

**Opening Statement of
The Hon. Lee H. Hamilton,
Former Vice Chair of the 9/11 Commission,
on behalf of himself and
The Hon. Thomas H. Kean,
Former Chair of the 9/11 Commission,
before the Select Committee on Intelligence
United States Senate
November 13, 2007**

Mr. Chairman, Mr. Vice Chairman, distinguished members of the Select Committee on Intelligence: Thank you for the honor to appear before you today on the topic of congressional oversight of intelligence.

My testimony today is also on behalf of Governor Thomas H. Kean, the former Chair of the 9/11 Commission. He is not able to be present today. He joins me in this statement.

Gov. Kean and I commend the Chairman and Vice Chairman for holding this hearing. The importance of congressional oversight of intelligence cannot be overstated.

Public Law 110-53 expresses the sense of the Senate that the Select Committee on Intelligence should report by December 21, 2007 on its recommendations for improving intelligence oversight. Therefore, today's hearing is especially timely. I welcome the opportunity to present the perspective of the 9/11 Commission's Chair and Vice Chair.

Strengthening oversight

As the Commission wrote in its final report 3 years ago, "Of all our recommendations, strengthening congressional oversight may be among the most difficult and important."

Carrying out effective oversight of intelligence is very hard to do.

If you are the Chairman of a Committee that works in the unclassified world, you get a lot of help. There are lots of reporters who bring issues to your attention. Trade associations write reports. Citizens speak up. Watchdog

groups do studies. You can get the Congressional Research Service to analyze an issue. You can get the Government Accountability Office to investigate.

Not so in the classified world. The world of intelligence is vast, and it is closed. It is comprised of 16 agencies with well over 100,000 employees. Its budget is \$43.5 billion a year, and even bigger if spending by the military services is included. If you are outside the world of intelligence, you know nothing about it other than what the Executive branch decides to tell you.

The intelligence committees are completely on their own. They serve as the proxy for the American people on intelligence. They provide the sole check and balance on a huge and important government activity. If they don't provide the oversight, it doesn't get done. It is an awesome responsibility.

In short, this is why we believe the intelligence committees need to be powerful and active. They need to carry out the robust oversight our system of government requires:

- They need to look into every nook and cranny of the intelligence community's business.
- They need to ensure that laws are obeyed.
- They need to ensure that the American people are safe and that our freedoms are protected.

What needs to be done?

The Founders understood the importance of checks and balances on Executive power. That is why they gave the power of the purse to the Congress.

The single most important step to strengthen the power of the intelligence committees is to give them the power of the purse. Without it, they will be marginalized.

The intelligence community will not ignore you, but they will work around you. In a crunch, they will go to the Appropriations Committee.

Within the Congress, the two bodies with the jurisdiction, time and expertise to carry out a careful review of the budget and activities of the Intelligence Community are the Senate and House intelligence committees.

Yet all of us have to live by the Golden Rule: That is, he who controls the Gold makes the Rules.

The leaders of the Intelligence Community also understand the Golden Rule. They work hard to get the answer they want from the people who control their dollars. They take advantage of the fact that the Defense Appropriators are mightily distracted from intelligence oversight because of their other responsibilities.

Why should the Intelligence Committee control appropriations?

I want to be very clear here: The Appropriations Committee performs the best oversight work it can. The difficulty here is that the Committee is overburdened. The Defense Subcommittee of Appropriations has responsibility for a \$500 billion-plus Defense budget. It has responsibility for three wars: terrorism, Afghanistan and Iraq – as well as hundreds of other complex issues. It also has responsibility for an intelligence budget about 1/10th the size of the defense budget.

Now I appreciate that the Appropriations Committee has brought on additional expert staff on intelligence issues. I appreciate that the Intelligence and Appropriations committees are making efforts to improve coordination and transparency. These are useful steps, but they are no substitute for fundamental reform.

As the 9/11 Commission recommended three years ago, the Congress should either create a joint committee for intelligence, or create House and Senate Committees with combined authorization and appropriations powers.

Why is reform difficult?

It was a disappointment, but came as no surprise to us that the Congress did not act on the Commission's recommendations. It is much easier for the Congress to reform the Executive branch than it is to reform its own institutions.

Committee powers in the Congress are carefully balanced. They are jealously protected. Changing jurisdiction means redistributing power. Few things are more difficult to change in Washington than committee jurisdiction.

During the time I served in the Congress, I was involved in several efforts at Congressional reform. Some failed. None achieved more than partial success. Therefore, I have great sympathy with those who take up the challenge of reform.

What is the next step?

The approach that Governor Kean and I have taken since the Commission issued its report is a pragmatic one.

Our preference, as the report stated, is for a single Committee with authorization and appropriation powers. We believe that is the best approach. We can also count votes. So far, we don't see them.

We believe there are other constructive approaches. The same law (PL 110-53) that calls on this Committee to make recommendations on congressional oversight also requires the declassification of the overall intelligence budget.

On October 30, 2007 the Director of National Intelligence publicly released information on the overall intelligence budget. That was the recommendation of the Commission, and we applaud the Director's statement.

A public number for the intelligence budget means it no longer has to be hidden inside the defense budget. A public number opens the way for the creation a separate appropriations subcommittee on intelligence.

I understand full well that a separate appropriations subcommittee on intelligence may not be the preference of this Committee. It was not the recommendation of the Commission.

Yet ways must be found to bring greater focus and additional resources to the oversight of intelligence appropriations. Governor Kean and I will support reforms and structures that increase the opportunity and likelihood of robust congressional oversight of the intelligence community.

Why oversight is more important than ever

Let me give some practical examples as to why oversight of the intelligence community is more important than ever, and why congressional oversight must be reformed and strengthened.

First, the United States will, without a doubt, intervene again somewhere with military force. Decisions whether to intervene and how to intervene will ride largely on what our intelligence tells us. It is vitally important that the intelligence community get it right. Oversight is vitally important to help the community get it right.

Second, the Congress since 9/11 has provided broad authorities to the Executive branch to conduct investigations and collect data. Enhanced collection capabilities and data mining pose high risks to civil liberties and to privacy. To safeguard our liberties, the Congress must conduct robust oversight over the exercise of the authorities it has granted.

Third, the success of reform also needs congressional oversight. Reform in the intelligence community, the most far-reaching since 1947, is not easy to implement. Reform is a long and hard road: Crises distract. Attention wavers. Senior officials are pulled in a hundred different directions. The Executive cannot carry out reform on its own. Support and guidance from the Congress are necessary to sustain reform. Sustained oversight is essential.

Conclusion

Under our Constitution, Congress cannot play its proper role unless its oversight committees are powerful and active.

Strong oversight provides the checks and balances our Constitution requires.

Strong oversight by the Congress protects our liberties and makes our policies better.

Strong oversight keeps our country safe and free.

I appreciate your time and attention, and look forward to your questions. #