



The 9/11 Commission Report: The Unfinished Agenda Session 5: Congressional Reform

Featuring:

- Sen. Slade Gorton, Former 9/11 Commission Member
- Rep. Tim Roemer, Former 9/11 Commission Member
- Sen. Pat Roberts, Chairman, Senate Select Committee on Intelligence
- Amb. Thomas S. Foley, Former Speaker of the House of Representatives

(JOINED IN PROGRESS)

GORTON:

Good morning. On behalf of the Board Members of the 9/11 Public Discourse Project—my friends and colleagues, the former 9/11 Commissioners—I'd like to welcome all of you here today.

Once again, we would also like to thank the Woodrow Wilson International Center for Scholars for hosting today's discussion.

This is the fifth in our series of panels reviewing the recommendations of the 9/11 Commission and what progress has been made since we issued our Report. What we learn in these sessions will help inform our report card on the progress of reform later this year.

This morning we will examine the question of Congressional reform.

Last year, the Commission wrote, and I quote

Of all our recommendations, strengthening congressional oversight may be among the most difficult and important. So long as oversight is governed by

current congressional rules and resolutions, we believe the American people will not get the security they want and need.

Congress responded enthusiastically and positively to our recommendations about reforming the intelligence community and the executive branch. Its members were somewhat less enthusiastic about our recommendations that Congress change dramatically its own oversight activities.

None of us is under any illusion about the nature of the task before us. Few things are more difficult to change in Washington than congressional committee jurisdiction and prerogatives.

At the same time, we believe deeply that these congressional reforms will improve the performance of the intelligence and homeland security agencies of our government. Without a doubt, these changes will improve the safety of the American people.

We continue to believe that the Congress needs to strengthen oversight. In particular, we believe the Congress needs to empower the Intelligence and Homeland Security Committees with the authorities they need to conduct robust oversight of the executive branch.

These committees contain the knowledge and expertise on national security issues necessary to do so. Their members and staff spend countless hours analyzing the work of our intelligence agencies and the Department of Homeland Security. They know where many of the problems are. What they lack is enough carrots and sticks to compel change where it's needed. A great deal remains to be done in this respect.

Oversight is especially important for matters of national security. By its very nature, much of the work of counterterrorism must occur behind closed doors, away from the scrutiny of the media, watchdog groups and the general public. The people must rely on their elected representatives in Congress to ensure that the agencies responsible for their safety are getting the job done.

To help us explore these topics this morning, to see how we are doing and what still needs to be done, we have assembled a distinguished and knowledgeable panel. They've served with great distinction in the Congress and bring great insight into the question of how Congress organizes itself to address national security.

But before I introduce them, I'm accompanied here by one of my co-commissioners, Tim Roemer, a former member of the House Intelligence Committee and of the joint investigating committee that preceded the 9/11 Commission.

Tim?

ROEMER:

Thank you, Senator Gorton. Thank you for your leadership and chairing this hearing; a most important hearing, in my consideration.

ROEMER:

I want to also thank the Woodrow Wilson School for having us here today; the great job that our staff is doing in the Public Discourse Project.

Richard Ben-Veniste, a fellow commissioner is here. We welcome him.

And I also want to welcome Senator Pat Roberts, from the great state of Kansas, who I served with in the House of Representatives. And he did an extraordinarily good job on the joint inquiry.

And I want to welcome a good friend, Speaker Tom Foley, who I served with in the House of Representatives for my first two years in Congress, and who was extraordinarily helpful to me in learning about the House of Representatives.

I'm both delighted to be here today because we want to hold Congress' feet to the fire, and also very disappointed to have to be here today because Congress has not initiated nor acted on the overwhelming majority of the 9/11 Commission recommendations.

We made a host of 41 recommendations on the 9/11 Commission, and about 50 percent of those recommendations were passed into law last December.

However, when you look at Congress, it wasn't 50 percent, it wasn't 25 percent that they enacted, it was about 15 percent of the recommendations that the 9/11 Commission made to the United States Congress that were enacted.

There is a long way to go to make this country safer and to make the world safer.

We see across the United States and across the world that things are changing. Congress passed a good bill to create a strong director of national intelligence. However, we said that if you create this strong director of national intelligence, you also need a strong congressional oversight body to work with that person, both in a positive way and oversight function. That has not been done.

ROEMER:

We talked about a strategic plan to make sure that we would protect our transportation and rail system. That was mandated on April 1st. That has not been done.

And we talked about the jurisdictional oversight of the Homeland Security Department and the Intelligence Committees. Those changes have not been made.

So we're hopeful, as Al Qaida changes and morphs into a new organization with new skills and a devolving nature, that the United States Congress will change to adapt to what we're seeing as the emerging threat out there given the London bombings.

We may see less 9/11s and more 3/11s in the future, like what happened in Madrid.

So, Senator Gorton, thank you so much for bringing us together this morning.

And we look forward to the great insights and expert testimony of these two individuals. Maybe they can help us move Congress so that we can see the changes from Congress to better protect this country and do what the 9/11 recommendations said months ago.

GORTON:

Congressman Roemer has already named our two panelists.

But formally, Chairman Roberts was first elected to the House of Representatives in 1980 and served eight terms as the congressman from the 1st District of Kansas. He was elected to the United States Senate in 1996 and reelected in 2002.

Since 2003, he has served as chairman of the Senate Select Committee on Intelligence. He's been a driving force for reform in the intelligence community. In fact, the first bill introduced on the subject after the 9/11 Commission finished its work was his. Many of his ideas were incorporated in the Intelligence Reform Act of last year.

He's an esteemed former colleague, and the nation has benefited from his thoughtful, common-sense approach to so many issues.

I may say personally, during our time together, I found his wit and wisdom to be unexcelled in the United States Senate, and his dedication to the people of the United States absolute and full-time.

Speaker Foley served his constituents with distinction for 30 years as a U.S. representative from Washington's 5th Congressional District.

GORTON:

He served as majority whip in the House, as majority leader and as speaker of the House from 1989 until 1995.

In 1997, he was appointed ambassador to Japan by President Clinton and served in Tokyo until 2001. Currently, he's a partner of the firm of Akin, Gump, Strauss, Hauer and Feld.

The speaker and I worked together for a number of years representing the state of Washington. And I can say personally I considered him a close friend and was always proud to say that the speaker of the House of Representatives came from my state.

So with Mr. Chairman and Mr. Speaker we couldn't have a greater panel.

Somehow or other, they were told that their remarks were limited. Attempting to limit a senator and a speaker is a foolish exercise, and each of them has whatever time he wishes to speak to us on these issues.

Pat?

ROBERTS:

Well, thank you very much, Slade.

Let me note that the high road of humility is not often bothered by heavy traffic in Washington. Having said that, it is basically a humbling experience to be here with my esteemed colleagues who have achieved so much and are personal friends of mine, and a privilege as well.

Slade served not only as an outstanding senator but was my personal psychiatrist on the Florida Senate as we watched the grass grow. And I would always ask, "Why is this so hard? Why are we doing this this way? Why are we here at 2 in the morning when we could have done this at 10:30?"

And, so I miss you, Doctor.

(LAUGHTER)

And if you could come back a little more often, I'll be glad to increase my hourly payment to you.

Tim -- of course, we served together on the 9/11 inquiry where the House and Senate Intelligence Committees came together, about 38 to 40 of us, and tried to be of assistance to figure out what went wrong and then to fix it.

ROBERTS:

Tim has served in the House, achieved his Andy Warhol 15 seconds of fame, then became a member of the 9/11 Commission and got an additional 15 seconds of fame, and now has proved that the Warhol limit of 15 seconds is at least up to one minute.

(LAUGHTER)

And I appreciate his contributions.

Tom Foley is, sort of, a hero of mine.

