



## Piloting a Bipartisan Ship: Strategies and Tactics of the 9/11 Commission

In mid-December 2002, former New Jersey Governor Thomas Kean and former Indiana Congressman Lee Hamilton took on one of the most daunting political assignments since the investigations into the Kennedy assassination and Pearl Harbor. The Republican governor and Democratic congressman consented to serve as chair and vice chair respectively of an independent commission mandated to look into how and why the September 11, 2001, terrorist attacks on the Pentagon and World Trade Center succeeded. Once they had ascertained the facts, they were to recommend policy and structural changes that would forestall any repeat terrorist strike.<sup>1</sup>

The National Commission on Terrorist Attacks Upon the United States faced a formidable task. It had a scant 18 months—until May 2004—to complete an investigation into one of the most traumatic events in US history, write a report and make recommendations. It had no staff, no office space and no infrastructure. Its chances of reaching consensus were greatly compromised by the fact that all 10 commission members were chosen through a highly partisan process by the White House and leaders of Congress. Moreover, the White House had resisted since September 11 the commission's creation, and its full cooperation with the investigation was far from guaranteed.

From this inauspicious platform, Kean and Hamilton hoped to rewrite every rule in the book for blue ribbon panels. They had two overriding goals: to establish and maintain bipartisan credibility, and to have an impact on policy. To achieve either would require extraordinary diplomacy and leadership. A bipartisan report would have to tell the 9/11 story plainly and in a way which established accountability without fixing explicit blame. The commission would have

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<sup>1</sup> Note: All those quoted in this case study were given the opportunity to review and comment on it.

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to influence public opinion and build momentum for legislation—but avoid partisan bickering. It would hope to satisfy the angry and disaffected families of victims of 9/11, but not antagonize needlessly the White House and other agencies which controlled the often-classified information the commission needed.

Along the way, the commission chairs would confront multiple difficult decisions: when and whether to use subpoenas; whether to limit commissioners' access to the press; whether to hold public hearings, and how many. They could afford no leaks. Commissioners and staff would have to review millions of pages of documents and interview hundreds of officials—yet if any classified information leaked to the press the commission would be finished. Finally, the commission would wrestle daily with its most insidious adversary—time.

The commission would do all this during the heated lead-up to a presidential election. Neither Kean nor Hamilton could afford to be sanguine about the commission's prospects. Their best hope lay in careful planning, shrewd staffing decisions, and creating a shared vision among commissioners of what they hoped to achieve.

### **Creating a Commission**

The history of the commission's origins did not do much to reassure Kean and Hamilton that it would succeed. In the days and weeks after the September 11 attacks—which killed 256 passengers and crew on four hijacked planes, 125 people at the Pentagon and over 2,600 at the World Trade Center—demand grew for a comprehensive investigation into what had happened. How had a small group of Islamic fundamentalists who called themselves Al Qaeda managed to take more lives and inflict more damage with an attack on US soil than even the 1941 attack on Pearl Harbor?

Calls for answers came from the public, from Congress and from the media. But no group was more determined to get to the bottom of September 11 than the families of those who had died in the attacks. The families organized themselves quickly, using the model established after the 1988 crash of PanAm 103 above Lockerbie, Scotland. They wanted an independent investigation. Senators John McCain (R-AZ) and Joseph Lieberman (D-CT) introduced a bill (S.1867) for such in the Senate in December 2001; Congressman Timothy Roemer (D-IN) introduced its counterpart (H.R.4777) in the House. The commission they envisioned, says Roemer, “needed to be independent, it needed to be non-governmental people, it needed to be outside the party structure and it needed ... to put the emphasis on fixing the problems, not placing the blame.”<sup>2</sup>

But the White House was not enthusiastic about a comprehensive, independent investigation. It said the nation's overriding priority should be an all-out war against terrorism,

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<sup>2</sup> Author's interview with Commissioner Timothy Roemer, December 14, 2004, in Washington, DC. All further quotes from Roemer, unless otherwise attributed, are from this interview.

starting with a military campaign to eradicate Al Qaeda leader Osama Bin Laden's base in Afghanistan. As a White House spokesman said: "Right now, the president is focused on fighting the war on terrorism."<sup>3</sup> The White House did not oppose, however, the creation of a joint inquiry by the Senate and House intelligence oversight committees focused on the performance of US intelligence agencies leading up to 9/11.

The Joint Inquiry began operations in February 2002. But it quickly bogged down. The first staff director was fired, creating delays; the White House denied the Inquiry access to key documents and refused interviews with high-ranking officials; and the Central Intelligence Agency (CIA) held up publication of the final report for more than six months. When the report was finally published in July 2003, it was heavily redacted by national security agencies, making it nearly impossible to read. The White House, said Senator McCain, had "slow-walked and stonewalled."<sup>4</sup>

But by then, the 9/11 Commission was finally underway. The families of 9/11 victims were the prime catalyst. The families had grown disillusioned early with the Joint Inquiry; they wanted an independent, bipartisan commission of inquiry.<sup>5</sup> On June 11, 2002, many family members staged a rally outside the Capitol to demand an independent commission. In September, the Joint Inquiry's first public hearing disclosed major intelligence community missteps, and the families again spoke out. Congressman Roemer, by then a member of the Joint Inquiry, warmly supported their demands. "What I saw as a member of the Joint Inquiry was that we weren't getting the full picture," says Roemer. "We needed to fully explore other agencies that weren't under the purview of the intelligence committees ... This was more than just a problem on the particular day of 9/11. This was a paradigm shift from the Cold War to a new hot war on jihadism." He and his co-sponsors renewed their efforts to pass enabling legislation for a bipartisan, independent commission.

The negative publicity and public pressure produced a change of heart in Congress, whose leaders intensified efforts to explore ways to create a commission acceptable to all. The White House was still concerned, not least because a commission created at this date would report in an election year—2004. So it raised a number of objections: it wanted to appoint the commission chair, required a majority vote to issue subpoenas, and set a deadline for the commission of spring 2004. Family members again intervened, this time staging a candlelight vigil. The tactic worked and, on November 14, both sides reached an agreement which incorporated the White House conditions.

