk into a mall, use a manpad and fire a SAM missile -- I guess there are other things that could be done also -- why haven't they?

My question is not, how do we stop them or deal with them, but why haven't they, to date?

MR. CLARKE: It is a question I have asked myself a lot and I have asked others. There is no good answer.

Manpads have been used. There was apparently one used recently inside the perimeter of an American Air Force base in Saudi Arabia. It didn't work. Historically, there was one used in an attack on an aircraft at Rome's Fiumicino Airport. It didn't work. I think the answer to why those don't work is because typically the terrorists get the cheap, low end of the market manpads, such as the SA-7, and they don't get the sophisticated, expensive things at the high end of the spectrum, such as the Stinger Post.

But with all of the money that al-Qa'ida has, you would think that they could get themselves an SA-14 or an SA-16 and smuggle it into a country and use it.

Now, I don't know why they haven't. You would think that they could get people to come to this country.



They wouldn't have to bring the explosives with them. It is not hard to get ammunition and explosives in this country. Why couldn't they do an Oklahoma City-style bombing where they got fertilizer and whatnot? I don't know.

I think it is particularly scary, when you think about that, because there really is very little stopping an al-Qa'ida cell from coming into the United States, getting the ammonium nitrate, getting a big rent-a-truck and doing an Oklahoma City-style bombing -- very little stopping them.

MR. EVERETT: Mr. Chairman, since they -- we don't even know what this thing has cost us, trillions of dollars, and I don't know if we can have somebody work on this, or should be working on this; but think what it would do today if someone walked into a mall and exploded themselves or parked their car near a mall full of fertilizer. It would be devastating to this country.

And I wish there was an answer, but apparently there is not.

Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you, Mr. Congressman.

Congressman Roemer.

MR. ROEMER: Thank you, Mr. Chairman. And, Mr. Clarke, thank you again. You have been very helpful today.

I have got three questions. One, you have critiqued the FBI field offices. You have not said a lot about the CIA foreign stations in Europe. Were they aggressively pursuing the al-Qa'ida threat in the European region -- [REDACTED] and other places?  
1.4c

Secondly, you have been effusive in some of your praise of the NSA. Were they collecting in Europe and Central Asia, and if so, what great things were coming out that could have been more helpful? And how do we make them more helpful in the future?

And lastly, maybe the bigger question, we seem to be putting a great deal of emphasis in our foreign policy on antiterrorism. From your perspective at the NSA and in developing -- seeing foreign policy developed, do you worry that this becomes too much a part? Does it affect other policies? How do we integrate it with what other things we want to do?

MR. CLARKE: Let me begin with your first question about CIA stations in Europe. 1.4c

[REDACTED] 1.4c

And that is kind of the gentleman's agreement that they seem to have with a lot of their friendly liaison services, that you don't spy in the United States and we don't spy in your country. That puts us in some disadvantage when they are not terribly aggressive on our behalf.

With regard to NSA, yes, they did collect in Europe and Central Asia, except they did not collect in the United Kingdom or the other first-party countries, which is to say Canada, Australia, New Zealand. By agreement, we don't spy on each other with SIGINT, at least, in the first-party countries.

[REDACTED] 1.4c

So it was frequently NSA that gave us the lead, although at the end of the day it was CIA that walked in the door to the [REDACTED] liaison service.

In terms of the emphasis on terrorism in foreign policy, is it at some cost. We always have to be careful about the pendulum swinging too far in one direction or another.

I think there are other important issues which -- such as the Middle East peace process, such as proliferation of weapons of mass destruction, such as counternarcotics, which we need to remember are still American priorities; and a lot of the analytical support in CIA, as it is now working on counterterrorism, has been ripped out of analytical offices doing proliferation, counterdrugs and other such issues.

I understand why we had to do that, but I think these two committees may want to ask themselves what analysis is not being done now because people have been transferred from other analytical offices into the counterterrorism area.

1.4c

MR. ROEMER: Should the gentleman's agreement end with respect to unilateral resources [REDACTED]

MR. CLARKE: I think you have got to do that on a case-by-case basis, but if there were a country where we were telling them, we think there is an al-Qa'ida cell in your country and we would like more detail, and we

didn't get it, after a while I would go do it myself.

MR. ROEMER: Thank you.

CHAIRMAN GRAHAM: Thank you. Thank you, Mr. Congressman.

