

Testimony of
Mr. Stephen E. Flynn

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Senator Feinstein, Senator Kyl, and distinguished members of the Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information. On behalf of the Council on Foreign Relations Independent Task Force on Homeland Security, thank you for so quickly assembling this hearing on our recently issued report, "America Still Unprepared--America Still in Danger." I am honored to be appearing before you with one of our task force's co-chairs and a truly great American, former Senator Warren Rudman, and my fellow task force member, Mr. Phil Odeen.

Fourteen months after 9/11, America remains dangerously unprepared to prevent and respond to a catastrophic attack on U.S. soil. In all likelihood, the next attack will result in even greater casualties and widespread disruption to American lives and the economy. This is the core finding of our task force for which I was privileged to serve as director and which was led by former Senators Warren Rudman and Gary Hart--co-chairs of the now famous Commission on National Security that warned of such a terrorist attack three years ago. Our bipartisan Independent Task Force, which came to this sober conclusion and which makes recommendations for emergency action, included two former secretaries of state, three Nobel laureates, two former chairmen of the Joint Chiefs of Staff, a former director of the CIA and FBI, and some of the nation's most distinguished financial, legal, and medical experts. It is a finding which we believe the nation must respond to with the same level of intensity that we are investing in our overseas efforts to combat terrorism. Stated succinctly, we believe we should be operating essentially on a wartime footing here at home--and we are not. Indeed, we fear that there are worrisome signs that the nation is already slipping back into complacency.

Jumping directly to the agenda of this hearing today--what should Congress be doing to make the nation safer--two immediate actions are essential. First, the pending legislation to create the Department of Homeland Security should be acted on without delay. Second, Congress needs to immediately act to approve the remaining fiscal 2003 Appropriations Bills. Quite frankly, it is a disgrace that so many important measures we should be taking to address our many serious vulnerabilities are stalled because so much of the government is operating under the budgetary restrictions associated with the spending limits imposed by the rules governing continuing resolutions. In addition, we hope that the House and Senate will take a serious look at many of the recommendations for urgent action contained in our task force report which I attach to this statement and ask that it be included as a part of the official record of this hearing's proceedings.

In my opening statement this afternoon, I would like to stress why we believe that the nation is entering a period of especially grave danger with regard to the threat of a second catastrophic terrorist attack on the United States.

First, there the lessons of 9/11: (1) The homeland of the United States is largely open and unprotected, and (2) there is a vast menu of civilian targets which if exploited will lead to mass societal and economic disruption. In short, what we witnessed on September 11, 2002 is how warfare will likely be conducted against the United States for the foreseeable future. We are the world's "Goliath," and our adversaries must become creative "David's" to challenge our power. Going toe-to-toe on the conventional military battlefield almost certainly would be a losing proposition.

Second, there is mounting evidence that al Qaeda is returning to an operational footing. In the words of George Tenet who testified publicly before the Senate Select Committee on Intelligence a month ago:

"When you see the multiple attacks that you've seen occur around the world, from Bali to Kuwait, the number of failed attacks that have been attempted, the various messages that have been issued by senior al-Qaeda leaders, you must make the assumption that al-Qaeda is in an execution phase and intends to strike us both here and overseas; that's unambiguous as far as I am concerned."

Directors of Central Intelligence rarely use in public the word "unambiguous" alongside their intelligence assessments--this assessment deserves to be taken extremely seriously.

Third, there is the fact that we are poised to embark on a war with Iraq. Such a war will have at least two implications for the homeland security imperative. (1) It elevates the risk in the near term of an attack on the United States. We are preparing to attack a ruthless adversary who may well have access to weapons of mass destruction. Given Saddam Hussein's past track record, prudence requires that we assume he will resort to any means to hang on to power. This could well include sponsorship of terrorist operations against the United States, at home as well as abroad. (2) A war with Iraq will likely consume virtually all the nation's attention and command the bulk of the available resources, leaving little left over to address our many domestic vulnerabilities.

Against this backdrop, where are we today with regard to advancing the security of the U.S. homeland? Our findings include the following:

- 650,000 local and state police officials continue to operate in a virtual intelligence vacuum, without a workable means to routinely access terrorist watch lists provided by the U.S. Department of State to immigration and consular officials.
- While 50,000 federal screeners are being hired at the nation's airports to check passengers, only the tiniest percentage of containers, ships, trucks, and trains that enter the United States each day are subject to examination--and a weapon of mass destruction could well be hidden among this cargo. Should the maritime or surface elements of America's global transportation system be used as a weapon delivery device, the response right now would almost certainly be to shut the system down at an enormous cost to the economies of the United States and its trade partners.
- First responders--police, fire, emergency medical technician personnel--are not prepared for a chemical or biological attack. Their radios cannot communicate with one another, and they lack the training and protective gear to protect themselves and the public in an emergency. The consequence of this could be the unnecessary loss of thousands of American lives.