On November 27, 2002, President Bush signed into law the bill creating the commission. Its mandate was to "examine and report upon the facts and causes relating to the terrorist attacks of

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<sup>3</sup> Alison Mitchell, "Senators Press for an Inquiry on U.S. Intelligence Lapses," *New York Times*, Dec. 21, 2001, p.B5.

<sup>4</sup> Timothy J. Burger, "9/11 Probe: Aiming High," *Time*, Feb. 3, 2003.

<sup>5</sup> As did the Joint Inquiry: one of its recommendations was for an independent, bipartisan commission.

September 11, 2001.”<sup>6</sup> That meant the commission would have to investigate and understand the details of the 9/11 plot and the history of Al Qaeda; it would examine gaps in US security and agency performance which allowed the plot to succeed; and it would make recommendations for improvements, including possible government reorganization, that would lessen the possibility future plots might succeed.

### Commission Design and Members

The commission which Kean and Hamilton would lead numbered 10 members. Under the compromise forged between the White House and Congress, the president appointed the chair; Democratic congressional leaders the vice chair. The Speaker and Minority leader in the House chose two members each; and the Senate Majority and Minority leaders chose two members each. At the time, Democrats held a one-vote majority in the Senate while Republicans controlled the House. The commission had an 18-month mandate; it was to report back on May 27, 2004. It had the power to subpoena—by vote of six members—agencies or individuals to get the documents and interviews it wanted. It had a budget of \$3 million.

By the time Kean accepted the position of chair, the commission had already had, and lost, a chair and vice chair. When President Bush signed the bill on November 27, he introduced his first choice as commission chair: Henry Kissinger, former secretary of state under President Richard Nixon. Democrats had already announced that they wanted former Maine Senator and Democratic leader George Mitchell as vice chair. This leadership team did not last long. The Senate Ethics Committee required, and the 9/11 families demanded, that Kissinger release the names of all clients of his consulting firm. He and the White House resisted, arguing that as an executive branch appointee he did not fall under legislative disclosure rules. Kissinger did offer to provide client names to a third party, chosen by the families, who would keep the names confidential. But the Senate Ethics Committee issued a legal opinion that all commission members had to disclose the names of clients who had paid them more than \$5,000 in the preceding two years. Kissinger—unwilling to do so—resigned on December 13. Mitchell, meanwhile, had also stepped down as vice chair citing his obligations to his law firm.

**Leaders.** Kean heard from the White House at once. Bush confidant and political strategist Karl Rove was the first to call with an offer to serve as commission chair, followed by White House Chief of Staff Andrew Card, and President Bush the next day. Kean, governor of New Jersey from 1982-1990, had been president of Drew University in his home state since 1990. He was also a long-time friend of former President George H. W. Bush. Kean says he took the job for two reasons. One was that 9/11 had affected him personally: “I’d lost friends. I live in this area. I attended funerals for six months.” The second was that he couldn’t say no.

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<sup>6</sup> Public Law 107-306, 116 Stat. 2408, Title VI—National Commission on Terrorist Attacks Upon the United States. November 27, 2002.

I turned down Cabinet positions under two Presidents .... [But] I think when the President asks you to do something for the country, and it's not going to take you away from your job and your family full time, then I think as a citizen you don't really have a right to say no.<sup>7</sup>

Meanwhile, Senate Majority Leader Tom Daschle had called former Indiana Congressman Lee Hamilton. Daschle asked Hamilton, initially, to serve as a member of the commission. Hamilton agreed, but within weeks Daschle was back—this time hoping Hamilton would replace Mitchell as vice chair. “I put down the phone,” recalls Hamilton with a chuckle, “and said, ‘Oh my gosh, what do I do now?’”

I mean, in this case you start from scratch. You don't have a place to meet, you don't have a payroll together, you don't have a staff, you don't have a telephone, you don't have anything—and you have to kind of put it all together.<sup>8</sup>

Hamilton had served as a congressman from Indiana for 34 years and was now director of the Woodrow Wilson International Center for Scholars. He had chaired the House intelligence and international relations committees, as well as special committees investigating Iran-Contra and security at the Los Alamos nuclear research laboratory. He had long experience in national security, foreign affairs and intelligence matters. Both Kean and Hamilton were senior statesmen, regarded as honest brokers.

*Virtual Co-chairs.* But the two had hardly met. As Hamilton recalls, “I had probably shaken hands with him, and that's about it.” The men arranged a private luncheon on December 19, 2002, well before the first official commission meeting. Kean hoped to reach early agreement with Hamilton on a matter of paramount importance to Kean—that the commission be bipartisan. That meant commission members, and staff, would organize and work without reference to political party affiliation. Says Kean: “My political experience has always been bipartisan.” For that to succeed, however, he would need Hamilton as a full partner. He knew Hamilton by reputation only, but had it on good authority that Hamilton was a “man of high integrity. He's going to want to get the job done first.”

At dinner, Kean found Hamilton in full agreement on a bipartisan approach. They both favored a single, nonpartisan staff (rather than, as was the usual case in Congress, separate staffs for each political party). Both recognized, however, that success would require an unusual degree of cooperation on their part. Hamilton credits Kean for proposing that “we're not going to do

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<sup>7</sup> Author's interview with Chairman Thomas Kean, Madison, New Jersey, on January 21, 2005. All further quotes from Kean, unless otherwise attributed, are from this interview.

<sup>8</sup> Author's interview with Vice Chair Lee Hamilton, Washington, DC, January 5, 2005. A second interview, by telephone, took place on August 1, 2005. All further quotes from Hamilton, unless otherwise attributed, are from these interviews.



anything unless we both agree to it.” The two men took what Hamilton terms “a clear decision ... to stay together as much as we possibly could.” Neither would hire or fire commission staff without the consent of the other. To the extent possible, neither would make a public statement without the other by his side. The result was that the two men became, in effect, co-chairs. Says Hamilton:

We recognized that if the commission was to have any clout, that it had to be unanimous or near unanimous. That meant above all that [Kean] and I should be in lockstep.

*Commissioners.* Their next step was to get to know better the other members of the commission who, by now, had also been chosen.<sup>9</sup> There were four Republicans. House Speaker Dennis Hastert chose former White House Counsel Fred Fielding and former Illinois Governor James Thompson, a close personal friend and political ally for decades. Senate Minority leader Trent Lott invited former Washington Senator Slade Gorton and former Secretary of the Navy John Lehman.