My predecessor, the Honorable Keith Sebelius, who served on the once-powerful House Agriculture Committee, said at one time that the then-chairman of the House Ag Committee -- one of his mountain-climbing achievements, Slade, that we did not mention -- could and should be the speaker of the House.

This was when Republicans never dreamed that they would take over control. We were in the Death Valley days four years and were basically interested in getting a three-way light bulb that would work as opposed to achieving parity with staff or actually having an impact on legislation.

He was my chairman on the Ag Committee. He even did a Republican from Kansas a great many favors. And the biggest -- or I think the most important thing I can say about Tom is that he is indeed a class act, whether he was chairman or speaker or ambassador or in his role today as a senior statesman.

All of that summed up simply says, in Dodge City language -- Dodge City, Kansas - - if you want to be a big flea, you have to run with tall dogs. And I'm just very happy to be here with some of the tallest that I know.

Briefly about how Congress should be structured to best conduct intelligence oversight, according to the 9/11 Commission Report, already touched on in regards to Tim, congressional oversight for intelligence is, quote, "dysfunctional and lacks unity of effort."

Unfortunately, as a member of that fragmented and dysfunctional system -- and if you ride with the truth-telling posse, of which I like to ride point instead of drag, I can tell you that the 9/11 Commission wasn't far off the mark.

I want to be clear about something, and I think my friends on the commission will agree. They didn't say that the Intelligence Committee is dysfunctional. They said that congressional oversight writ large is dysfunctional.

In other words, we have organized ourselves in a way that makes the primary oversight committee less effective and less influential.

I strongly believe that both the House and Senate need to look very closely at how we conduct our respective business vis-a-vis the executive branch.

How can we manage effectively the balance of power between the branches if we dilute our influence by maintaining our own existing dysfunctional balance-of-power dynamic within the House and Senate?

ROBERTS:

That's the question.

Our current system of competing and sometimes adversarial committees all too often works against us, and our intelligence oversight suffers as a result. In today's world, this is not acceptable.

To alleviate some of this tension, the 9/11 report did recommend, among other things, vesting both authorizing and appropriating authority in a single intelligence oversight committee in each house of Congress. And it probably won't shock you to learn that, as chairman of the Intelligence Committee and authorizing committee, this struck me as sheer genius.

(LAUGHTER)

Despite the competing interest -- and I might add, you could hear the bulldozers digging for more committee turf late at night -- 12, 1, 2 in the morning -- we did pass the Intelligence Reform and Terrorism Prevention Act of 2004, and it was a significant first step in what I believe should be a continuing process of reform and change.

The creation of the director of national intelligence has done a great deal to facilitate unity of effort, if you will, within the intelligence community. Now, it seems to me, it's time to look a little more closely at Congress, makes some hard decisions if we can, something we seldom are excited to do in either the House or the Senate.

In the something is better is better than nothing department, a small bit of history. The Senate actually did pass a congressional reform measure known as S.Res. 445. The purpose of the measure was to rationalize and strengthen the oversight of both intelligence and also homeland security.

If you missed it, I wouldn't worry; you didn't miss much. Our respective leaders established working groups to examine the issue of congressional reform and to formulate various proposals.

ROBERTS:

I was a member of the Republican group. We discussed every recommendation made by the commission, as well as a number of other issues.

To our credit, we did consider seriously whether to vest in the Intelligence Committee the power to appropriate. Quite frankly, I did not expect this type of heresy to get much traction. I was wrong.

You may be surprised to learn, notwithstanding some strong old bull objections within our own group, that the majority position, going into the negotiations with my friends across the aisle, was to give the power of the purse to the Intelligence Committee. However, that was a nonstarter with others and with the Democrat leadership.

Nevertheless, having ridden our reform horse into a box canyon, we decided to ride to high country when S.Res. 445 went to the floor.

Senator John McCain, who sits neither on the Intelligence Committee nor the Appropriations Committee, did propose an amendment to vest the Senate Intelligence Committee with both authorization and appropriation authority in regards to funding, in regards to our priorities that we would recommend.

Now, why would Senator McCain, who had no turf to gain, get in the middle of what could best be described as a Western sheep and cattle war between authorizers and the appropriators?

Well, John McCain is John McCain. But more important, because he agreed with the 9/11 commissioners that we need more unity of effort in our congressional intelligence oversight.

Senator McCain's amendment did propose streamlining a number of committees in the Senate involved in intelligence funding by concentrating more influence in the committee we think best suited to intelligence oversight. In both the House and Senate, the intelligence authorizing committees are uniquely structured to conduct intelligence oversight by virtue of the size of our respective staffs and the vast experience that they bring to the job, many from the intelligence agencies that do provide the intelligence community.

The Senate Intelligence Committee has a staff of nearly 50 who possess a wide array of experiences in all facets of the intelligence business, including first operations, then analysis and budgeting, auditing, cost estimating and accounting, national security, international law, program management and systems engineering.

The outside world did get a rare glimpse of what the committee is capable of when we passed 17-0 and published then our 511-page unclassified Iraq WMD report. That report, as most will remember, did document significant, systemic problems in the intelligence community.

Unfortunately, the American people all too often don't get the full benefit of our expertise because of the fragmented nature of the congressional system or the committee system, and also because most of what we do is classified.

This time, however, after a year's work in interviewing over 250 intelligence community analysts, our review, I believe, was the seminal catalyst for significant intelligence reform.

We do oversight and we do it well.

Nevertheless, as it stands today, the appropriators with their power of the purse have a disproportionate influence on the intelligence oversight process, in my view.

ROBERTS:

I want to be clear about this: I am not saying that the Appropriation Committees are not capable of conducting effective oversight, because they are.

I learned in the House, after basically going to war with the appropriators from time to time, that when I got to the Senate, it was a good idea to press their ties and to clean their windows and to carry their suitcases.

What I am saying is that, by virtue of their size and limited ability to legislate, they are not the best situated to conduct comprehensive oversight on a scale -- more especially in this day and age, on the global war against terrorism.

Don't take just my word for it, read the 9/11 Commission's report, page 420: "Under the terms of existing rules and resolutions, the House and Senate Intelligence Committees lack the power, influence and sustained capability to meet the challenge of providing adequate oversight over our nation's intelligence activities," unquote.

Now, some have argued that really giving one committee both the authorizing and appropriating power vests too much authority in one committee, and there would be no check on a committee simply run amok.

Besides being a bit silly, it isn't a concern based on a true appreciation of the legislative process. The road to passing intelligence funding into law is now, and would be, a long and difficult one.

After being voted out of the Intelligence Committee, such legislation now and would still likely have to pass through the Armed Services Committee on a sequential referral.

It would then also be subject to amendment on the floor before having to pass through the conference process. And that still wouldn't be the end: Every bill must pass final muster in both chambers before the president really gets his say.

As you can see, it is far more likely that a committee will run aground as opposed to running amok.

It is for all of these reasons that I, along with 21 other senators, voted for the McCain amendment to give appropriating authority to the Intelligence Committee.

Now, you can do the math: 100 senators, 21 votes; 21, at last count -- even with the judicial confirmation process underscoring what we do today -- 21 is less than 51. So, so much for we heretics.

Ultimately, S.Res. 445 passed. We changed a few things around the margins. We ended term limits for committee members in favor of experience. We got additional staff. But, as usual, the hard decisions were simply put off until another day.

Now, until that day comes, I'm afraid the situation in Congress is pretty much status quo.

Now, the good news, however, is that Ambassador Negroponte, the new DNI, has arrived.

ROBERTS:

And the president is giving him the authority and backing to make significant change. And Ambassador Negroponte is using that authority to begin making substantial reform.