Congressman Sanford Bishop.

MR. BISHOP: Thank you, Mr. Chairman.

Mr. Clarke, you indicated that the only way that we could really get into the prevention mode is to be in the cell, have <sup>1.4c</sup> [REDACTED] agents in the cells with the terrorists, but that would certainly be a help in our effort to anticipate incidents; and you indicated that Director Tenet was working on, as a long-term investment, the production of more NOC officers into our network, or Intelligence Community.

Obviously, this is a long-term effort, but you indicated that because the terrorists apparently have known each other for some period of time, that it may be a very difficult thing to accomplish.

However, based on what we have been able to find out about some of the terrorists involved in the attack, many of them were not associated for a long periods of time. They married up. They liaisoned after getting training.

Would it not be --

[REDACTED]

1.4c

MR. CLARKE: I want to distinguish between getting penetrations of terrorist organizations like al-Qa'ida at the sort of operator level and penetrations at the decision-maker level. At the decision-maker level, they have all known each other for a very long time, and everybody in the room when they are making a decision is somebody who has been known for a very long time.

[REDACTED]

1.4c

1.4c

In terms of having CIA develop [REDACTED] personnel in this country, they are not doing that, and I think it is against the law. I know it is against policy to have CIA agents doing penetrations of organizations in the U.S. .

MR. BISHOP: Is it not time for us to perhaps reexamine that and, as a part of this committee's work, weigh -- examine whether or not that is something that we need to look at?

MR. CLARKE: I wouldn't recommend having CIA do penetrations of organizations in the U.S. i would --

MR. BISHOP: Well, I wasn't -- well, I did mention Director Tenet, but of course that would inform, I guess, the Homeland Security Agency and now the FBI.

MR. CLARKE: Well, I think it involves the FBI. The Homeland Security Agency is not going to be doing just collection analysis.

Again, this is one of these areas where you potentially get in trouble infiltrating American organizations with American intelligence agents, whether they are FBI or otherwise. We infiltrate the Mafia. We infiltrated the Ku Klux Klan. I wonder if it is such a bad thing to infiltrate groups who might be terrorists or sympathizers of terrorists.

MR. BISHOP: I think I get your message.

CHAIRMAN GRAHAM: Thank you, Congressman.

Senator Feinstein, you have -- Senator Feinstein, if you care to, you have the opportunity to be the last questioner. We agreed earlier that we would adjourn at 5:15. So you have 2-1/2 minutes. You can do whatever you wish with it.

SENATOR FEINSTEIN: Thanks, Mr. Chairman.

Quickly, Mr. Clarke, your day was really impressive. I mean, you were -- you pulled no punches, and you were straight, and you said it, and I really appreciate that.

If you had, let us say, three recommendations to make to really change the system for this new world we are in to be able to anticipate, respond and do what we need to do, what would those three recommendations be?

MR. CLARKE: Don't be afraid to make mistakes. Encourage a climate in the military and in the law enforcement communities and in the CIA that says, perfection is not the goal here; and if you have good intentions and you mess up along the way, you will not be punished as an organization or as an individual. Get away from this risk-averse culture, where one mistake and you are out.

SENATOR FEINSTEIN: Do you really think that is a big deal?

MR. CLARKE: I think it is a very big deal. I think it is what keeps the FBI from not doing anything. I think it is what keeps the CIA from not doing anything. I think it is what keeps people in INS and Treasury from bucking the system.

And I think we need a thousand more Coleen Rowleys, and you are never going to get them until you provide them with some encouragement, both from the Director of FBI, from the President of the United States and, most importantly, from the Congress. Because whatever the myth value is in reality, a lot of people in the bureaucracy think if they are aggressive and it goes wrong, they are going to be up before some congressional committee; and believe it or not, a lot of people in the executive branch are scared stiff about being up in front of a congressional committee.

So I think the first thing we can do, the most important thing we can do is get rid of the risk-averse culture, and that means the Congress has to act, as well as the executive branch has to act.

SENATOR FEINSTEIN: Well, how -- just explore that a little bit.

Let us say we have a report. What would be most helpful in that report, that would aid that? Because one of the things I have found in the time I have been back here, everybody has to have an individual to pin something on. Everything has got to take on a sort of personal connotation; and I think it is the tragedy of the Beltway, in a sense, because it makes everybody very defensive, as you say, very risk-averse.

