IMPLEMENTING THE 9/11 COMMISSION REPORT

TESTIMONY BEFORE THE GOVERNMENT REFORM COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

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Thank you for inviting me to testify today on the implementation of the 9/11 Commission report. The Commission has provided the essential outlines for strengthening our intelligence community and homeland security institution. It is now up to Congress and the president to exercise its judgment on whether and how to proceed, including areas that the Commission did not address.

Doing so would be easier if we were building from scratch, of course. We could erect a new intelligence organization with ease, putting the pipes and windows exactly where we wish. But we are dealing with existing structures, with all the peril that comings from past remodeling, outmoded technologies, creaky stairwells, and a patchwork of top-heavy structures, antiquated personnel systems, competing priorities, and incompatible protocols.

I do not need to remind this committee that the task is fraught with uncertainty. Move a pipe here, and you could weaken a load-bearing wall there in the war against terrorism; drill a hole here, and you could spring a leak there, both literally and figuratively, that could undermine the very security we seek. Thus, I applaud your decision to lay the foundation for thoughtful legislation by taking time from the August recess to hold this hearing.

I do not need to remind this committee that the overhaul now proposed would continue the task that began three years ago when Congress created the new Department of Homeland Security, and continued with the Defense Department personnel reform. You worked hard to smooth the bureaucratic boundaries in the new department, give the senior leadership the tools to build a performance-sensitive organization, and assure accountability throughout chain of command. So have the senior leaders of the new department. They deserve great credit for avoiding the needless layering that plagues so many federal agencies, including many directly affected by this hearing.

My purpose today is to highlight four issues that I believe must be considered as part of the proposed 9/11 reforms. First, we must reduce the thickening of the federal hierarchy that produced so much of the balkanization that the 9/11 Commission highlighted in its report. Second, we must address the need for reorganization across the entire federal government. Third, we must streamline the presidential appointments process. And fourth, we must provide the personnel flexibility needed to assure that our intelligence agencies will be able to recruit talented replacements for our maturing workforce.

Simply put, it makes little sense to create an entirely new super-structure to oversee and coordinate our intelligence agencies if (1) our intelligence agencies do not streamline their own hierarchies, (2) Congress and the president cannot move more quickly to address organizational confusion wherever it happens to arise, (3) presidential appointees continue to wait months to clear the nomination and confirmation process, and (4) the federal government cannot move talented recruits onto the job and into position more quickly.

Let me briefly address each of these issues in order.

1. *The Thickening of Government*

The past half century has witnessed a slow, but steady thickening of the federal bureaucracy as Congress and presidents have added layer upon layer of political and career management to the hierarchy (height), and more occupants to each layer (width). According to my most recent assessment, which was released in late July, there have never been more layers at the top of government, nor more occupants at each layer.

Although national security prevents a full analysis of the intelligence hierarchy, my best guess is that the thickening has occurred within most, if not all of the agencies addressed by the 9/11 Commission. The federal phone books I use for this analysis show, for example, that the Federal Bureau of Investigation added a two new layers at the top of its hierarchy since my last analysis in 1998, including a chief of staff to the director, and a new layer of executive assistant directors, and has increased the width of its hierarchy by exactly half, widening from 30 senior title-holders to 45.

Although some of the current thickness is due to creation of the new Department of Homeland Security, which grew from just 3 layers and 3 occupants in the winter of 2003 (secretary, deputy secretary, and under secretary) to 21 layers and 146 occupants in the spring of 2004, the expansions have occurred in almost every department, including many that are not involved in homeland security or the war on terrorism. Moreover, the increase would have been greater but for the significant thinning of the management ranks at the departments of Defense and Treasury, both of which obviously remain engaged in the war on terrorism.

Two points stand out from my analysis:

- The federal hierarchy has never been taller than it is today. There were 17 different executive layers open for occupancy across the cabinet departments of government in 1960, 33 in 1992, 51 in 1998, and 58 in 2004. Although the Bush administration left six of the Clinton-era titles vacant, it added 13 new titles to the hierarchy, leaving a net gain of seven. Roughly half of the executive titles involve career appointments, while the other half involve political appointments not subject to Senate confirmation. (See the list of titles open for occupancy appended to this testimony.)