It is interesting to note that many of the changes the ambassador is starting to make - or our new DNI is starting to make -- bear a striking resemblance to the intelligence reform legislation that I and several other members of the Intelligence Committee did propose as of last year.

And I believe there has been a significant change within our intelligence community as well.

During our ongoing hearings -- our "Oh, my God" hearings almost every week -- "Oh, my God, how did this happen and how do we fix it? And what went wrong?" -- our

witnesses from the entire intelligence community are much more candid, not risk-averse. We ask them to tell us what they know, what they don't know and what they think. Much more today we hear, "I don't know, Senator," as opposed to "slam dunk." And some ambiguity is not a bad thing.

We are gaining on our goal of information access, better HUMINT, better and shared analysis, better international cooperation. And, yes, extremely valuable information on terrorist threats and future attacks are coming from interrogating terrorists.

I just returned from Gitmo this weekend, dodging hurricanes, and we must preserve, in my view, this valuable and current source of information while ensuring we conduct ourselves in accordance with our laws and values. My personal observation in Gitmo is that we are doing just that.

So I am hopeful that Ambassador Negroponte and General Mike Hayden will bring this unity of effort to the intelligence community. The DNI has strong support in the Congress and from the president and I have high hopes.

But I'm also realistic. And that is why I believe that reform is a journey and not a destination.

The intelligence failures associated with September 11th and the Iraq WMD assessments have been important catalysts for change in the executive branch.

Just last week, the Bush administration announced the planned implementation of 70 of 74 of the recommendations of the WMD Commission. That's rather astounding, and three are still under study.

Now, I'm not sure what it will take to mobilize public support for a similar change in the legislative branch. But I believe that it is necessary.

As the 9/11 Commission report states -- and again I'm quoting -- "The other reforms we have suggested for a national counterterrorism center" --done -- "a national intelligence director" -- done -- "will not work if congressional oversight does not change too. Unity of effort in the executive management can be lost if it is fractured by a divided congressional oversight," end of quote.

ROBERTS:

I regret to say that, in my view, that while we passed needed first-step reform for the intelligence community, Congress did fail to fulfill an important obligation when it balked in passing meaningful reform for itself.

Windows for reform open and close very quickly. As it stands today, a pessimist could say that the reform window is closed, at least on a temporary basis. But then an optimist like myself might say: "Yes, but it is not locked."

Bluntly put, to the commission members and to all present, we need your help so the reform posse can saddle up and ride again. Our national security, it seems to me, certainly depends on that effort.

Thank you very much for the opportunity.

GORTON:

Pat, thank you. You pull no punches.

Mr. Speaker?

FOLEY:

Thank you, Mr. Chairman.

Let me just begin by paying a very sincere compliment to the 9/11 Commission, to all of its commissioners, and to the subsequent work of the WMD Commission.

I think this, along with the good work that's been done by the Intelligence Committees, has been an extraordinary period of exceptionally effective public commissions.

In my experience in Washington, I have not witnessed commissions as effective and as seminal in their consequence as the 9/11 Commission and the WMD Commission and some of the work of our investigative committees.

That's the good news.

The more difficult problem, of course, is that, as Pat Roberts has just said, the recommendations that apply to Congress have been only very -- and this is Tim Roemer's point -- only very partially adopted.

It doesn't mean that every recommendation of the 9/11 Commission is written in stone or is absolutely without question or possible disagreement, but it is interesting that -- and not surprising to me -- that Congress would have great difficulty in making the changes.

One of the realities that everyone in this panel is familiar with, because all of us have served in the House or the Senate, is that committee jurisdiction is the kind of pearl

of great value in the Congress. It, more than anything, defines a member's identity, his or her ability to speak on public questions to attain national attention and so forth.

I remember some days past, in the '70s, there was a committee in the House designed to reassess committee jurisdiction. It was the most internally contentious committee that I can remember.

One member said to another one in the cloak room (inaudible) that he would never forget the recommendation and position that the other member had taken on his committee's jurisdiction.

FOLEY:

I never heard a member say this, for example, about the Vietnam War or any of the controversies of the time. He said, "You will think that I am your friend, and I will be your friend in most things, but I will never forget what you have done. And sometime when your back is turned and you are very, very vulnerable, I will wield a knife."

It was an unbelievable statement but it emphasized the deep anger, the fundamental investment that that member felt had been interfered with by the organizational changes that his colleague had recommended.

So having recounted that, it was not surprising to me that committee jurisdiction became the very difficult nut to crack in terms of House reorganization to meet the suggestions of the 9/11 Commission.

Nevertheless, it is important because oversight, both of intelligence operations and homeland security, has two aspects. One is whether it's adequate in order to give the Congress, or the representatives of the people in the states, a clear idea of where the executive branch is going and what might be done to correct course or to probably review their activities. The second is not to impose too much of the time and effort of the executive branch officers.

In the case of the House of Representatives, a recent study indicated that 88 committee and subcommittee entities had some jurisdiction over homeland security. And if you can imagine Judge Chertoff coming to Congress as many times as others have had to come to testify before every committee -- Pat and I served on the Agricultural Committee. You can devise a very easy scenario for why agriculture has an interest in homeland security. What if our crops are poisoned? What if chemical weapons are used to destroy essential agricultural assets? So bring up the director of homeland security to testify on this question.

And, consequently, the principal officer often has not much time to address the internal operations of his department. You have to leave that to the deputies, and he has to spend his time before the Congress in endless appearances.

Part of that is just cultural. Members know that that's what brings the cameras, that's what brings the attention, that's what gives the member an opportunity to talk importantly about important subjects in the minds of the American people. And so it is highly valued.

Pat Roberts' last statement, that reform is a journey not a destination, is one that I would like to second. It's going to take some time. It's not going to happen overnight. There has to be continued effort and I hope the commission will continue this public review of its recommendations and the actions of the executive branch and the Congress in response to it.

FOLEY:

We need this kind of external review of the review process, of the reform process.

And one of the great assets of the 9/11 Commission, in my view, was the public support that came from its hearings and the respect that the public gave to its recommendations. That is still a powerful instrument for encouraging reform in the Congress.

We need to look seriously at the recommendations that were not adopted. One of the most difficult, of course, was the one that was mentioned earlier, which is to join in a single committee the appropriation and authorization function.

For most of the Congress' history, we did not have an Appropriations Committee. But the memory of man runneth not when we didn't currently, and the Appropriations Committee process is deeply ingrained in the culture of the House and the Senate, and the appropriators are, to put it mildly, jealous of their authority over the purse.

Whether this can ever be accomplished, I don't know.

It would be helpful if we could simply deal with four committees rather than multiple committees. In other words, the Intelligence Committees in the case of intelligence, and the Appropriation Committees. But other committees will demand jurisdiction: most notably, the Armed Services Committee and the Defense Appropriations Committees, which add a whole new structure to the process. And because intelligence is fractionated in the executive branch between many, at least theoretical, congressional jurisdictions, this can become a very major problem.

Again, we need to keep pressing forward.

I would quarrel with only a few of the recommendations.

I think perhaps the idea that the Intelligence Committee should have -- I think it's presently 12-9. Whether it should have an 11-10 -- this will get me in trouble with the Democratic leadership -- that close a balance depends a lot on the membership of the committee.

I think, if you're the majority party, there may be a little concern that the switch of one vote would turn a majority on some issue around, and you would have a 10-11 the other way.

But it is important that the committee have a bipartisan character and that the partisanship of political issues, aside from the key policy issues of intelligence, be, as much as possible, suppressed in the committee.

FOLEY:

The country deserves and needs a strong bipartisan commitment to the war on terror, to intelligence operations, to homeland security that rise above and beyond politics in every way possible. And part of that is for the minority, whoever it turns out to be, to feel fully engaged and responsible for the consequence.