So what can we do, our two committees together?

MR. CLARKE: I think there is very little specific I could advise, but I think to call upon -- and not just once, but repeatedly to call upon -- these agencies over which you have oversight, to abandon the risk-averse culture, you know, go to the agencies, talk to the employees, pass resolutions, encourage people within reasonable limits -- we don't want cowboys, but within reasonable limits to press the envelope when there is an important issue and when they have policy direction to do it.

SENATOR FEINSTEIN: Do you think the risk-averse culture affected the noncarrying out of those memorandums by the President?

MR. CLARKE: Yes, I do. I do.

SENATOR FEINSTEIN: Wow.

CHAIRMAN GRAHAM: Excuse me.

In your remaining time, could you -- Senator Feinstein asked for three. You have given us one. What are the next two?

MR. CLARKE: I think, given the topic, you really have to make a decision about how far you are willing to go on domestic intelligence collection, and how you are going to do it structurally.

If it is going to be done by the FBI, are you going to break some piece away from the traditional FBI and have a career path where people can develop expertise and become specialists at domestic intelligence collection? And if you are going to authorize that, how are you going to do oversight in a way that prevents it from getting out of control?

Right now, we are so afraid of its getting out of control, we don't do it; and there has got to be some happy medium.

And I think -- a third area where I think you might want to pay some attention is in whether the CIA or the military should have Special Operations capability that it is willing to use. And we have looked at that issue several times in the last 10 or 12 years.

We have never really decided, and what we have continued to have is a military that is very capable, but doesn't want to use it -- its capability; and a CIA that doesn't have much capability and therefore justifiably doesn't want to use it, the result of which is for all the billions of dollars we spend on having a Special Operations paramilitary capability, or commando capability, we don't have one we can use. And we never had anybody who could go through that door [REDACTED] of the hotel that day, despite repeated requests.

SENATOR FEINSTEIN: Because that is what was pointed out in this memorandum of notification, that if you had a military entity carrying this out, you might have had a greater result.

MR. CLARKE: Well, I think it is a legitimate question. Why did we continue to rely on this Afghan tribal asset group and pay them a rather decent amount of money and have them produce nothing? And when it was clear that the Afghan tribal asset group was not producing, it was just collecting the money, why did we not have an American alternative to turn to?

And effectively, we didn't because the military almost virtually refused to be used in a commando mode. And the CIA's paramilitary force really probably wasn't good enough, but in any event, it wasn't used either.

SENATOR FEINSTEIN: Wait. Is he saying the military refused the assignment?

MR. CLARKE: The military repeatedly came back with recommendations that their capability not be utilized

for commando operations in Afghanistan.

CHAIRMAN GRAHAM: Mr. Clarke --

SENATOR FEINSTEIN: What year -- I just asked what year, Bob, and I will be quiet.

CHAIRMAN GRAHAM: In the late 1990s.

SENATOR FEINSTEIN: What year?

MR. CLARKE: 1998-99.

CHAIRMAN GRAHAM: Mr. Clarke, I can't tell you how much this Joint Committee of Inquiry appreciates the many hours and many questions that you have answered. We had hoped that, from you, we would get a human face and some additional depth to our understanding of what has happened over the last decade that contributed to the environment of September the 11th; and you -- at least for myself, you have exceeded expectations, and I want to say how appreciative we are of the service that you have rendered to the country and the service that you have provided to this Joint Committee.

MR. CLARKE: Thank you, Mr. Chairman.

CHAIRMAN GOSS: And I would associate myself with those remarks as the cochairman, and I think it is very refreshing.

Part of the reason we are doing it this way is, we want a warts-and-all discussion, and I think we have had it. Whether or not we all agree on all the points is beside the point. I think we have had good flow, and you have been very helpful to us in this process, and I am grateful.

CHAIRMAN GRAHAM: And let me announce to the members of the committee, our work for this week is not over. Tomorrow at 2:30 we will meet, and we will have two staff briefings. The first will be on the United States as a possible terrorist target, what did we know leading up to September the 11th on that issue; and second, on the use of hijacked airplanes as weapons of mass destruction.

Those will be the subjects of the two staff briefings beginning at 2:30 tomorrow. Thank you.

[Whereupon, at 5:21 p.m., the joint committee was adjourned.]