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## The 9/11 Commission

### “Report card” finds lack of urgency in nation’s preparedness

*After the attacks of September 11, 2001, the attention of the United States was focused on terrorism, and the nation had no greater priority than defeating it. As the attacks of that day grow more distant in time, a dangerous sense of complacency has set in, with the public and its leaders becoming distracted with other concerns and returning to a pre-9/11 mindset.*

*In the years since September 11, terrorists have struck around the world, including the March 2004, commuter train bombings in Madrid that killed 191 people and the London train bombings in July 2005, that killed 56, but have not struck in the United States. Experts, though, point to the eight-year lapse between the two attacks on the World Trade Center and warn that another terrorist attack may be inevitable.*

*The public is at risk and demands that the threat of terrorism be treated with the same sense of urgency as a war. Dedication to combating it must not be allowed to wane. This edition of The Lipman Report examines the recommendations of the 9/11 Commission and the disturbing lack of progress that the Commission has found in implementing them.*

#### Background of the 9/11 Commission

The National Commission on Terrorist Attacks Upon The United States (also known as the 9/11 Commission) was created in November of 2002, to prepare a report on the circumstances surrounding the September 11, 2001, terrorist attacks and to give recommendations designed to prevent future attacks. The law creating the Commission directed the members to investigate all matters relating to intelligence agencies, law enforcement agencies, diplomacy, immigration issues and border control, the flow of assets to terrorist organizations, commercial aviation, the role of congressional oversight and resource allocation and any other areas determined by the Commission to be relevant to its work.

The ten members of the 9/11 Commission, led by former New Jersey governor Thomas H. Kean and former Indiana congressman Lee Hamilton, issued its report on July 22, 2004. The report was created after the Commission reviewed more than 2.5 million pages of documents, interviewed over

1,200 individuals in ten countries and took public testimony from 160 witnesses. It detailed the history of al Qaeda and the weaknesses in the efforts of the United States to deal with the threat of al Qaeda and of global terrorism in general.

The report also contained forty-one specific recommendations for combating terrorism. The recommendations were divided into three larger categories: homeland security, emergency preparedness and response; reforming the institutions of government; and foreign policy, public diplomacy and nonproliferation.

#### The 9/11 Public Discourse Project

Upon release of its official report, the 9/11 Commission, in accordance with its founding statute, disbanded as a government entity. The ten members of the Commission, though, shortly after formed a privately funded, nonprofit organization to educate the public on the issue of terrorism and what can be done to make the country safer. The 9/11 Public Discourse Project aimed at fulfilling the original mandate of the 9/11 Commission- to guard against future terrorist attacks while adhering to the same principles of independence and bipartisanship that guided the original Commission.

The mere existence of this new Commission, which as a private organization has no subpoena power or public financing, is a testament to the degree of respect that the original Commission enjoyed during its span as an official government body. Recently, the ten-member panel, as its last official act, issued a “report card” on the Bush administration and Congress assessing the progress that each has made in implementing the recommendations of the original Commission. The report was disturbing and raises serious concerns about the state of the United States’ preparedness. Out of the forty-one recommendations originally issued by the 9/11 Commission, the administration and Congress received five F’s, 12 D’s, and only one high grade, an A-.

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### Homeland security, emergency preparedness and response

In the area of homeland security, emergency preparedness and response, Presidential and Congressional action on three of the 9/11 Commission’s recommendations received a failing grade. The Commission recommended that the Congress provide adequate radio spectrum for first responders and pass legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes. Additionally, in higher-risk locations like New York City and Washington, DC, Congress should federally fund signal corps units to ensure communications between and among civilian authorities, local first responders and the National Guard. On September 11, inadequate radio spectrum hindered first responder communications.

Bills currently pending before the House and the Senate would compel the return of the analog TV broadcast spectrum and reserve some bands for public safety purposes, but both bills contain a handover date of 2009. The report card recommends moving up the handover date to as early as 2007.

The progress on the Commission’s recommendation for airline passenger pre-screening also received a failing grade. The Commission recommended improving the use of “no fly” and “automatic selectee” lists for airline passengers. The screening function should be performed by the Transportation Security Administration (TSA) and should use the larger set of watchlists maintained by the federal government.

On 9/11, the nineteen hijackers were screened by a computer system and more than half were identified for further inspection of their baggage. Currently, airlines are responsible for implementing “no fly” and “automatic selectee” lists that include individuals that the United States

government believes pose a direct threat of attacking aviation.

Because air carriers implement this program, concerns about sharing intelligence information with private firms and foreign countries keep the U.S. government from listing all terrorists and terrorist suspects who should be included. According to the Commission’s recommendation, the TSA should focus primary attention on assuming control of the implementation of passenger pre-screening so that all names on the consolidated terrorist watch list are utilized.

The allocation of homeland security funds is another area where drastic improvement is needed. The Commission recommended that homeland security assistance be based strictly on an assessment of risks and vulnerabilities. Every state, the Commission reported, needs to have some minimum infrastructure for emergency response, but federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on risks and vulnerabilities that merit additional need. Congress should not use these funds as pork barrel.

According to the leaders of the Commission, billions have been spent with virtually no risk assessment and little planning. The federal government has failed to set standards for preparedness to assist state and local governments in using the money appropriated in the wisest possible manner.