On the Democratic side, outgoing House Minority Leader Richard Gephardt and his successor Nancy Pelosi chose Indiana Congressman Roemer, who was retiring from Congress after 12 years, and Jamie Gorelick, deputy attorney general under Clinton and former general counsel in the Defense Department.<sup>10</sup> Finally, Senate Majority Leader Thomas Daschle chose Richard Ben-Veniste, chief of the Watergate Task Force when only in his 20s, and former Georgia Senator Max Cleland, a Vietnam veteran. A litigator, Ben-Veniste had also served as counsel for the Democratic members of the Senate committee investigating “Whitewater” — charges of financial irregularities against President Bill Clinton and his wife.

Only Cleland did not remain with the commission for its duration. The senator stepped down in December 2003 to take a board position at the Export-Import Bank. In Cleland’s place, Daschle picked former Nebraska Senator Robert Kerrey, a decorated Vietnam War veteran and, since 2000, president of the New School University in New York. Kerrey had served as vice chairman of the Senate intelligence committee. Kerrey joined the commission when Cleland left. Kerrey, says Commissioner Gorton, “was just the greatest breath of fresh air anyone could ever come across. He is a total free spirit.”<sup>11</sup>

Hamilton hosted a get-acquainted dinner for commissioners, which he calls “strictly social,” on January 26, 2003, at the Woodrow Wilson Center. The commissioners went around the table, introduced themselves and explained why each had agreed to serve on the commission.

<sup>9</sup> For a list of commissioners, see Appendix 1.

<sup>10</sup> The other contender for Gorelick’s slot was former New York Governor Mario Cuomo.

<sup>11</sup> Author’s telephone interview with Commissioner Slade Gorton, January 18, 2005. All quotes from Senator Gorton, unless otherwise attributed, are from this interview.

Gorton, for example, found it a “fascinating challenge” and could not say no to Minority Leader Lott, his closest friend in the Senate. Thompson, like many of his co-commissioners, felt that “when your President or your governor or your Speaker asks you to do something, unless there are overwhelming personal reasons, you ought to do it.”<sup>12</sup> Fielding, after proposing others in his place so that the group would not look “like a bunch of older white guys,” had likewise agreed to join.<sup>13</sup> Gorelick, the only woman on the commission and who brought to it Washington executive branch experience in law enforcement and intelligence, was gratified to be serving, and thought the commission “long overdue.”<sup>14</sup>

Hamilton came away from that dinner “with very favorable impressions of all of them.” Despite this bonhomie, auspices for the commission were not promising. The commission, as Kean later put it, had been “set up to fail.” He elaborated: “If you want something to fail, you take a controversial topic and appoint five people from each party. You make sure they are appointed by the most partisan people from each party—the leaders of the party. And just to be sure, let’s ask the commission to finish the report during the most partisan period of time—the presidential election season.”<sup>15</sup> Fielding concurs that “each of us was, in his or her own right, a strong-willed person, with their own ideas, in a political atmosphere, in a political year. So the potential for this to blow up was big.”

But for the time being, such thoughts were not uppermost in the minds of the commission leaders. Kean and Hamilton had more pressing business—to find an executive director and, after that, a staff.

### The Executive Director

Kean and Hamilton had received numerous nominations for executive director, but by Christmas 2002 Kean was feeling “very discouraged because they were good people, but not the kind of person I thought could do the job that we had to have done in the time span we had.” He interviewed a number of intelligent, able, experienced candidates—but “they weren’t tough enough.” Finally, in late December Commissioner Gorton brought Philip Zelikow to Hamilton’s attention.

Gorton had worked on two commissions with Zelikow, a professor of history and director of the University of Virginia’s Miller Center for Public Affairs—and admired him. They first

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<sup>12</sup> Author’s telephone interview with Commissioner James Thompson, February 28, 2005. All further quotes from Thompson, unless otherwise attributed, are from this interview.

<sup>13</sup> Author’s telephone interview with Commissioner Fred Fielding, January 12, 2005. All further quotes from Fielding, unless otherwise attributed, are from this interview.

<sup>14</sup> Author’s interview with Commissioner Jamie Gorelick, January 4, 2005, in Washington, DC. Follow-up interviews took place by telephone on September 2, 9 and 19. All further quotes from Gorelick, unless otherwise attributed, are from these interviews.

<sup>15</sup> Mike Kelly, “Kean: Some wanted 9/11 panel to fail,” *Bergen Record*, July 20, 2004.

crossed paths at the 2000-2001 National Commission on Federal Election Reform (led by former Presidents Jimmy Carter and Gerald Ford), where Zelikow was staff director. “I was overwhelmingly impressed with the way he managed two former presidents and a bunch of other very big egos and came up with a report that was substantially adopted by Congress,” says Gorton. Both Kean and Hamilton set out to investigate Zelikow’s background. “I made some calls, and Tom made some calls,” remembers Hamilton. Some of them were to other commissioners, others to colleagues and professional contacts—Democrats and Republicans alike.

They learned that Zelikow had co-written a book on German reunification with Bush’s national security advisor, Condoleezza Rice (the two had worked together as staff members on the National Security Council, or NSC, under President George H.W. Bush). Zelikow had left Harvard for the University of Virginia. He was a presidential scholar, with a reputation for intellectual brilliance, and had served as staff director for two previous bipartisan commissions: the one on federal election reform, and a Markle Foundation task force on National Security in the Information Age. He had also served on Rice’s transition team, but had declined to join the Administration. Bush appointed him to the part-time President’s Foreign Intelligence Advisory Board (PFIAB). Kean and Hamilton felt he would be an ideal choice.

*Zelikow Hesitates.* Zelikow himself was not so sure. Hamilton called him in late December 2002 to sound him out about taking the position. “I didn’t think I could do it,” says Zelikow, “but I was flattered to be asked.”<sup>16</sup> Once asked, however, he called a longtime colleague and friend, Professor Ernest May at the Kennedy School of Government at Harvard, to discuss how one might organize such a commission. “I actually developed a concept that there is a way this could be done right,” recalls Zelikow.

