

**Remarks of Former Attorney General Dick Thornburgh  
9/11 Public Discourse Project  
Woodrow Wilson International Center for Scholars**

**Panel on CIA and FBI Reform  
June 6, 2005  
9:30 – 11:30 am**

It is a pleasure to appear this morning with Commissioner Gorelick and this distinguished panel. The effects of the 9/11 Commission's efforts and the force of its recommendations are still compelling as we near the one year mark from the date of its report. The appointment of Ambassador John Negroponte as Director of National Intelligence to lead and coordinate all the intelligence activities of the United States, and the landmark Intelligence Reform Act of 2004, are only the most prominent results of the Commission's deliberations.

I m here to discuss the work of the National Academy of Public Administration Panel I have chaired in assisting the FBI transformation since the tragedy of September 11, 2001. You have asked that I focus particularly on FBI information sharing practices and the state of its counter terrorism capabilities. Simply stated, we believe that the FBI has improved substantially in both areas, but much remains to be done. Before getting more specific, however, I should add some context to the Academy's involvement.

In May 2002, Congressman Frank Wolf, Chairman of the House Appropriations Subcommittee with jurisdiction over the FBI, asked the Academy to participate in a review of the FBI reorganization that Director Bob Mueller had begun immediately after 9/11. This included a temporary reallocation of FBI field agents, a new FBI strategic focus on preventing terrorist acts, and new priorities to guide FBI field operations. At Chairman Wolf's request, the Academy Panel has continued to review and report annually on the FBI's efforts.

In June 2002, the Academy Panel endorsed Director Mueller's proposed reorganization, recognizing that it was "the beginning, not the end ... of a long-term process of institutional and cultural change." Among our observations was that "major information sharing improvements were critical."

Underlying this observation was the imperative of recognizing, the important distinctions that must be made between the roles, respectively, of conventional law enforcement and intelligence gathering activities in the anti-terrorism effort.

Law enforcement seeks legally admissible evidence to prove a specific criminal offense in court before a judge

and jury;

Intelligence gatherers, on the other hand, seek enough information, whether legally admissible or not, to thwart planned terrorist attacks.

These tasks are not the same. One is designed to punish those who have committed terrorist attacks after the fact; the other is designed to prevent terrorist attacks before the fact.

This is one of the reasons why cooperation between the FBI and the CIA, for example, was sometimes less than ideal in the past. Grand jury testimony and information obtained from court-authorized FBI wiretaps often could not legally be passed on by law enforcement for use by the intelligence community. By the same token, intelligence information often could not be transmitted for use by law enforcement for fear of compromising the “sources and methods” by which it was obtained, i.e., by jeopardizing the lives of under-cover operatives or cooperating witnesses or by disclosing highly sophisticated electronic surveillance techniques in criminal trials held in open court.

Particularly in the wake of September 11, however, it became quite clear that the American public would be understandably outraged if told that information in the files of one government agency was not being

fully shared with other agencies when the stakes are as high as they inevitably are in both the prevention and prosecution of terrorist activities. Under the provisions of the USA Patriot Act and at the direction of Director Mueller, these artificial barriers are now being broken down.

In June 2003, the Academy Panel reported to Congress that while the FBI had made progress, we reiterated our earlier emphasis on “the overriding importance of information sharing as the FBI transforms itself and becomes the lead domestic agency in preventing terrorism.” Our report added that the FBI must shift its culture from the “traditional values of independence, determination, strong camaraderie, and professionalism to . . . joint collaboration, interagency cooperation, and information sharing.”

Most recently, in February of this year, the Academy Panel released a report based upon its 2004 review of the FBI’s progress in strengthening its counterterrorism, security and intelligence programs. The Panel, like the 9/11 Commission, was convinced that the FBI should remain as the key domestic intelligence agency and that it was making substantial progress in strengthening its domestic intelligence and information sharing capabilities. However, once again we cautioned that information sharing had not yet been adequately recognized in law or

standard practices. Thus, the Academy Panel endorsed the 9/11 Commission's recommendation that "the President should lead a government-wide effort to bring the major national security institutions into the information revolution and coordinate the resolution of legal, policy, and technical issues across agencies to create a 'trusted information network'." The Panel further recommended that the FBI component of this network should be implemented as soon as possible and be extended to state and local law enforcement agencies through an effective FBI enterprise architecture.

The Academy Panel also stated its belief that the FBI had greatly strengthened its counterterrorism program through:

centralized leadership and a more active Headquarters role in overseeing and coordinating counterterrorism cases;

integration of intelligence and law enforcement operations in Headquarters and many of its field offices;

coordination with other federal, state, and local law enforcement agencies, the Intelligence Community, foreign governments, and the private sector;

information technology systems; and

workforce realignment.