  The fastest spreading titles continue to be "alter-ego" deputies, including chiefs of staff to secretaries, deputy secretaries, under secretaries, deputy under secretaries, assistant secretaries, deputy assistant secretaries, associate deputy assistant secretaries, associate assistant secretaries, administrators, deputy administrators, associate administrators, and assistant administrators.

- The federal hierarchy is also wider than it has ever been. The total number of senior title holders increased from 451 senior executives, political or career, in

1960 to 2,409 in 1992, 2,385 in 1998, and 2,592 in 2004. Although the Clinton administration added much more height to the hierarchy than the second Bush administration, the second Bush administration has added much more girth. Whereas the number of senior title holders fell by 1 percent between 1992 and 1998, albeit almost entirely because the Social Security Administration became an independent agency and was not counted in the 1998 inventory, the number increased by 9 percent between 1998 and 2004.

Although 2,500 senior title-holders may seem like an insubstantial number in a government of 1.8 million civilian (non-defense, non-postal) employees, it is not the number that counts, rather the layers they occupy. My best guess is that these 2,500 officials occupy between a third and half of all the layers through which information must pass on its way up the chain of command.

It makes little sense to me, therefore, to add another coordinating layer at the top of the intelligence community without a deliberate effort to streamline the hierarchies that it would oversee. Absent such an effort, we risk merely adding even more delay as information moves up the chain of command and guidance moves down.

2. Reorganization Authority

There is an obvious and palpable sense of déjà vu in these hearings for anyone who follows government organization and reform. Strike the word "intelligence" from the conversation about duplication and overlap, and we could substitute a hundred other areas of responsibility in which that would ring just as true. We have seen the same problems in foster care, job training, food safety, nuclear security, trade policy, education, children's health care, and so on down a long list of concerns.

As we saw three years ago in the case of homeland security, reorganization offers a significant opportunity to align agencies by mission rather than constituencies. If done well, which I believe has been the case in homeland security, it can strengthen accountability, reduce wasteful duplication and overlap, tighten administrative efficiency, improve employee motivation, and provide the kind of integration that leads to impact.

The question before this Committee today is not whether reorganization can provide needed improvements in government performance, however, but whether Congress should give the President of the United States reorganization authority of some kind. This is not a new question, and I believe the answer is absolutely yes.

In April of 2001, five months before 9/11, former Republican Senator from Kansas, Nancy Kassebaum Baker, and former OMB Director in the Clinton administration, Franklin D. Raines, testified before the Senate Governmental Affairs Committee that "The Congress should grant the president renewed executive reorganization authority for the limited and specific purpose of de-layering the senior management levels, both career

and political, of all executive departments and agencies."[1] They also advised that the "urgency of this task could not be greater."

In January 2003, Congress was again asked to give the president reorganization authority through the expedited model envisioned by the National Commission on the Public Service chaired by former Federal Reserve Board chairman Paul Volcker. Reorganization was the number one recommendation of the commission last year when members testified before this committee, and would no doubt be the number recommendation today. It also remains the most difficult recommendation to implement. That is why the Commission believed Congress should create a procedural presumption in favor of reorganization through enacted of a "fast-track" or expedited authority. Such a presumption would not assure that all presidential reorganizations would succeed, but it would certainly give them a fighting chance.

The threshold question in restoring some form of reorganization authority is whether there is any reason to believe that such authority holds the promise of better government performance, whether in the intelligence community or more broadly across government. Based on the historical record, I believe the answer is "yes."

1. *Reorganization can give greater attention to a priority such as homeland security or food safety.* That was certainly the case in the creation of the National Aeronautics and Space Administration following the launch of Sputnik in 1957, and to the creation of the Environmental Protection Agency in 1970.

2. *Reorganization can reduce overlap and duplication among widespread programs, thereby increasing accountability and efficiency.* Consider, for example, the potential impact of finding some way to integrate the 12 agencies currently involved in administering the nation's 35 food safety statutes, the 15 departments and agencies currently involved in administering more than 160 employee and training programs, or the 11 agencies and 20 offices involved in the federal government's roughly 90 childhood programs.

3. *Reorganization can force greater cooperation among large, quasi-independent agencies such as the Coast Guard and Federal Aviation Administration.* That was certainly the goal of the early reorganizations of energy agencies, which eventually spurred creation of the Department of Energy. And it was the goal in creating the Department of Transportation in 1966. This is particularly important given the flaws described in the 9/11 report regarding the FAA failures in communicating with the military on 9/11.