That is, again, extraordinarily important, and it depends to a very great degree, of course, not only on the structure, but who actually become members of the committee. And it's incumbent, I think, on the leadership in both parties, to send only those who can be counted on to give that commitment to bipartisanship to their committee work.

A final word about the speaker. Having been the speaker, I have an extraordinary sense of respect for the office. And I think it is difficult to deny the speaker -- nor do I think we should deny the speaker -- the ability to make sequential referrals to committees on the question of -- particularly homeland security, where I think it's the most difficult problem.

But I would hope that speakers would be extremely spare and careful with this referral authority. It can become simply an easy way to satisfy a committee chairman who present their demands for an opportunity to look at this question or that question. And I would hope that speakers develop a strong culture of rejecting that in favor of placing virtually all the oversight jurisdiction in a single committee that's now been established.

Again, my great respect to the commission for the work that it's done. I hope that it will continue to press forward and that it will not fail or falter. This is a long process and a difficult one of congressional reform.

FOLEY:

I compliment the president on adopting so many of the recommendations of the commission and on the selection of Ambassador Negroponte. I think that is a very positive development.

And I think we have hope that on the executive side the recommendations of the commission are going to bear immediate and long-term fruit. And now we work, all of us in our own way, to make the same progress on the congressional side.

Thank you.

GORTON:

Thank you, Mr. Speaker.

Senator Roberts, is it your view that the lack of power over money, over appropriations, is the single greatest inhibiting factor to successful oversight on the part of the Intelligence Committee?

ROBERTS:

Well, I note with interest that this is a public forum, and I note with interest the advice of the speaker, who remarked at good friends in the House, when discussing internal matters of jurisdiction, one turned to the other one, said, "I will put a knife in your back when you're not looking."

So, I'm going to have to be very careful.

I love appropriators.

(LAUGHTER)

There was a day -- in Agriculture, as a speaker and the former chairman of the powerful House Agriculture Committee knows, we have mandatory and discretionary accounts. And it always bothered me that the appropriators would ride over into our pasture and brand our mandatory spending in the dead of night and put them over in discretionary funding; obviously at the will and request of individual members.

That, sort of, got my attention. And we did have a very difficult time with that.

Now, in the Senate, I still serve on the Ag Committee. When you're from Kansas, you're not appointed to it; you're sentenced to it. It's a pleasant sentence, I hasten to add.

ROBERTS:

Now, after all that as an introduction, yes, I think that that's probably the single most thing that is troublesome, in that we go through numerous, numerous, many, many hearings. Tom, I don't know if you can recall for me the number of hearings we have had under my tenure -- not that it's under my tenure, it's just because of what's happening as hearings before, but it's been many, many times over, maybe double or triple.

Not a week that goes by that we don't have one of these, what I call, "Oh, my God" hearings. "How did this happen? We have to fix it." And it's part of a continuum in regards to the global war against terrorism.

So here we look at that. We take a very hard look at it, very strong oversight, all the things that you read about in the press on the allegations that are very controversial.

We can't talk much about it because most of it is classified.

And we have a tremendous staff. Whatever we accomplished in that 511-page report or that inquiry was, in fact, due to outstanding staff with great experience.

So we have 50. The appropriators are in single digits and on the lower side in regards to intelligence. I'm not saying they don't work hard. And I'm not saying that every once in a while we are granted access. You know, I present them frankincense and myrrh and oil and things of this nature and I'm granted access, and then we can make some recommendations.

But I really think that in terms of all the authorizing work that we do on both the House and Senate side going into these very important matters that we ought to have at least a better vehicle, or a better way, a better handle, some kind of opportunity to say, "These are the funding priorities that we're recommending," or, "These are the funding priorities that we do not recommend."

And that is involved with whether it is a collection, what issue, or an analytic issue, or whether it is the research and the acquisition issues with a lot of infrastructure and a lot of technology, which is very expensive and very important, or whether it's in regards to real-time analysis to the war-fighter and our relationship with the Armed Services Committee.

We really look after that, and I really think it would be very helpful.

Now, how you accomplish it, Slade, I don't know.

There was a recommendation that we set up a subcommittee within the Appropriations Committee on intelligence. I have mixed views about that.

At present, I am very good friends with the people concerned, and I feel I can, you know, talk to them personally about it. If we set up a special subcommittee, now I've got to retrain them or reeducate them all over again.

That's going to get me in a lot of trouble.

And I don't know if they then have their staff -- if you have a special secretary to do that, what do they do with their staff?

ROBERTS:

Does that grow in a competitive fashion with the authorizer?

I've taken probably too much time to get into this, but, yes, I think that that is the case.

Now, if you pull that string -- you and I've talked about this -- you have a Budget Committee, you have an authorizing committee and you have the appropriators. You took the unusual position of doing away with one or two and having the authorizers actually do the appropriating, and you were an appropriator. You also were a voice in the wilderness, but having said that, I think I would agree with that in the ideal sense.

Now, can we do that? Right now, I think that would be very counterproductive. We are right in the process of trying to get our appropriations bills done under a budget that was passed the platter -- it is now -- not a plate but a platter, a huge platter that is now before the Congress is immense.

So I don't see a way that we can grab onto that lock on the window and open it up and say this is the direction that we ought to take.

GORTON:

But you mentioned that when the issue of giving the Intelligence Committee appropriating authority came up on the McCain amendment it got 21 votes. We, the members of the 9/11 Commission, I think, probably reflecting on that, decided that that part of our recommendation was a bridge too far and backed off on recommending it.

ROBERTS:

No, you decided that in advance of that, as I told you and as I told other members of the commission. And I, on hands and knees in shredded overalls, begged for your support prior to that.

And at that particular time, even the infamous and brave and notorious 9/11 Commission, who sits on a mountain-top shining truth into darkness said, "Maybe that's too much of a reach."

ROBERTS:

So what the hell? When you were saying this is the thing that we ought to do, and we said, "All right, let's do it," I, sort of, looked around -- and it's a good thing, when you're riding point on the herd, that you turn around every once in a while and make sure it's still there -- and my posse disappeared.

And there we were out there with John McCain doing the right thing. And as you have indicated, it's 21 votes. I'm, sort of, poking a little fun at you. But we needed a little more horsepower at that particular time.

GORTON:

But my question was, when we backed off and said, "Oh, just try to make a separate Appropriations Subcommittee," is that really any easier?

ROBERTS:

No.

As a matter of fact, that was done in S.Res. 445, I think, Tom, and has been ignored -- not ignored, put on the back burner, on a shelf to collect dust somewhere forever.

GORTON:

One member of the Appropriations Committee told us that members at least spend maybe five or 10 minutes a year on the intelligence budget. Would that be an accurate estimate?

ROBERTS:

You mean members of the...

GORTON:

Appropriations Committee.

ROBERTS:

... of the Appropriations Committee?

We certainly spend much more time with that. The House has already moved their authorization bill. We're still doing a great many things that we think are necessary, and we're, sort of, holding our cards to our vest, if that's an appropriate term.

And we will match up with Chairman Hoekstra and with Jane, and I think we'll have a very good document.

But I'm not going to tread into that swamp. Let me just say that we have 50 staffers, and they've all served with the DIA, CIA, State Department, you know, all of the 15 agencies. And they're good. They're just damn good.

And our members attend on a regular basis. We have an 8-7. We actually cut the committee down from 17 to 15 and said, "All right, if you're going to stay here and you're going to be a responsible member and you want to stay here" -- by the way, it's the most requested committee, and then people get on and wonder why they did that, because we have constant hearings.

ROBERTS:

And I have a very good vice chairman. We're personal friends. We have strong differences of opinion; that's going to happen. And sometimes things fly around with adjectives and adverbs that shouldn't be talked about.