However, a number of areas were identified as requiring additional attention, including several that relate to information sharing.

For example, The FBI Terrorist Screening Center provides federal, state, and local law enforcement and screening officials with real time database checks to identify known or suspected terrorists and to coordinate timely responses by local Joint Terrorism Task Forces. However, the quality and consistency of information available to the Terrorist Screening Center database were found to be uneven. The Academy Panel recommended the rapid development of a single watch list of known or suspected terrorists and its use by all counterterrorism screening operations.

The Academy Panel also found that the FBI had made striking advances in its willingness and ability to work jointly with other federal, state, and local law enforcement agencies through its Joint Terrorism Task Forces (JTTFs). State and local JTTF participants spoke of dramatic, positive changes in their working relationship with the FBI. At the same time, the Panel found that the FBI faces a significant

challenge in developing productive working relationships with this emerging network of state and local entities, and with integrating a robust intelligence function into the FBI's mission. One complication stemmed from Department of Homeland Security (DHS) grant practices that sometimes seemed to be at cross-purposes with FBI efforts to encourage joint operations. To resolve these concerns, the Academy Panel recommended that senior FBI officials meet with responsible state and local officials to resolve outstanding conflicts, particularly those relating to information sharing, and work with DHS and the Congress to ensure coordination of counterterrorism efforts in the field.

The FBI's intelligence program is threat based, but constitutionally bound. It reflects:

the heightened priority assigned to counterterrorism and espionage;

the increased importance of preventing activities inimical to U.S. security; and

the increased delegation by the FBI of reactive investigations of many illegal activities to other federal, state, and local law enforcement authorities.

The relatively new FBI Directorate of Intelligence has made progress in establishing an intelligence analyst cadre. Field Intelligence Groups also have been established in all FBI field offices. The policies, procedures, and staffing of these Groups are still being developed, but they have already begun to improve the ability of the FBI to generate useful intelligence reports.

Like the 9/11 Commission, the Academy Panel recognized that resources are scarce, that risk-based priority decisions and funding allocations depend upon accurate and timely threat assessments, and that the FBI has specific responsibility to identify, assess, and communicate U.S.-based threats. The Panel recommended that the FBI continue to develop its capability to prepare and share domestic threat assessments, and that it develop a strategic analysis production program in coordination with what was then the Terrorist Threat Integration Center and the Intelligence Community's National Intelligence Production Board. Of course, as a result of the changes wrought by the Intelligence Reform Act of 2004 in which the 9/11 Commission played such a large part, the former is now the National Counter Terrorism Center and the latter now reports to the Director of National Intelligence.

The Academy Panel reported that the FBI has developed a plan to encourage information sharing between FBI headquarters and FBI field

personnel and for procedures to convert intelligence information into intelligence reports that will be shared with external agencies. While the Directorate of Intelligence is responsible for sharing information with federal and international intelligence and law enforcement agencies, the Field Intelligence Groups are responsible for intelligence sharing in the field. Standing FBI intelligence requirements for international terrorism are web-based and available to more than 17,000 law enforcement agencies. Similarly, periodic publications and special assessments are required to include specific dissemination lists encompassing a wide range of customers. While these steps are obviously important and laudable, the Academy Panel believed that the plan lacked sufficiently specific guidance on information sharing with the Intelligence Community, DHS, and international organizations.

Sharing of counterterrorism information by the FBI clearly has improved at all levels, with the increase in joint activities playing a critical role. Nonetheless, the norms for information sharing were found by the Academy Panel to be largely ad hoc, with no mechanisms to enforce or promote sharing, either through penalties or incentives. Unless formal processes are put into place, the Panel feared that information sharing could erode if the current priority emphasis on terrorism abates. As a result, the Panel recommended that the FBI develop regular processes, such as tear-line products, that promote

sharing. It specifically endorsed the findings and recommendations of the 9/11 Commission concerning the need for improvements in information sharing and the potentially helpful role that incentives and penalties can play in the process. One promising development is the recent completion by the FBI of an Intelligence Policy Manual that deals with dissemination of intelligence products and encourages “write to release” and the use of tear-lines to promote sharing of information.

Under the guidance of Chairman Wolf, the Academy Panel is continuing to evaluate the FBI’s transformation efforts. This year, the areas of review include the Bureau’s human resources systems, its field structure, the application of long range budgeting and planning strategies to its mission, and the development of its Directorate of Intelligence. The status of the Bureau’s information sharing policies, programs, and practices will be significant elements of this review. Given Director Mueller’s continued emphasis on the importance of information sharing and the amount of effort the FBI is putting into its intelligence programs, we would expect to see marked improvements in amount and quality this year. In any event, however, the Academy Panel plans to prepare and publish an objective assessment by the end of this year or early next year.

I would be pleased to respond to any questions or comments.