4. *Reorganization can create greater transparency in the delivery of public goods and services to and on behalf of the public?* That was clearly the goal in creating the Department of Health, Education, and Welfare in 1953, which was originally

[1] The Presidential Appointee Initiative, *To Form A Government: A Bipartisan Plan To Improve The Presidential Appointments Process*, (The Brookings Institution, April, 2001) p.4;16.

submitted as a reorganization plan before emerging as separate legislation, and is the case in the 9/11 recommendations.

5. *Reorganization can improve employee satisfaction and performance.* Surveys of federal employees suggest that roughly a third (1) cannot easily describe the mission of their organizations, and, therefore, (2) cannot easily describe how their jobs personally contribute to the mission of their organizations.[2] Assuming that employees who know their mission are more satisfied and productive, reorganization can be a source of improved performance.

It is important to note that reorganization cannot compensate for poorly designed programs, inadequate funding, or contradictory statutes. Merely combining similar units will not produce coherent policy, nor will it produce greater performance, increase morale, or raise budgets. It most certainly will not make broken agencies whole.

If an agency is not working in another department, there is no reason to believe that it will work well in the new department. Conversely, if an agency is working well in another department or on its own as an independent agency, there is no reason to believe that it will continue to work well in the new department.

If one believes that reorganization holds significant promise for improving government performance, the question becomes how to assure that reorganization efforts have at least some chance of passage. The answer, I believe, is restoration of presidential reorganization authority.

Recognizing the need to place constraints on the president's reorganization authority to assure congressional review, it is imperative that Congress give reorganization plans expedited consideration in the legislative process. Such consideration can be created under several options suggested by the Volcker Commission. It is relatively easy to construct a fast-track mechanism to give Congress enough time to review a reorganization plan, whether through a Base Closure and Realignment Act mechanism requiring an up-or-down vote on all elements of a plan, or through some kind of "most-favored" status requiring expedited consideration in the legislative process.

Ultimately, reorganization is best seen as merely one of several steps for improving organizational performance. It may create a greater presumption in favor of performance, but can only succeed if this and other committees are successful in helping the executive branch achieve its other management goals. At the same time, the executive branch cannot achieve its other management goals, most notably the strengthening of human capital, if it does not undertake the aggressive restructuring that reorganization authority would encourage.

Management improvement and reorganization are, therefore, two sides of the same coin. It makes no sense to improve recruiting systems if new employees are condemned to work in poorly structured departments with fuzzy missions and needless layers of

[2] Paul C. Light, *To Restore and Renew*, (The Brookings Institution, November, 2001)

political and career bureaucracy. At the same time, it makes no sense to streamline agencies and endure the political battles of reorganization if management systems continue to creak along at sub-glacial speed. Why bother to reorganize if human capital continues to atrophy? Why both to invest in human capital if the bureaucracy continues to stifle performance?

3. Presidential Appointments

In testimony last week before the Senate Governmental Affairs Committee, 9/11 Commission Chairman Tom Kean expressed his disappointment that the Commission's recommendation regarding improving transitions and accelerating the presidential appointments process has not received enough attention. I could not agree with him more. Having led the Brookings Institution's Presidential Appointee Initiative, which focused on transition reform as the centerpiece of improvement, I feel his pain.

We have now waited three years for the Senate and White House to reach agreement on streamlining the presidential appointments process, which has slowed to sub-glacial speed. I cannot explain why the Senate and White House have not been able to achieve even a modest streamlining of the process, but do know that the paperwork, delays, and frustration have all gotten worse with each passing administration, contributing to increased delays.

The delays affect every agency, but are particularly troublesome for positions associated with the war on terrorism. As of November 1, 2001, seven weeks after the terrorist attacks against New York and Washington, half of the 164 positions involved in the war were still vacant (22 percent) or filled by someone who had arrived after July 1. These crucial positions included the Undersecretaries of the Air Force and Army, the Assistant to the Secretary of Defense for Nuclear, Chemical and Biological Defense Programs, the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, the Deputy Director of the Federal Emergency Management Administration, and the Deputy Administrator of the Federal Aviation Administration

In his testimony before the 9/11 Commission on March 23rd of this year, Secretary Rumsfeld confirmed that the deteriorating state of the presidential appointments process adversely affected the already truncated transition process in 2001. The result was that critical posts in the administration remained vacant, with no one in place to oversee vital functions of the federal government, including defense planning activities.