But we do have an excellent staff.

Now, you compare that with the other committee that you're talking about with maybe two or three -- what do you think? And, plus, they pay a great deal of attention to the requests by the executive.

There's nothing wrong with that. That's very appropriate; and we do as well.

And I might add one other thing which -- now that you got me started -- I think some people think at the seventh inning of a Washington Nationals game that you're going to see John Negroponte and Don Rumsfeld in a mud-wrestling contest during the

seventh inning stretch, just for entertainment, in regards to the competition and the roles in regards to intelligence within the military and the intelligence community.

And it is pointed out by both House members and Senate members of the Armed Services Committee -- and I serve on the Armed Services Committee, and it is a privilege to serve on the Armed Services Committee; it is one of the committees that I really put down that I wanted to serve on. And so I have no quarrel with that.

They do use 80 percent of the funds. They are the majority user of intelligence. And, as Chairman Hunter has told me time and time again, "If I want an AWACS over in Iraq where my son is serving, I ought to have an AWACS, et cetera, et cetera."

And I said, "Hey, I'm all for you." They are the majority user of intelligence.

But the principal user of intelligence is the president of the United States. And if you get it right in the national intelligence estimate, and you advise the National Security Council and the president and the vice president with credible intelligence, maybe you wouldn't be in that position where you would have to call an AWACS

And that is the difference and why John Negroponte and why General Hayden must have the full authority that they must have to conduct the intelligence business of our nation.

GORTON:

Let me go from the negative to the positive.

GORTON:

And as you think back just a little bit more than a year, before the 2004 Intelligence Reform Act, what's the single greatest positive change as a result of the law that Congress passed last December?

ROBERTS:

There are several things.

One, we are moving away from a concept of information sharing, which means that somebody owns it and then somebody has to push it to other people -- you cannot run a national counterterrorism center where you have one computer on a desk and then 10 underneath your desk to figure out what's coming in from all the intelligence agencies --

to one of information access; that if you're cleared, you're working on the mission, you have access to those databases that are terribly important.

We are making very good progress in that area. Both Senator Rockefeller and I have been mounting the parapets and waving the flag of information access.

Second, there has been an attitude change, there has been a performance change in that I can determine; and I think staff will back me up on this, and I think so will Jay. And that is that when we hear witnesses from the various intelligence agencies, again, we ask them to say: "What do you know? What don't you know? And what do you think?"

And we're pretty good at trying to pin it down to the degree that we can then make some kind of a judgment, either in our oversight responsibility or some kind of a policy recommendation.

That's a long ways from "slam dunk." And I'm not trying to point any fingers. I'm just saying that it used to be that those presentations were very aggressive, very declarative. Some ambiguity or somebody actually saying, "Sir, I don't know, but I will get back to you if we have that kind of information," that is a very good thing.

So we have better cooperation, we're moving toward better human intelligence, better information access, outstanding cooperation with our allies, more especially after Casablanca and Madrid and now London.

So I think we're making progress.

Now, are we where we ought to be? Well, we will never be where we really want to be. But I think we are making progress.

GORTON:

Mr. Speaker, last December you joined with your successor, Newt Gingrich -- not a usual pairing -- in calling for a strong Permanent Homeland Security Committee as a centerpiece.

GORTON:

And the House, certainly, made moves in that direction.

Do you think what has happened this year with the passage of an authorization bill -
- does it mean that your recommendation was honored?

FOLEY:

I think largely so.

I think there is still a problem that the committee has not a total control over the authorization process in homeland security. And, going back to Pat's statement, it's a journey, not a destination. So I think we have to keep reviewing that.

I think Christopher Cox was a good chairman, and now he's gone to a new responsibility.

But, again, I think the speaker has to be constantly monitoring this process and ensuring that the committee has its proper role in being the central authorizing committee for homeland security.

Because the department is such a conjury (ph) of different departments and agencies itself -- it's, sort of, an artificial creation, a collection -- it's important that they have one authorizing and oversight committee.

Otherwise, the tendency, I think a little bit, is for the constituent parts of the committee to go back to their traditional, former committee alliances and to appeal or to make efforts to get particular decisions made.

But I'm glad that -- by the way, I found it -- Speaker Newt Gingrich and I have found a lot of things in common that maybe surprised a little bit both of us.

We both had the responsibility and both, I think looking at this issue as we all are, coming from different party backgrounds, but with the same feeling that there needs to be a strong bipartisan commitment to making these two major efforts, homeland security and intelligence, work better for the American people.

GORTON:

On that line, Senator Roberts, you haven't spoken at all of homeland security. And that is not your responsibility, but would you comment on the proposition that whatever your problems in oversight of intelligence, oversight over homeland security, even in the Senate, is far more divided and fractioned? Is it improving, or is it still a frustration?

ROBERTS:

No. I think it's improving.

I think it was interesting to the Intelligence Committee when the leadership assigned the intelligence reform bill to the homeland security, or the -- what is it now?

GORTON:

Government Affairs and...

ROBERTS:

Yes, Government Affairs, and there's another tag on it. And Susan Collins and Joe Lieberman did a great job.

And we offered and certainly did participate with the staff that we had. It had a great deal of experience with their staff and worked together.

Now, it's not -- it's the great line that Bob Hogue used to say, "It's not the best possible bill, but the best bill possible under very tough circumstances."

And the speaker is right. When you're hitting the turf, man, that's the first thing you learn as a chairman. When I became chairman of the House Ag Committee, and some mundane thing that I'd never heard before was about to be taken away from us from the Banking Committee -- and I didn't care; I said, "Heck, let them have it" -- my staff just went crazy and said, "You can't do that. One shovel, one teaspoon full of turf, and you've lost."

So I went over there and talked to Jim Leach, and you'd have thought it was the biggest issue of all time.

And I still sat there and said, "I don't know even what this program is. I don't know what it does. I don't see how it affects our producers, our farmers and ranchers."

And I kept whispering to Bill O'Connor and saying, "Well, why am I doing this?"

And he says, "Just hold firm, sir."

(LAUGHTER)

We protected our turf.

So Susan and Joe have done a good job, and the rest of the committee has done a good job. And basically, I think the reason it went to them to try to forge this together was that there was a threat made that they and others on the committee were simply going to take this book and make it a bill and pass it as legislation.

That's a novel idea, but I'm not too sure that that is the way to legislate in regards to what we have to do.

There's some very good information here. It's a guideline. But just to take the book and say, "Yes, it's a bill," we didn't think that was appropriate.

But the people on the committee who talked about that and set a deadline for the Senate, were saying, "Whatever's coming through, we're going to introduce that."

ROBERTS:

So the leadership took a good look at it and said, "All right, it's your baby." Then we worked together with them, and things seemed to work out, which I think was a very good bill under very, very difficult circumstances.

Where we go from here, I can't tell you. Tom is exactly correct: It is a compilation of a little bit of this and that from all over the government.

The Department of Agriculture, by the way, has some people detailed over there, thank goodness, now, to guard against something called agri-terrorism, which would be so terribly easy, one of the top five threats that we face.

And so almost everybody, whether it's your ports or now surface transportation or whatever, or the Coast Guard or Immigration or whatever, wants to improve that, and over time we will do that. I think they're doing all right under the circumstances.

GORTON:

Mr. Roemer?

ROEMER:

I'm very encouraged and very hopeful when the chairman of the Intelligence Committee says that, "We need these reforms, we have to have them in order to fight this Al Qaida battle into the future."

Very encouraged that the former speaker of the House would say, "Congress isn't doing enough; we got to do more."

However, you can't help but feel very discouraged when, as you both have said, this is such a difficult process; that turf warfare almost prohibits Congress from doing what is in the best interests of the security of the country in some ways.