In early January, Kean called Zelikow (who was in San Francisco) to renew his offer. Zelikow again declined, but then began to describe how the commission might best be organized. Recalls Kean: “He was the first person I’d talked to who had exactly the same conception of what we had to do that I did, without my having to say anything.” Agrees Zelikow: “It was a complete meeting of the minds. In a way, I think I articulated what was already implicitly in his head.” Meeting with such “instantaneous convergence,” as Zelikow puts it, he promised to consider the position after all. But he set several conditions, which he traveled to New Jersey to discuss with Kean in person.

### **Not Doomed to Repeat History**

Zelikow was an historian. He knew the history of previous presidential commissions. He divided commissions into two types: those where the politics of a subject were so toxic—such as

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<sup>16</sup> Author’s interview with Executive Director Philip Zelikow, Charlottesville, Virginia, on January 6, 2005. All further quotes from Zelikow, unless otherwise attributed, are from this interview. Quotes from two presentations Zelikow made at Harvard’s Kennedy School of Government on October 12, 2004, are referenced separately.



election reform or Social Security—that a commission offered the only hope of reaching bipartisan consensus; or an event of historic magnitude which required a commission to determine, for the historical record, what happened. The 9/11 Commission fell into the second category; its closest historical parallels were the Pearl Harbor commission, and the Warren Commission investigating the assassination of President John Kennedy. Neither commission, in Zelikow's view, produced a final report with much impact—either on public understanding or on policy.

Zelikow hoped for better—and he had a plan for how to achieve it. First, he wanted a unitary, nonpartisan staff, recruited on merit. This posed no problem as Kean and Hamilton had already agreed on this between themselves. Staff members would not work for individual commissioners, but serve the commission as a whole. “If commissioners have their own personal staff, this empowers commissioners to pursue their own agenda,” he explains.<sup>17</sup> But a unified staff “means that the chair and vice chair of the commission can drive the agenda.”

It doesn't mean that the commissioners are powerless. It means that they are powerless individually and powerful together. It means that if the commission wants to drive the staff, the commission has to make decisions, which then helps bond the collective identity.

Zelikow understood that hiring and firing decisions rested legally with Kean and Hamilton, but he wanted to be a full partner in those decisions. Moreover, he asked that all instructions to staff go through him as executive director. “[I wanted] to make sure that staffers knew who was in charge, that all the orders they really needed to respect came through me, and I took my orders from the commission collectively, as embodied by the chair and vice chair,” he says.<sup>18</sup>

**Report as Book.** Zelikow also had a vision of what the commission's final report would look like. He wanted it published as a book, available in bookstores. It should examine not only the inner workings of the US government at the time of the attack, but attempt to understand the context and tactics of the enemy. Drawing an historical analogy, he says: “We were going to study the Japanese side of Pearl Harbor, as well as the American side.”

Kean and Hamilton assented readily to these conditions, reflecting as they did their own ideas and plans. But before he could say yes, Zelikow had a last job to do. Given his close personal and professional connections to the Bush White House, Zelikow felt he had an opportunity to gauge how the White House would treat the commission. So he went to talk to them. He comments:

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<sup>17</sup> Philip Zelikow spoke twice at the Kennedy School on October 12, 2004—first at 4 p.m. to a seminar, and again at 6 p.m. in a presentation titled “The Making of the 9/11 Commission Report,” hosted by Professor Ernest May. Quotes from both sessions are cited henceforward as Zelikow, KSG, October 12, 2004.

<sup>18</sup> Zelikow, KSG, October 12, 2004.

Frankly, I felt if the White House was going to try to sabotage the commission or was going to fight it every inch of the way, I wasn't interested in taking the job ... I was very specific [that] we're going to need NSC documents, we're going to need PDBs [Presidential Daily Briefs—intelligence reports].

Zelikow says he had good responses from National Security Advisor Rice and from Chief of Staff Card. It proved more difficult to get agreement from White House Counsel Alberto R. Gonzales but, says Zelikow, "I pushed the White House very hard on this, and ultimately received adequate assurances that they intended to cooperate with the commission." In late January, Zelikow accepted the position of executive director.

That Zelikow took the job did exact a personal price. From that moment, he says, he had no further conversations with Rice (except one about an overseas trip for commission staff), nor with her deputy Steven Hadley: "Everything was with the White House Counsel's office, and I didn't talk anymore to my friends." Moreover—perhaps as a result of their preliminary discussion about commission requirements—Zelikow never felt that his personal relations with White House Counsel Gonzales were good.

Neither Republicans nor Democrats uniformly applauded the choice of Zelikow. The White House, notes Kean, "wasn't thrilled with him ... Phil's a tough guy, and they know that. And he's got rock-solid integrity that says we're going to do thing right. That's what I liked." The Democrats on the commission were not enthusiastic either, because—asserts Ben-Veniste—Zelikow's former affiliations with Republican administrations "put into question the impartiality of the inquiry, and that had to be answered."<sup>19</sup>

*Kojm Deputy.* As deputy staff director, Kean and Hamilton recruited Christopher Kojm. The Democratic commissioners had asked that the deputy director be a Democrat as balance to the Republican Zelikow. Kojm had worked as aide to Hamilton for years before serving as deputy assistant secretary of state for intelligence policy and coordination in the State Department's Bureau of Intelligence and Research. "It was a great combination," says Kean, "because they have different styles and different talents. Phil breaks some china every now and then, and Chris is pretty good at putting it back together again." Zelikow recognized that, too:

Everybody brings strengths and weaknesses to a job, and what you want as the director of an organization is to look in your deputy for someone who actually complements your weaknesses. [Kojm] had a certain low-key style, very detail oriented ... He's more patient than I am.

<sup>19</sup> Author's interview with Commissioner Richard Ben-Veniste, December 14, 2004, in Washington, DC. A follow-up interview by telephone took place on August 26, 2005. All further quotes from Ben-Veniste, unless otherwise attributed, are from these interviews.

At the first official commission meeting on January 27, 2003, only Zelikow attended; Kojm had accepted the offer only earlier that day.

## Setting the Tone

Kean and Hamilton wanted to establish, from that very first meeting, a culture that in their view held the best hope for the commission's eventual success. "From the beginning," says Kean, "I kept trying to think of a commission that had been successful, and that was very discouraging because I couldn't." When he analyzed why, he concluded that two scenarios could derail his own efforts: leaks of classified information, or a partisan breakdown. He knew that plenty of people did not want the 9/11 Commission to succeed. At the same time, to do its job, the commission would require thousands of documents—many of them classified. "The only reasonable grounds on which they could deny us information is if we leak," he concluded. "The other reason they might have for denying us this material is to say: you're partisan, you're using this for political purpose in an election year."