Even if the various intelligence agencies had connected the dots before September 11, it is not clear that the information would have made it to the right person. From late 1998,when Clinton administration officials began the mass exodus out of office, to September 11, 2001, when the attacks occurred, the federal hierarchy was riddled with vacancies that created a kind of "neckless" government in which information was easily lost or misinterpreted.

Of particular concern are the science, technology and engineering positions that are becoming increasing difficult to fill, according to the National Academy of Sciences, this at just the time we may need them most.

The delays come at both ends of Pennsylvania Avenue, and reflect an accumulation of bureaucratic sediment that has grown with each appointee controversy over the past four decades. The process starts with 60 pages of forms that are filled with repetitive, nonsensical questions, almost all of which had to be answered on a typewriter until recently, when our project helped to produce an online version . It continues with a Federal Bureau of Investigation background check that lasts a month or more, a financial disclosure process that requires so much detailed information that the result is tantamount to a net worth statement, and a Senate confirmation process that introduces an entirely new set of questions and forms to the process. It all leaves many candidates wondering just why they answered "yes" to the call to service in the first place.

The process has become so burdensome that it favors exactly the wrong kind of candidates for selection. The perfect candidate is no longer a citizen with the kind of qualifications and judgment needed to manage an international crisis like China or an economic upheaval like the recent stock market collapse, but individuals with so little experience that they can slip through the process with relative ease because they have no background to investigate. Although Congress has recently paid more attention to the management qualifications of these individuals during the confirmation process, given the sober scenarios outlined in the failures described by the 9/11 report, leadership and management capabilities are more valuable than ever.

If the president wants to move fast, for example, he would veto candidates with international experience to avoid the investigation of the dates and purposes of every foreign trip they have taken over the past fifteen years, including short trips to Canada and Mexico. He would also reject candidates with more than one employer to shorten the number of references in the FBI background check. He would almost certainly avoid candidates with extensive stock and bond portfolios to reduce the search for conflicts of interest by the federal Office of Government Ethics that drag on too long, and would concentrate on candidates already living in Washington, D.C., to avoid the long delays involved in moving to one of the most expensive housing markets in the country.

There is nothing wrong with asking tough questions about qualifications, curing obvious conflicts of interest, and ferreting out national security risks, of course. In fact, it is essential to ensuring the public trust in those to whom we give great public responsibility. But in its zeal to prevent flawed appointments, the process has created an ever-lengthening review that now exposes the nation to a very different risk: a government filled with persistent vacancies among some of the most important jobs in the world.

Fixing this problem will take more than the ample dose of ridicule the current process has earned. It will require a long-overdue streamlining of the more than 230 questions every Senate-confirmed appointee must answer, a flattening of what has become a bloated, over-layered political hierarchy, and a commitment from the Senate to speedy action once

nominations arrive. This Committee could act immediately by simply adding the Presidential Appointee Improvement Act to whatever legislation it produces this fall. The act was drafted in 2001, and was reported favorably out of committee to the floor, but languished there over an objection that the bill should apply to the legislative and judicial branches, in addition to the executive branch. That may be a laudable goal, but surely we can start with the executive branch. Senator George Voinovich re-introduced the bill in 2003, but it has not moved an inch. It is clearly time to act now.

4. *Human Capital*

This Committee clearly understands both the nature and urgency of the human capital crisis in government. You have held hearing after hearing outlining the problems, and developing legislative solutions. Whatever you decide regarding reorganization of the intelligence community, I believe you must give agency directors greater authority to recruit and manage their workforces—authority modeled on the performance-sensitive approach adopted in the recent Defense Department personnel reforms and embedded in the Department of Homeland Security statute.

Although I believe that there is no level of the current human resources system that does not need immediate reform, I am particularly concerned about problems on the front lines of government where non-supervisory personnel bear so much of the burden for the inefficiency. They are the ones who have to wait months for replacements to work their way through the process, and the ones who must deal with the layer-upon-layer of needless managerial oversight.