We have 9/11 families here, Mary and Frank, who lost their son and who have been so instrumental in helping pass these reforms.

Pat, you're very gracious to say the 9/11 Commission did a lot of good work here. It's really their credit and their hard work.

Given the scenario that you both have laid out, that it's very difficult to get internal reform, how would you both advocate that we achieve this through other means: 9/11 families reengaging again, the public getting engaged, the elections coming up in '06 being more oriented toward national security concerns and congressional reforms?

After all, Senator, one of the most difficult reforms -- and people thought we couldn't do it -- was the creation of a DNI. That happened. Now, why can't you do Congress?

ROBERTS:

Well, I think, if this outstanding couple went to talk to the various chairpersons or chairmen -- Armed Services, Homeland Security, Judiciary, the appropriators, myself, others -- and by the way, they helped us a great deal, and we met with them, and I hope -- I hope -- that at least the Senate Intelligence Committee, with all of the information that was flying around, shot very straight with you. I think that's the case. I know I tried very hard and so did Senator Rockefeller. When the questions would come down, we would be very frank and candid.

It took really 9/11, and it really took our WMD inquiry and the 9/11 Commission and the WMD Commission, plus Lord knows how many other commissions -- Hart-Rudman -- and I can name you five or six more: the Bremer report, even the one that Secretary Rumsfeld -- I mean, you go back, this didn't start with 9/11, it started a lot earlier than that with Khobar and the embassy bombings and the USS Cole and various things that happened. And you can see now, in hindsight, that mosaic or connecting the dots.

I hope to heck that we don't have to experience yet another tragedy, which may happen anyway, to prompt these kind of reforms.

But if they would meet with each one of these chairmen or vice chairmen or ranking member, they would assure them that they're doing the very best that they possibly can under their committee jurisdiction.

ROBERTS:

And in many cases, they are. It's just that I think we can do better in regards to streamlining and better organization so that we get a better product.

That's what we've done with the intelligence community. The DNI and his assistant now are in charge. We don't have a dual-hatted person over there at the CIA anymore. I don't think anybody expected that to happen and it did.

Now, realistically, as I said, we don't have a plate, we have a platter. We've got the nomination of a justice. We had the Social Security issue. We have the entitlement issue. We have the immigration issue. We have the highway bill. We have the energy bill. We have -- I've never seen such an agenda, both by Congress and the president.

You ask, how could it be done? Well, I'm all for covert operations.

(LAUGHTER)

ROEMER:

Mr. Speaker?

FOLEY:

This is a very difficult question.

I think one of the reasons the 9/11 Commission was so effective was the work of the families, because that gave a human dimension to the commission's work that engaged the country. And the country, without regard to party, was very, very much engaged in the sorrow and loss of the families, and it gave great public impetus to the work of the commission and to its recommendations.

How long that will continue is an interesting question.

You know, as a matter of fact, there have been -- I don't know what the count is -- but really dozens of commissions of various kinds over the last 25 years that have devoted themselves to looking at intelligence review or looking at security conditions.

I was on one in 2001 to look at the structure of the FBI as a counterterrorist instrumentality in the wake of the Hanssen spy case. I don't know that many people remember that or have any notion of what we recommended or didn't recommend.

But one of the questions before us at the time -- this was headed by former CIA Director and FBI Director Bill Webster -- was whether we should create a MI5, in the British model, to engage in counterintelligence domestically. And the decision was not to do it.

But we made that recommendation after recognizing, for example, that the FBI had a long and deeply entrenched culture of being primarily concerned with what you might call bank robbery and interstate transportation kinds of crime, organized crime. And that counterintelligence in the culture of the agency had a limited range of attention and was not the principal path to becoming an assistant director or becoming eventually in the top rungs of the FBI.

FOLEY:

So this subject we keep referring to, of culture, is an important thing both in the executive branch and in the Congress. And the only thing that gives it momentum to change is public pressure.

Now, I think you have to be realistic. I agree, I think, with our chairman, Slade Gorton's, comment, that perhaps trying to meld the Appropriations Committees and the authorizing committees is a bridge too far at the moment and it will be particularly resistant, probably on both sides of the Congress, by the appropriators.

But how do you solve the problem that Pat mentioned, when suddenly the Appropriations Committee is taking over and making decisions implemented by the most powerful of all weapon in Washington, money, at the last minute on an appropriation bill? And how do you influence the proper respect for the work of the Intelligence Committees or the work of the oversight committee in each house on homeland security?

I think that speaking to the House -- because although I was a Senate staffer many years ago, my principal experience is in the House -- a lot of this falls on the leadership in both parties, but principally on the speaker.

The speaker has, I think, an extraordinary continued ability to guide the processes of the House of Representatives. And by his very strong power over the agenda of the House, over their jurisdiction of committees in practice -- how they are given authority to review and to undertake oversight -- he has a continuing power to shape this process in the House.

And I think it puts an additional burden on him among many. But I think the speaker is uniquely qualified to be the great magistrate of reform in the House, the continuing magistrate of reform, and to ensure that its processes are carried out.

And in that, he deserves the support of both parties and the engagement of the leadership on both sides in addition to himself. And I think that kind of commitment, and I hope that kind of communication, frankly, and cooperation can be developed, if not on every issue of House management, on these critical issues of intelligence and homeland security oversight. And if both parties will make the best efforts in that area, I think the process can be won with continuing improvement.

Even though you may leave the old structures in place in a technical sense, their ability to function would be vastly improved with bipartisan cooperation and under the guidance of the speaker.

ROBERTS:

Some of these issues will override the structural problems or challenges that we have because they are of such terrible importance, such overriding importance, knowing that we have to work in order to get the job done. And I think that's been the case in several instances.

One of the things that is always very difficult for us in the Intelligence Committee: During the normal course of events, if you're an authorizer and you're not happy with the appropriations result on anything -- it could be any issue -- you can certainly introduce an amendment on the floor to the appropriation bill, but you can't do that in the Intelligence Committee because it's classified.

ROBERTS:

You could go to an executive session of the full Senate, but you don't want to do that, or that's going to be in the New York Times and The Washington Post or wherever it's going to be. And I don't mean to be too facetious or cynical about that, but that's a very difficult process.

And so we may have a very strong objection to what has been appropriated or a particular program or how it was funded, but we really are, sort of, locked out in regards to solving it on the floor. So you have to do it working with the appropriators and with the Armed Services Committee as well and with the administration.

But some of these challenges override that difficulty.

And then in some cases I would point out to the people who say, "OK, we have to reorganize and we have to restructure so then we can get a better product," what's the better product?

OK, take the Patriot Act. We have just reported out a version of the Patriot Act that will now go to Judiciary knowing it's going to be changed rather dramatically.

We feel that we've done a good job, more especially with what's going on in London and going on in Casablanca and going on in Madrid and going on and going on. But that's a pretty controversial piece of legislation, to say the least. And we try to be aware of it.

So you could have all the reorganization that you'd want and come down with a version of the Patriot Act that would be still a subject of a lot of controversy.

And I can tell you one thing: The Judiciary Committee is not going to give up jurisdiction on that one.

ROEMER:

I think the basic question, Senator, is, is the Congress acting in new ways to confront new threats?

And if the 9/11 families get involved, if Speaker Gingrich and Speaker Foley get involved to encourage reform internally of Congress, what are the stories? What's the connection to the taxpayer, to the citizen, that will get them involved and aware and encouraged to act on this?

As the chairman of the Intelligence Committee, one of my concerns -- and I guess one of the things that you could maybe comment on without talking about any classified information, given that we just had the bombings in London -- is that Al Qaida is changing apparently, if Al Qaida had something to do with this London bombing. It has the signature and the hallmark and the earmark of Al Qaida.