*Bipartisan, No Leaks.* Thus, Kean and Hamilton emphasized two points above all: that the commission would be bipartisan, and there would be no leaks. Commissioners, they hoped, would collaborate in the service of a higher purpose. As Hamilton observes: "This [9/11] was one of the most traumatic events in the history of the country ... The commissioners understood that. That's why they were serious. That's why they were willing to put aside partisanship." But to build mutual trust and respect would take time. "It takes a while for people to trust each other, and you've got to recognize that," says Kean. "We just had to work together enough until the suspicions started to go away." Early signs, however, were good. Commissioner Gorton recalls that at the January meeting, six or seven members agreed that if the commission could not issue a unanimous report, "we were wasting our time and the government's money. So there was that frame of reference from the beginning."

Not surprisingly, the issues of leaks and partisanship came up repeatedly, particularly during the first six months. For one thing, the Democratic commissioners at first caucused separately to discuss their concerns. Kean, however, made conscious efforts to halt that practice. He refused, for example, to caucus the Republican commissioners. "I wouldn't caucus the Republicans because I thought that would be counter-productive," says Kean. "And I hoped the Democratic one would gradually wither away—which it did."

As could be expected, personalities also played a role. Commissioner Cleland, for example, emerged early as a divisive influence, taking a consistently more partisan stance than his colleagues. Commissioner Gorton, in fact, goes so far as to say that "the commission would have been an utter failure had Cleland stayed on." Cleland had lost a bitterly fought reelection campaign in November 2002, and volubly blamed President Bush for his loss. When Bush authorized an invasion of Iraq in March 2003, Cleland opposed the President and tried to persuade

the commission to take up the issue. But the group reaction, says Fielding, was “no—that’s beyond our charter, and it’s a third rail.” The commission agreed to avoid the topic. In July 2003, after some behind-the-scenes activity by commission members, Senate Majority Leader Daschle recommended that President Bush nominate Cleland to the board of the Export-Import Bank. To take the job, Cleland was obliged to resign from the commission (no member could simultaneously hold federal office)—which he did in December 2003. Senator Kerrey took Cleland’s place.

**Building Friendships.** But slowly, the majority of commissioners built personal friendships and professional respect for one another. Socializing together was a deliberate part of the commission’s evolution. Hamilton, for example, had hosted the early get-acquainted dinner. In July 2003, Gorelick invited the commissioners and senior staff to her house for dinner because, she says, “we needed to get to know each other.” She adds:

You can’t operate in Washington without seeing how the mistrust builds up. I believe that if you work closely with somebody, if you get to know them socially, if you know their family, it’s very hard to retain that distrust.

Likewise, when the commission held its first public hearing on March 31 and April 1, 2003 in New York City, Commissioner Lehman invited commission members to his apartment. The strategy of building community worked. As Kean says: “When you get to know each other as human beings, the *R*’s [Republican] and the *D*’s [Democrat] start to disappear from the chest.” A tacit partnership emerged most vividly between Democrat Gorelick and Republican Gorton. “Slade and I,” says Gorelick, “both ended up crossing over party lines and bringing the wings of our group back in ... When someone played against type, when someone was not a rabid Republican or a rabid Democrat, it helped form some of the glue.” As Commissioner Thompson notes: “There were no shrinking violets on this commission! They were all very strong governmental personalities, all highly experienced and, in other parts of their life, highly partisan. But they dropped that here.”

Kean and Hamilton tried to model the bipartisanship they had in mind by speaking with a single voice. They were sufficiently successful that many of the commissioners concluded their partnership came naturally. “It didn’t seem to take much effort, quite frankly,” comments Commissioner Gorelick. “You couldn’t actually tell who was the ‘D’ and who was the ‘R.’ Tom is a very moderate Republican and Lee is a pretty conservative Democrat.” Their example, echoes Thompson, “was what drove our bipartisanship and unanimity.”

**Back Channels.** Kean and Hamilton did not succeed absolutely—nor, perhaps, did they want to. There were numerous unofficial channels between the commissioners and those who appointed them, not to mention the personal network each brought to the table. “You tell me a commissioner, and I will tell you a time during the process of our work when that commissioner was essential,” comments Kean. “Every single one, without exception. It turned out that they were

all terrific in their own way and they all had a role to play.” Hamilton echoes that view: “Every commissioner brought strengths to the process because of their own experience and their own contacts.”

Regarding Congress, for example, each of the four congressional caucuses (two each in House and Senate) had someone to report on commission doings. Roemer talked to the House Democrats, while Senate and House Democrats could ask Gorelick and Cleland (then Kerrey) for background. Gorton considered himself liaison to Senate Republicans, and would occasionally report on commission progress at weekly Republican Tuesday and Wednesday luncheons. Thompson says he spoke occasionally to his old friend House Speaker Hastert—particularly when the Commission needed something from Hastert. “But I was not expected to, nor did I, on a regular basis update him,” says Thompson. Commissioner Lehman was close to Senator McCain and kept him apprised of commission doings.

The back channels, feels Gorton, were very useful: “When things came up in those public hearings, and questions arose about the nature of the questioning and the like, I was there to assure the Republican senators that everything was going just fine.”

### Operating Principles

Kean and Hamilton laid out a few other organizational and operational principles early in the commission’s existence. At the second meeting on February 12, 2003, the two described the commission’s organizational structure: a unitary staff, and no private staff for commissioners. A number of commissioners were demonstrably taken aback. Ben-Veniste, for example, had envisioned each commissioner taking responsibility for a portion of the investigation. Under that model, commissioners would work directly with designated staff on assigned topics. “I thought,” explains Ben-Veniste, “that there were different individuals who had different strengths, and that it might have made sense for individual commissioners to supervise or be titular heads of the various task forces. That was not accepted.” Other commissioners, accustomed to Capitol Hill where staff were partisan and served specific politicians, were likewise dubious. Recalls Kean:

Some of them wanted partisan meetings. Some of them wanted partisan staffs. Some of them wanted individual staff members assigned to them. I just said, we can’t do that, we can’t go in that direction.