- America's own ill-prepared response could hurt its people to a much greater extent than any single attack by a terrorist. America is a powerful and resilient nation, and terrorists are not supermen. But the risk of self-inflicted harm to America's liberties and way of life is greatest during and immediately following a national trauma.
- An adversary intent on disrupting America's reliance on energy need not target oil fields in the Middle East. The homeland infrastructure for refining and distributing energy to support the daily lives of Americans remains largely unprotected to sabotage.
- While the overwhelming majority of the nation's critical infrastructure is owned and operated by the private sector, significant legal barriers remain to forging effective private-public partnerships on homeland security issues. These include potential antitrust conflicts, concerns about the public release of sensitive security information by way of the Freedom of Information Act (FOIA), and liability exposure.
- Domestic security measures must be pursued within an international context. The critical infrastructures that support the daily lives of Americans are linked to global networks. Efforts to protect these systems will fail unless they are pursued abroad as well as at home.
- The National Guard is currently equipped and trained primarily for carrying out its role in supporting conventional combat units overseas. The homeland security mission can draw on many of these capabilities but it requires added emphasis on bolstering the capacity of National Guard units to respond to biological attacks; acquiring protection, detection, and other equipment that is tailored for complex urban environments; and special training to provide civil support in the aftermath of a large-scale catastrophic attack.

Our key recommendations include the following:

- Empower front-line agents to intercept terrorists by establishing a twenty-four-hour operations center in each state that can provide access to terrorist watch list information via real time intergovernmental links between local and federal law enforcement.
- Make first responders ready to respond by immediately providing federal funds to clear the backlog of requests for protective gear, training, and communications equipment. State and local budgets cannot bankroll these necessities in the near term.
- Recalibrate the agenda for transportation security; the vulnerabilities are greater and the stakes are higher in the sea and land modes than in commercial aviation. Systems such as those used in the aviation sector, which start from the assumption that every passenger and every bag of luggage poses an equal risk, must give way to more intelligence-driven and layered security approaches that emphasize prescreening and monitoring based on risk-criteria.
- Fund energy distribution vulnerability assessments to be completed in no more than six months, fund a stockpile of modular backup components to quickly restore the operation of the energy grid should it be targeted, and work with Canada to put in place adequate security measures for binational pipelines.
- Strengthen the capacity of local, state, and federal public health and agricultural agencies to detect and conduct disease outbreak investigations. The key to mitigating casualties associated with a biological attack against people or the food supply is to identify the source of infection as early as possible.
- Enact an "Omnibus Anti-Red Tape" law with a two-year sunset clause for approved private-public homeland security task forces to include: (1) a fast-track security clearance process that permits the sharing of "secret-level" classified information with non-federal and industry leaders;

(2) a FOIA exemption in instances when critical infrastructure industry leaders agree to share information about their security vulnerabilities with federal agencies; (3) an exemption of private participants in these task forces from antitrust rules; (4) homeland security appropriations to be managed under the more liberal rules governing research and development programs in the Department of Defense rather than the normal Federal Acquisition Rules; and (5) liability safeguards and limits.

- Fund, equip, and train National Guard units around the country to ensure they can support the new state homeland security plans under development by each governor. Also, triple the number of National Guard Weapons of Mass Destruction Support Teams from twenty-two to sixty-six.

In conclusion, it is the belief of our task force that quickly mobilizing the nation to prepare for the worst is an act of prudence, not fatalism. In the twenty-first century, security and liberty are inseparable. The absence of adequate security elevates the risk that laws will be passed immediately in the wake of surprise terrorist attacks that will be reactive, not deliberative. Predictably, the consequence will be to compound the initial harm incurred by a tragic event with measures that overreach in terms of imposing costly new security mandates and the assumption of new government authorities that may erode our freedoms. Accordingly, aggressively pursuing America's homeland security imperatives quickly and immediately may well be the most important thing we can do to sustain America's cherished freedoms for future generations.

President Bush has declared that combating terrorism requires a war on two fronts--at home and abroad. The Task Force believes the nation should respond accordingly. Preparedness at home can play an indispensable role in combating terrorism by reducing its appeal as an effective means of warfare. Acts of catastrophic terrorism produce not only deaths and physical destruction but also societal and economic disruption. Thus, as important as it is to try and attack terrorist organizations overseas and isolate those who support them, it is equally important to eliminate the incentive for undertaking these acts in the first place. By sharply reducing, if not eliminating, the disruptive effects of terrorism, America's adversaries may be deterred from taking their battles to the streets of the American homeland.

Thank you and I look forward to responding to your questions.