They seem to be going from Al Qaida Incorporated, in a hierarchical structure with a CEO like Osama bin Laden, to a school of piranha that are in cells and maybe communicating in a mosque or through the Internet.

They're changing, we're not.

How would you try to let the American people know that, as an institution, it's important for Congress to change from the old Cold War organization to this new, more dynamic threat that we face out there?

ROBERTS:

Well, I don't want to get into self-flagellation here or self-whatever, but I think we're doing that. I think we've made just a remarkable change, both in terms of the people who come to testify before us, who are much more candid -- and as I've indicated, "Tell me what you know, what you don't know, what's the difference?" -- but a big change in the committee.

We do not accept intelligence testimony at face value anymore for a national intelligence estimate anymore.

Both Jay and I believe very strongly -- he calls it being proactive. I call it being preemption, sort of, a play on words to get people's attention.

And we really try to work in advance with the same methodology that we used in that one report on the WMD on virtually every issue that comes up, whether it be detainee -- and that would mean terrorist interrogation, which is a big issue right now. We demand stronger oversight on the part of the committee and also of the relative agencies.

Now, the other half of that is very difficult to talk about because a lot of it is classified.

I can assure you with the London attack, I can say without any equivocation, 55, 60 percent of the intelligence that we received that is pertinent to something that what happened in London, could happen in the United States, et cetera, et cetera, and also real-time intelligence to the war-fighter in Iraq, comes from terrorist interrogation.

Now, we have to balance that to make sure that we're following the Geneva Convention in Iraq and we are following the rules of law and our Constitution in regards to Cuba and Gitmo.

I think we are doing that. We're doing it much better, but I can assure you that the Intelligence Committee is -- we're in a different attitude. We're in a different mode. We're conducting very aggressive oversight, and I think on both sides we've been pleased with it.

Now, you're always going to get some criticism.

So I don't know, Tim; I think we are making progress. I think it's changed since, you know, you and I sat across from each other during that one particular inquiry. And I think the change has been for the better.

ROEMER:

But just your point, Senator, would be that you sit through hours of oversight in the intelligence authorization committee, and the Appropriations Committee may not be getting the same amount and volume and change in culture that you are on a daily basis or an hourly basis, and they're making many of the decisions.

ROBERTS:

Well, what happens is that you come in with an emergency supplemental, and part of that emergency supplemental is for the intelligence part of the supplemental. And so

the money's there. It's being spent in the way that various agencies want it spent, DOD or whether it be any one of the 15 agencies.

And then we're coming behind with the authorization bill where we may want a little different priority in terms of the funding or recommending something not be funded or plus-ups, as we say in the business. And so the cart is before the horse.

But you can't argue with that in terms of the emergency supplemental that you're dealing with that somehow or other there has to be a better way that you would hope that the authorization bill would come first and then the appropriators would hopefully pay attention, as well as other committees of jurisdiction sequential.

We've had good relationship with the Armed Services Committee, and that, again, is largely based on the personalities involved knowing the seriousness of the problems. So I think we're doing better.

ROEMER:

Mr. Speaker?

FOLEY:

Well, one of the things we haven't mentioned that I think is relevant here, because Pat has been saying that one of the problems is that the appropriators will change the bill, and because it's classified, it's difficult to bring it up as an amendment on the floor. And that's a delicate problem: overclassification.

I think for a long time, personally, we've had a problem with many things being more highly classified and restricted from public comment and congressional debate than is necessary.

I ran into this a lot when I was in Japan and earlier when I was the chairman of the president's Foreign Intelligence Advisory Board. The House and Senate Intelligence Committees used to have a rule that the NRO, the National Reconnaissance Office, which flies the satellites, was itself -- its existence was classified. Mention of its name was forbidden.

A member of the House Intelligence Committee was asked to leave the committee by members on the other side, the Republican members, because he had mentioned its existence in a Science Committee hearing. And so after some dispute, he, sort of, decided just to leave voluntarily.

When I became chairman of the president's Foreign Intelligence Committee, I went on a tour of intelligence agencies and went to the new \$300 million building of the NRO, which out in front had a huge sign -- illuminated sign, "National Reconnaissance Office."

(LAUGHTER)

FOLEY:

It would have done credit to IBM or Exxon or whatever. And, inside, they were handing out color brochures: "The Work of the NRO; What we do and how we do it."

ROBERTS:

It's changed again, Tom. It's the National Geospatial...

FOLEY:

It's got a new name now.

(LAUGHTER)

But the point is that we had this "say the word and drop dead" kind of classification. And then suddenly the agency is advertising itself and then its name is changed and that's all.

So I think, from time to time, we really have a serious problem in how to handle classification. What is really necessary to maintain in confidence?

Sometimes, very frankly, in all administration, it deals more with sensitivity than classification: political, institutional sensitivity.

Most of the things that were classified when I was in Tokyo -- there were a few very, very serious classifications, but a lot of it could have been delivered to the desk of every foreign ambassador in Tokyo, except for the problem of press sensitivity. As far as classification in the sense of denying our adversaries knowledge, there was no particular reason because it was well-known anyway.

But that's one of the problems that Congress deals with. And I remember, years ago, being very frustrated by the State Department briefings, which were then given on a very confidential basis to members: "This is very sensitive. This can't be mentioned." And then the next day you'd read it in the New York Times.

And so that became, kind of, a frustration.

The public could, I think, if we could find a legitimate way to review it, benefit from having more information than is presently possible because of the classifications.

ROBERTS:

Senator Wyden has been a leader in this field -- and I hope I have, and also the vice chairman -- trying to get a handle on this, Tom, on what -- too much is classified. There's no question about it.

On the other hand, the Al Qaida are very good at -- we learn, they learn, we learn, they learn.

And it is a new situation. We have taken down 80 percent of their leadership. Most of which that has survived, that haven't been killed, are down at Gitmo. And they are providing still very valuable information. But who took their place?

I'm reminded of that terrible place that my kids used to want to go to all the time, Chuck E. Cheese's...

(LAUGHTER)

... and they had this thing called a Whack-a-Mole, and you would whack this mole, and then about six others would pop up. And it's, sort of, an allegory of what's happening with Al Qaida.

But it is still the Al Qaida ideology. And I think you will find a direct connection -- my personal view -- with the Al Qaida and the London business. That's part of an overall strategy that I really won't get into as of right now.

But there is too much classification. But, boy, you really have to be careful with what you say inadvertently, especially on the Senate floor when you're making a statement and then, simply because your name is involved and you're on the Intelligence Committee it gives it instant credibility.

And these folks know exactly -- I mean, that's in their hands immediately.

So that's a tough chore. But I would agree about with the speaker that we need to do a better job on that.

GORTON:

That leads to a very specific question on classification.

Even the top line of the intelligence budget remains classified and, of course, as long as that is the case, you certainly can't have an Appropriations Subcommittee that deals only with intelligence. That really would be putting the cart before the horse.

What is the view of the two of you on whether or not it's appropriate to declassify at least the top line of the intelligence budget?

ROBERTS:

I still oppose that. I think that's pulling the string.

And you would be amazed -- we have had several instances of some very well-intentioned senators discussing very generically something that's already been in the press, with the idea that they can then talk about it -- that's wrong -- because it does give the credibility.

I would not want to pull that string, more especially in today's world.

And I'm not talking so much about Al Qaida; I'm talking about other people who have very robust efforts in regards to intelligence in the United States and around the world.

FOLEY:

I used to have exactly the same view that Pat just expressed, that it was the beginning of asking other questions: "What is the top figure? Then how does it break down? What are the separate contingent parts of the budget? How much does Defense get? How much does this or that intelligence agency get?"

FOLEY:

It's, kind of, never ending.

On the other hand, if you could limit, just for whatever purposes or benefits, to the top figure I'm not sure that would do that much harm.