**Report-like Book.** Kean and Hamilton also described their vision for a book-like commission report, available in bookstores everywhere. “There were various ways we could have approached this, and I wanted to approach it as history,” says Kean. “The idea was that we were writing a history that our kids could read 50 years from now and it would still be authoritative, given what we knew. And if we did the history right, the recommendations would flow quite naturally out of that.”



There was some discussion about whether the commission should focus more on the report, or on recommendations. Both were important; it was a question of emphasis. Although Hamilton maintained an early and consistent interest in the eventual recommendations, consensus emerged early that the driving need was to investigate the facts and produce an accurate account of what had happened; recommendations would emerge from that. As Deputy Staff Director Kojm remembers, “it became clear very early on that all commissioners agreed that this had to be a fact-driven investigation. There were no recommendations out there hanging around waiting for a set of facts to support them.”

There was, however, the authorizing statute—which required the commission to investigate some very specific areas: intelligence agencies, law enforcement agencies, diplomacy, immigration and border control, terrorist financing, commercial aviation, and congressional oversight. “Tom and I repeatedly went back and back to the statute in conversations with the commissioners,” says Vice Chair Hamilton. “The whole organization of the commission was built around the statute.” The statute, he adds, required the commission “to tell the story of 9/11. We took that very seriously ... The instructions that we gave were to tell that story as non-judgmentally as possible, stripping out conclusions and making it very factual.”

*Time.* While he did not raise this explicitly with commissioners, Kean was also sensitive to the issue of how much time each commissioner had to devote to the enterprise. In the early days, the commission met every 3-4 weeks but as time went on, meetings increased in frequency. Some, like Gorelick—who negotiated an arrangement with her law firm—were able to devote almost full time to it. “I committed 40 percent of my time to it from the get-go,” says Gorelick, “which some people thought was unrealistically high and which I thought might be unrealistically low for all of us.” Others, like Gorton—who flew in from Seattle—could participate less. Kean wanted to ensure that “the process didn’t get dominated by commissioners who simply had more time. That was a problem.” He adds: “There was a temptation for the commissioners who had a real interest and more time to want to be in on everything the staff did ... I wanted to know about it if people suddenly crossed those lines in some way or other.”

*Media.* Finally, the chair and vice chair suggested ground rules for contact with the media. They encouraged commissioners to speak publicly about the work of the commission—its areas of inquiry, the progress it was making, its hearing schedule. If the public felt it knew and trusted individual commissioners, the discussion went, that would hopefully pay dividends if in the future difficult judgments had to be made. At the same time, Hamilton and Kean expressed their hope that commissioners would, to the degree possible, appear in bipartisan pairs on television and radio talk shows but refrain from partisan debate. Vice Chair Hamilton felt they had no other choice: “We could not tell this group of highly experienced political operatives that we were going to handle all the questions. They would not have liked it. They would not have paid any attention to it!”

The injunction to appear in pairs did not always succeed. Each commissioner followed his or her inclination. Fielding, for example, felt the commission's chair and vice chair alone should speak in public. Any other course, he argued, "would lead to the temptation to leak ... Our job was to listen and then adjudicate, and come to findings and recommendations. It wasn't to go out and pitch one side of testimony or another." Fielding followed his own advice and did not appear in public until the report was released. Others, however, believed that transparency should include frequent public comments by commissioners. Commissioners Ben-Veniste, Roemer and Lehman, for example, appeared frequently.

In the early months, however, opportunities for public speaking were limited. The commission was trying to set up the equivalent of a new government agency in a period of weeks.

### Setting Up Shop

During its first months, the commission dealt with precious little substance. The logistical problems confronting it were far more pressing. "The commission," says Zelikow, "had no office, no stationery. It didn't even have a telephone." Adds Kojm: "In the early days of the commission there was a lot of partisanship, a lot of suspicion, a lot of doubts, a lot of difficulty getting started, and a lot of false starts."

*Staff.* The most urgent job was to hire staff. Zelikow and Kojm began reviewing resumes as they arrived. Because they agreed the staff would be hired on merit, they paid no attention to party affiliation. "We weren't even going to get into did we have partisan balance," says Zelikow.<sup>20</sup> Not surprisingly, given that Republicans controlled the White House and Congress—and because Washington is a predominantly Democratic city—more Democrats were available and eventually hired for staff jobs. Zelikow and Kojm refused, however, to hire candidates with an activist political history.

They also wanted staff from a variety of backgrounds. Zelikow was looking for historians, investigators, former policymakers, former senior government officials, some lawyers, even PhD candidates. Matters were further complicated because staff, to review classified materials, needed security clearances from the Federal Bureau of Investigation (FBI) or the CIA.

One of the first staff members hired was Stephanie Kaplan, whom Zelikow knew from the Aspen Institute where they had worked together. Kaplan became special assistant to the executive and deputy directors, a member of the so-called "front office" which ran everything. "It was really hard," says Kaplan, "to set up essentially a new government agency."

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<sup>20</sup> Zelikow, KSG, October 12, 2004.

Establishing a government start-up is the worst of all worlds, because there are so many rules and regulations, but you also find yourself in an unstructured start-up environment.<sup>21</sup>

The hiring process proceeded slowly but steadily although, notes Kojm, “we were wildly wrong about the resources that were necessary. We thought for sure a staff of 40 could do the job, and we ended up with over 80.” The hiring was sporadic; the last staff were not engaged until the spring of 2004. But the quality was high. “It was an all-star group,” says Zelikow. “You have to deliberately recruit against a very high standard to get that.”

By May 2003, some 40 people were on staff. Most of the commission staff were paid, but a significant number were “detailees,” individuals working for agencies such as the CIA and FBI who were assigned to the commission for its duration. Most of the detailees already had security clearances, so could come on staff quickly. Although these individuals brought valuable expertise and cost the commission budget nothing, Kojm says the management team decided deliberately to keep their numbers down to preserve commission independence. Sometimes individuals came on staff short-term to address specific needs. Charles Pereira, for example, moved from the National Transportation Safety Board (NTSB) to help analyze the complex data from flight radar tracking the hijacked airplanes.