The problems are particularly apparent in the international affairs community, government, where dozens of task forces, commissions, and study groups over the last two decades on the need for fundamental public service reform, be it in the Departments of Defense or State, the intelligence agencies, or government as a whole. None have been more blunt in describing the problems than the U.S. Commission on National Security/21st Century, co-chaired by former Senators Gary Hart and Warren Rudman.

> As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in government....This problem stems from multiple sources--ample private sector opportunities with good pay and fewer bureaucratic frustrations, rigid governmental personnel procedures, the absence of a single overarching threat like the Cold War to entice service, cynicism about the worthiness of government service and perceptions of government as a plodding bureaucracy falling behind in a technological age of speed and accuracy.[3]

Although many talented Americans have been called to service by the war on terrorism, they still confront a government hiring process that is frustrating at best. And once in government, they often complain of antiquated systems, needless hierarchy, and broken

[3] U.S. Commission on National Security/21st Century, *Roadmap for National Security: Imperative for Change*, Phase III Report (U.S. Commission on National Security/21st Century, February 15, 2001), p. xiv.

promises. Again, it hardly makes sense to create new coordinating mechanism for handling information if the human capital that produces the information is not given the tools to do its job well.

That means we must have a personnel system that is agile, responsive, and performance-sensitive. That might also mean the creation of a new intelligence service corps that can provide the pay and incentives needed to assure a steady stream of talent as the retirement wave begins to cut into the core capacity of our intelligence community.

LAYERS OPEN FOR OCCUPANCY IN 2004*

Secretary**
Chief of Staff to the Secretary**
Deputy Chief of Staff to the Secretary**

Deputy Secretary**
Chief of Staff to the Deputy Secretary
Deputy Chief of Staff
Deputy Deputy Secretary
Principal Associate Deputy Secretary
Associate Deputy Secretary**
Deputy Associate Deputy Secretary
Assistant Deputy Secretary

Under Secretary**
Chief of Staff to the Under Secretary
Principal Deputy Under Secretary
Deputy Under Secretary**
Chief of Staff to the Deputy Under Secretary
Principal Associate Deputy Under Secretary
Associate Deputy Under Secretary
Principal Assistant Deputy Under Secretary
Assistant Deputy Under Secretary
Associate Under Secretary
Assistant Under Secretary

Assistant Secretary**
Chief of Staff to the Assistant Secretary**
Deputy Chief of Staff to the Assistant Secretary
Principal Deputy Assistant Secretary**
Associate Principal Deputy Assistant Secretary
Deputy Assistant Secretary**
Chief of Staff to the Deputy Assistant Secretary
Principal Deputy Deputy Assistant Secretary
Deputy Deputy Assistant Secretary
Associate Deputy Assistant Secretary**
Chief of Staff to the Associate Deputy Assistant Secretary
Deputy Associate Assistant Secretary
Assistant Deputy Assistant Secretary
Principal Associate Assistant Secretary
Associate Assistant Secretary**
Chief of Staff to the Associate Assistant Secretary
Deputy Associate Assistant Secretary
Principal Assistant Assistant Secretary
Assistant Assistant Secretary**

Chief of Staff to the Assistant Assistant Secretary
Deputy Assistant Assistant Secretary**

Administrator**
Chief of Staff to the Administrator**
Deputy Chief of Staff to the Administrator
Assistant Chief of Staff to the Administrator
Principal Deputy Administrator
Deputy Administrator
Chief of Staff to the Deputy Administrator
Associate Deputy Administrator
Deputy Associate Deputy Administrator
Assistant Deputy Administrator
Deputy Assistant Deputy Administrator
Senior Associate Administrator
Associate Administrator**
Chief of Staff to the Associate Administrator
Deputy Executive Associate Administrator
Deputy Associate Administrator
Assistant Administrator**
Chief of Staff to the Assistant Administrator
Deputy Assistant Administrator
Associate Assistant Administrator
Associate Deputy Assistant Administrator

*The list includes all positions defined in statute as Executive Level I –V, and includes positions that are not necessarily called secretary, deputy secretary, under secretary, assistant secretary, and administrator titles. The assistant secretary list includes a long list of Executive Level IV titles, for example, including inspector general, chief financial officer, general counsel, assistant commandant, and so forth. Hence, some titles such as assistant assistant secretary sound odd, but actually refer to positions such as assistant inspector general, assistant general counsel, and so forth.

**Title exists in at least seven departments out of 15