It's the pulling of the string, the beginning to go into other questions. Once the overall figure is public, then the next question is going to be, "Are there other questions?"

Of course, the press hints pretty broadly at what the top figure is and it's, kind of, an open secret in Washington within a few billion here or there what it is. And it wouldn't surprise a lot of people if the official figure were published.

I guess the only thing I think it does is it's, kind of, a back stop. If you don't publish this figure, then you don't get into other, more detailed figures.

On the other hand, for whatever value it would be to know the total amount -- and that's arguable; I won't say it's an open secret, but it's not in huge differences much off the figure that's often presented. Is that clear to everybody, without breaching any...

ROBERTS:

Bigger than a breadbox.

FOLEY:

Yes.

If I can just get back to the other question, I think we need to be extremely careful about sources and methods, the legitimate high- classification areas. But we ought to take and have some method with the executive branch of examining those issues which really deserve public debate. And part of that is in the area of programs and policies that the Appropriations Committee funds or doesn't.

ROEMER:

My last question would be -- and, again, we're very appreciative of both of your time.

My last question would be, Senator Roberts, you and I come from somewhat similar states, where people are very concerned about how money is spent. They're very concerned about where their tax dollars go.

One of our recommendations in the 9/11 Commission has been to encourage the Department of Homeland Security to develop a strategic plan based on threat assessments and risk and intelligence as to how we spend the money in the future to protect the country, knowing that you can't do everything; that if you're attacked in a subway, in a soft target, that's very tough to defend against.

But still, almost four years after 9/11, we don't have this strategic plan put out there yet. Is that something that working through the Intelligence Committee, as you have done, that seems like Democrats and Republicans could have a unity of effort there, with limited resources to spend, in trying to target our resources toward things like our nuclear power plants, chemical plants, landmark monuments? Is that something you think we can achieve in the future?

ROBERTS:

I think we're doing that now. I think Tom Ridge tried very hard to do that. As the speaker has pointed out, this is a brand new animal: hard to describe. This is a new rodeo. And this one coming out of the chute is a combination of agencies. And it takes a while.

Unfortunately, the terrorist threat doesn't have a time frame on it in terms of time off to get this right. And we have, sort of, the threat of the month. Now that we've seen the London experience, you've seen everybody on television saying, "Look at the money we have spent in regards to protecting airlines, which is a federal obligation, as opposed to surface transportation."

I think I was on Sunday when Chris Dodd of Connecticut, who's a good friend, pointed that out in terms of the disparity of funding, and then was asked, "Well, can you put a camera or a metal detector on virtually every bus in America -- city, local, state or whatever -- and where?"

One of my complaints has always been the lack of priority and interest in agri-terrorism. There have been several exercises that show you exactly how easy that would be and the chaos that that went through with the exercise.

ROBERTS:

And yet we constantly ask the agency and others, and also Homeland Security, "Give me your top five, give me your top 10; where are we here?" And you all know them.

What is the greatest danger? Well, obviously, an attack with some form of WMD, which is entirely possible. I don't say it's probable. I hope it isn't probable, although some say so. But they're very good at bombs and explosives.

And then you've got all the port authority concern. Then you've got the borders. And then you've got now surface transportation.

The director over there, Dr. Chertoff, was just on the television here this past weekend indicating that they are working through a strategic plan. But there again, it's a journey, not a destination. And Al Qaida may be do something different. Although to date it has been largely bombs and explosives, doesn't mean that they won't do something else.

And so I think it's pretty tough to come out and say, "Here's a strategic plan."

I think they're working through the first responders in Indiana and Kansas and in other areas, more especially Washington and New York and L.A. and places like that. I think they're doing really a little better than I expected given the kind of agency that was thrown together.

It really wasn't that long ago that the Intelligence Committee, the Armed Services Committee and the appropriators all met and asked at that time the 41 agencies to come up and say: "What is your plan? What are you about in face of the possibility of a terrorist attack?" That was about five or six years ago. That was before 9/11.

Every one of them came up and said, "Well, we're doing great." And then the last person that came up was a sheriff from Colorado who said, "It's going to take you feds 72 hours to get out to Colorado where I am. And until that time, I'm in charge."

So we asked him: "What are your responsibilities? Who's in charge? What do you need?" So on and so forth.

At that time, people were suggesting that Vice President Cheney be the head of some amorphous group that would be in charge of homeland security. Now you've got one up and running and trying to do the best we can to come up with a strategic plan with an enemy that is unprecedented in world history.

FOLEY:

Just a quick comment. I think this is a tough one. I think it was Osama bin Laden who said in a statement which was published just before the last election that they had caused something like \$500 billion of damage for \$500,000 of investment. That's probably conservative.

And the problem is having to defend everything becomes an almost impossible task.

I think we do have too much concentration on air as compared with sea transportation, ground transportation and so forth. And it's a difficult problem to know how we can handle chemical plants, atomic plants, transportation of hazardous chemicals.

A recent story in The Washington Post about various kinds of hazardous chemicals that are driven across the bridge in Washington: It's almost an open suggestion of what could be done by a terrorist organization to threaten the city by just conventional explosives.

On the other hand, last night, one of the major investigative programs went on a crusade about the amount of money that was being distributed to local communities, down to like \$180,000 to a small community in Tennessee, trying to figure out how to spend it in the interest of homeland security. So the program suggested that...

ROBERTS:

Sure that wasn't West Virginia?

FOLEY:

Yes, right.

The homeland security budget has become, according to this program, the new transportation bill. It has to be parsed out to every community and state kind of regardless of threat. So these are tough problems.

But I agree, Tim, that there is a need to develop some kind of strategic plan even if it has to be changed from time to time.

The political system isn't going to be able to award all the money to New York and to other major cities and not deal with the problems of smaller communities and states. But there needs to be an extremely good internal inspector general's operation and review process in the Department of Homeland Security, as well as through the General Accountability Office and others.

I don't know if it's true or not -- largely true or not, but the story that was published recently about the wasted money in the set-up of TSA was, if true, shocking. It indicated that the process was almost -- again, taking it just from a newspaper account -- totally out of control, where a subcontractor allegedly paid herself a \$5 million salary for nine months work and awarded herself a \$250,000 pension at the end of the time with apparently no supervision or overall approval of the process. It was as bad a case of mismanagement of funds and abuse of public finance as I've read in a long, long time.

That is not going to be good for the confidence of the country in the process if we don't have much, much better overview and oversight. And how to apportion the risk and the need to apply resources is going to be an ongoing problem.

ROEMER:

Thank you.

GORTON:

The candor and wisdom of the two of you has been stunningly valuable to us, and I want very, very much to thank you both for sharing this time with us. This has been a wonderful experience, I know, for Tim and for me and for all of the members of the 9/11

Commission, to be able to do what we've done. But its value has depended on your help and assistance.

Senator Roberts, your significant contribution to getting that December bill through and signed by the president and to implementing it -- we really appreciate your help.

GORTON:

Our next panel is going to take place in this room exactly one week from right now. It's going to be chaired by Richard Ben-Veniste who has been in the audience with us today and been more silent than I've ever seen him before in my life. And it will be co-chaired by Fred Fielding. And it's on civil liberties and security: a vitally important subject.

And we invite all of the present audience and many more to attend that meeting.

With that, we're adjourned.

CQ Transcriptions, July 11, 2005

List of Speakers

FORMER SEPTEMBER 11 COMMISSION MEMBER SLADE GORTON

FORMER SEPTEMBER 11 COMMISSION MEMBER TIM ROEMER

SEN. PAT ROBERTS (R-KS), CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE

FORMER REP. THOMAS FOLEY (D-WASH.), FORMER SPEAKER OF THE HOUSE OF REPRESENTATIVES