*Office Space.* Meanwhile, Hamilton had worked since December (assisted later by the Front Office) to secure office space for the commission. This took time because, to review Top Secret documents, the commission needed access to a so-called SCIF (Secure Compartmented Information Facility). Such space proved scarce. Only in late January did the commission obtain a CIA-owned SCIF, on K Street in Northwest Washington just blocks from the White House. They moved in in early February. Rules were strict: all cellphones and other electronic gear had to be turned off and left at the door. A security officer was on permanent duty. Entrance was by code only; materials were stored in locked steel safes. Individuals had varying degrees of access to classified materials depending on their level of clearance. Offices were crowded and working conditions difficult. Each staff member had two hard drives: one classified, one unclassified. An intranet had to be created to share materials. That all documents were kept at the SCIF was also a challenge for commissioners who wanted to take an active role, because they had to take the time to go to the office.

A second location was found at the General Services Administration building in L’Enfant Plaza, some 20 minutes from the K Street location. It was not an ideal arrangement to split the staff, but the best that could be done within the timeframe. This made it harder to share documents, to share information, to arrange meetings. They devised a complex document scanning and storage system to ensure staff access to necessary information. Staff were apportioned according to the

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<sup>21</sup> Author’s interview with Stephanie Kaplan, December 9, 2004, in Cambridge, Massachusetts. Any further quotes from Kaplan, unless otherwise attributed, are from this interview.

classification level of the material they reviewed regularly. The teams whose materials did not have to reside in the SCIF went to L'Enfant Plaza.

Chairman Kean, meanwhile, wanted a commission office in New York—both to accommodate family members who could more easily contact the commission in New York, and because “you have to have an office where it happened, because a lot of the investigation is going to take place there.” That office was up and running only in early July, located in the 26 Federal Plaza building where the FBI had offices. John Farmer, a former attorney general for New Jersey who led the commission’s two New York-based teams, ran the office.

### General Counsel Choice

The commission found it particularly difficult to select a general counsel (GC). The Democrats on the commission insisted, says Kean, that as a counterweight to the Republican Zelikow the GC—like Zelikow’s deputy—also be a Democrat. Kean was happy to accommodate that request, but was very clear about his own criteria. “I said he cannot be a partisan, and by partisan I meant somebody who had been actively involved” in political campaigns, says Kean. Anyone with such a history would, Kean worried, “create a level of distrust from the beginning which was not going to be tolerable and which would not enable us to get the information we needed.”

Kean also wanted someone the White House could work with. The chairman had an eye on unfettered commission access to classified documents. To accomplish that, he says “we had to have somebody who was able to gain the trust of the White House in those negotiations.”

Commissioners suggested many names during February, and upwards of 10 candidates were interviewed or called. But Kean and Hamilton rejected them for a variety of reasons—because they were too adversarial, because they were too partisan—and the post remained open. At least two of the rejections caused some friction, according to Ben-Veniste, because the Democrats felt that the reason given—affiliation with Democratic campaigns—was no more true of those two than of Zelikow or Commissioner Fielding, a former White House Counsel. They also suspected White House interference. In fact, the White House was unhappy at the possibility that either of the two rejected candidates—James Hamilton and George Frampton—might get the job. But the final choice of general counsel rested, says Chairman Kean, with him.

After weeks of debate and interviews, a compromise candidate finally emerged. On March 17, 2003, Dan Marcus joined the staff as general counsel. Marcus had been senior counsel in the White House during the Clinton Administration as well as associate attorney general. His “style and temperament and approach to issues exactly mirrored what Tom [Kean] and Lee [Hamilton] wanted,” says Kojm. “He drove some of the other commissioners crazy from time to time, but he carried out the will and intent of the chair and vice chair precisely.”

The dust-up over the general counsel's choice gave the commissioners their first chance to rise above partisan differences—which they did. “I think there was a general appreciation,” says Ben-Veniste, “that the nature of the assignment had to transcend temporal political concerns.”

Unless we could somehow get beyond the kind of Washington partisan ambiance that had for so long characterized public discourse in this town, the commission would in the end be doomed to failure. Unless we could put aside our individual partisan feelings and views, the ultimate impact of what we had to say would be greatly diminished.

### Staff rules

Zelikow and Kojm established a few rules for staff right off. The most stringent reflected what Kean and Hamilton had emphasized with commissioners: no leaks. “Leaks will kill something like this,” notes Zelikow. “It was a zero tolerance policy: if you commit a serious breach of handling classified information, you will be fired. Because we’re being trusted with the most sensitive secrets across the entire government, and we have to be impeccable in our reputation for the handling of that information.”<sup>22</sup> That meant no communication with reporters. “There are no innocent conversations with reporters,” Zelikow elaborates. “We said if you talk to a reporter, and you haven’t been authorized to do so, you’ll be fired.”

*Firm Stand.* Zelikow also felt he had to make a determined effort to protect staff from interference from commissioners by enforcing the rule that staff report to the whole commission, not to individual commissioners. He had two concerns: team dynamics, and accuracy of information. If, he says, “you create a situation in which commissioners have their own pet staffers who do or do not participate in the real investigative work, it’s a source of constant tension.” Secondly, he felt that all were disserved if a commissioner asked a single staff member for an answer to a question when in fact a better answer would come from several staff members working on that issue.

To enforce the separation he felt necessary, Zelikow took an early administrative decision: he forbade staff to talk to commissioners. This drew instant fire from commissioners, who judged it unacceptable—and the rule was rescinded. The compromise, which worked most of the time, was that staff should report any interaction with commissioners to the Front Office to ensure coordination of work and information. Vice Chair Hamilton says that although he and Kean maintained an open-door policy toward staff, “we did not involve ourselves at all with lower staff ... By and large, we had a lot of confidence in Phil [Zelikow] and Chris [Kojm] and we followed their recommendation.” Zelikow also initially resisted allowing staff members to attend Commission meetings, says one member of the Front Office. “Commissioners loved dealing with

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<sup>22</sup> Zelikow, KSG, October 12, 2004.



the staff people. We had to persuade Zelikow to allow team leaders to come to commission meetings," he says.