The House of Representatives overwhelmingly passed a bill in May of 2005, to address this problem. The House bill would reduce to .25% from .75% the minimum amount of money that each state receives from the total pool of homeland security grants. The Senate Homeland Security Committee, however, has resisted allowing a similar bill to reach the floor of the Senate. In its report card, the 9/11 Public Discourse Project left open the possibility of

improvement if the House provision passes in the Senate and becomes law.

### **Reforming the institutions of government**

In its final report, the 9/11 Commission recommended that the overall intelligence budget be declassified. Progress in this area was also insufficient. The Commission believes that to combat the secrecy and complexity in national intelligence appropriations the overall amounts of money being appropriated to intelligence agencies should not be kept secret and that Congress should pass a separate appropriations act for intelligence. This act would defend the broad allocation of how tens of billions of dollars are being assigned among the varieties of intelligence work.

No action has been taken on this recommendation. Without some disclosure, the American public and most members of Congress cannot judge adequately how well funds are being allocated toward our nation's security. More public information would promote a greater sense of accountability as to how these funds are being spent. Some secrecy is necessary for the nation's security, but unnecessary concealment of information from the American public is not.

The effort to implement the Commission's recommendations with regard to the sharing of information has also been unacceptable. The Commission suggested that the President lead a government wide effort to bring the major national security institutions into the information revolution. The legal, policy and technical issues should be resolved across agencies to create a trusted information network, and information procedures should provide incentives for the sharing of information.

To date, changes in incentives to promote information sharing have been minimal. According to the Intelligence Reform and Terrorism Prevention Act of 2004, passed in response to the Commission's work, the Director of National

Intelligence has responsibility for establishing procedures and policies to ensure the maximum availability of, and access to, intelligence information within the intelligence community. Also, a program manager has been designated by the President to be responsible for information sharing across the federal government. This office, though, does not yet have the resources necessary to assert authority across the federal government, and, if the USA Patriot Act is allowed to expire, any work in this area will be greatly hindered as well.

The President, according to the Commission, must make information sharing a priority. Designating officials to be in charge is not enough; they must have the resources and active presidential backing to change information systems that enable information sharing, the policies and procedures that compel sharing and the systems of performance evaluation so that personnel are made aware of how they are carrying out information sharing. The history leading to the events of 9/11 includes numerous examples of how a mentality of limiting information sharing to those with a "need to know" kept information from getting to the right people at the right time. This culture will not change without policies in place that actively encourage that change.

### **Foreign policy, public diplomacy and nonproliferation**

In this category, the Commission issued a poor progress assessment with respect to its recommendation that the U.S. engage with its allies to develop a coalition approach toward the detention of captured terrorists and issued a similarly poor assessment of U.S. efforts to prevent the proliferation of weapons of mass destruction—which the Commission calls the greatest threat to the nation's security.

The United States should develop new principles

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for guiding the treatment of captured terrorists and should do this in coordination with its allies. The Commission recommends possibly drawing upon the Geneva Conventions to create such policies. Dissension at home or abroad on how the U.S. treats captured terrorists makes it more difficult to build the diplomatic, political and military alliances necessary to effectively fight the war on terror. Creating U.S. detention policies that are close to international law will promote cooperation with international partners on counterterrorism.

The Commission states that the proliferation of weapons of mass destruction is the greatest threat to U.S. security and that preventing terrorists from gaining access to these weapons must be elevated above all other problems of national security. Al Qaeda has attempted to acquire or manufacture weapons of mass destruction for at least ten years and there is no doubt that the United States would be a prime target. The consequences of a weapons of mass destruction attack in an American city would be catastrophic. The President needs to develop a comprehensive plan to dramatically accelerate the timetable for securing all nuclear weapons-usable material around the world and request necessary resources to complete this task.

### The Private Sector

Approximately 85% of the nation’s critical infrastructure is owned by the private sector, and unless a terrorist’s target is a military or other secure government facility, the first responders will almost certainly be civilians. Homeland security and national preparedness will therefore often begin with the private sector. Private sector preparedness received a mixed assessment and the Commission found that national preparedness standards are only beginning to find their way into private sector practices.

Preparedness in the private sector for rescue, restart and recovery of operations should include a plan for evacuation, adequate communications and a plan for business continuity. In another attack, or in a natural disaster, private sector employees will likely be on the front lines. Individuals who work for and with organizations that institutionalize a high level of emergency preparedness are far more likely to survive a disaster. Corporate leaders should take the lead in encouraging American businesses, especially those in high risk areas, or who own or manage critical national infrastructure to make private sector preparedness a priority.

*When a crisis occurs, there is a flood of interest and a rush to do something to confront it. The war on terror, though, like any war, cannot be won with one-time action and attention. There must be follow-through. A sense of urgency is required to meet the threat posed by terrorism and, as a responsible doctor would not leave a critical patient in the middle of treatment, the President, Congress and private sector must not leave the crucial work of protecting the nation undone.*

*The report card issued to judge the progress of the recommendations of the 9/11 Commission raises serious concerns about the nation’s preparedness. As Chairman of the 9/11 Commission Thomas Kean recently said, “We shouldn’t need another wake-up call. We believe that the terrorists will strike again; so does every responsible expert that we have talked to. And if they do, and these reforms that might have prevented such an attack have not been implemented, what will our excuse be?”*



The Lipman Report Editors