The "no talking" incident created resentment among some staff and commissioners about Zelikow's management style, which lingered for the duration of the project. Ben-Veniste, for one, was not satisfied "because it was always difficult to get any kind of immediate answer." The compromise also did not work perfectly from Zelikow's point of view. Some commissioners continued to approach staff members privately to research an issue of personal interest. "But we were able to minimize this to the point that it didn't end up deforming and destroying the staff," says Zelikow. Occasionally commissioners who did not want to confront Zelikow tried to go instead through Kojm and Marcus, but the three were united on this issue, and reinforced by Kean and Hamilton. "It wasn't just about us," says Zelikow. "It was about Tom and Lee being able to run the commission."

*Sharing Info.* As spring became the summer and fall of 2003, there were also complaints from staff and commissioners that the Front Office discouraged information sharing among teams. Teams often discovered in the course of research that they had areas of overlapping interest but were not, according to numerous staff members, overtly encouraged to work together. "We all felt the lack of that kind of exchange," says one staff member, "although we did it informally. We developed very good relations with other teams." Commissioner Ben-Veniste notes that staff members were "not encouraged to talk to each other." He elaborates:

I would have been more comfortable had we had more direct input, and had the commission run on the basis of a much more collegial enterprise [rather than the staff being] discouraged from the synergies that would be otherwise involved in a more open and regular discourse ... We were in a way replicating the intelligence community, in that people were not supposed to talk to each other from these different task forces.

Zelikow asserts that staff had full access to one another's work, and that the Front Office made it a priority to identify when teams' interests overlapped. On the other hand, he explains, many were working with highly classified documents, and that necessarily inhibited sharing. Many commissioners and staff applauded Zelikow's approach. Commissioner Fielding, for example, notes that Zelikow "took a lot of heat internally for a couple of things ... and he withstood it. He had the leadership siding with him, and he had the consensus of most of the commissioners." Staff member Michael Hurley also feels that management handled operations well.

Getting this going, and how you get it going and make it productive, is a tough, tough problem. I think we need to give credit to the Front Office and others for making it successful.<sup>23</sup>

## Up and Running

By May 2003, the commission had offices, computers, telephones and staff. It also finally had money. The \$3 million originally allocated to finance the commission was woefully inadequate (by comparison, Congress gave NASA \$50 million to investigate the February 2003 Columbia shuttle disaster).<sup>24</sup> Commissioners calculated they would need an additional \$11 million to do the job. The White House, recalls Kojm, suffered “sticker shock” at this number. Zelikow adds that the Administration “was worried because they didn’t understand how we got to that figure.” But after many weeks of negotiation and explanation, first Congress and then the White House (Chief of Staff Card’s office) agreed to the additional funding, folding it into an April 2003 \$75 billion supplemental appropriation for the ongoing war in Iraq.

The Front Office—of Zelikow, Kojm, Marcus and his deputy Steven Dunne, communications deputy Alvin Felzenberg (hired first to run a team but quickly redeployed to media relations), and Kaplan—ran the commission operation. Front Office members attended every commission meeting, with other staff brought in for specific briefings. They handled negotiations for access to documents, negotiations for interviews with specific individuals, and press relations. Together with the chair and vice chair, they set strategies for the commission and policies for the staff.

Even as it finally began to function, however, the commission felt the clock ticking. Its mandate had started in November 2002; by May 2003, fully six months of its 18-month life had already elapsed. All delays bred frustration and anxiety. Many staff, for example, still lacked security clearances. Kean himself had never held a clearance, and did not receive his until the middle of March. While those awaiting clearance could and did work from secondary source materials, it created yet further delays. The average processing time was 6-8 weeks. Team Leader Dietrich Snell, for example, had held a clearance previously because as a prosecutor he helped to try Ramzi Yousef, the perpetrator of the 1993 World Trade Center bombing. But his clearance had lapsed and it took fully six weeks to renew—during which time, despite being team leader, he could not participate in classified briefings nor review classified materials. By August 2003, however, virtually all staff had their clearances.

Different people interpreted the clearance delay variously. Those who had not worked in government before found the process inexcusably lengthy and accused the security agencies of

<sup>23</sup> Author’s interview with Michael Hurley in Washington, DC, on December 14, 2004. All further quotes from Hurley, unless otherwise attributed, are from this interview.

<sup>24</sup> Source: <http://www.floridatoday.com/columbia/columbiastory2A44609A.htm>

foot-dragging; others found it a major inconvenience. But some commission members more familiar with standard security-clearance procedures—which could take easily six months—were impressed with how quickly the government moved to clear commission staff. Chairman Kean points to the relative speed of clearances as refuting charges the White House secretly hoped to sabotage the commission. He notes:

If the White House, as some people suspected all along, really wanted to do in the commission, the easiest way would have been to let security clearances take their normal course, which is five to six months ... Not done anything bad to us, but just let it run its course. We would have been dead in the water.

*Creating Teams.* Organizing the staff was another priority. Zelikow and Kojm decided to create teams to reflect the commission's mandate. Each team had a given topic. It took some trial and error: the number of teams changed as understanding of topics evolved, and team leaders shifted, especially in the early days. By late May, there were eight official topics with teams: 1) Al Qaeda and the 9/11 Attack; 2) Intelligence Collection, Analysis and Management; 3) International Counter-terrorism Policy; 4) Terrorist Financing; 5) Border Security; 6) Law Enforcement (domestic); 7) Commercial Aviation and Transportation Security; and 8) Immediate Response to the Attacks.

With time, these morphed into 10 teams as Team 8 developed two branches, 8A (Day of Attack: national decision making) and 8B (Day of Attack: New York City) under the direction of a single team leader, John Farmer.<sup>25</sup> Meanwhile Team 1 restricted itself to the history of Al Qaeda, but spawned a Team 1A which dealt specifically with the evolution of the 9/11 plot.<sup>26</sup> Teams 1, 1A, 2, 3 and 4 were all housed in the SCIF. Team 8 (A&B) was divided between New York and Washington. The rest were in the L'Enfant Plaza office.

*Assignments.* Zelikow and Kojm assigned staff to teams. Sometimes individuals were matched with their area of expertise; sometimes they researched new topics to avoid conflicts of interest. Susan Ginsburg, for example, as a former Treasury Department lawyer had worked closely with many at the FBI whose decisions the commission examined closely. She did not want to be put in the position of critiquing former colleagues, so did not join Team 6 on domestic law enforcement, but went instead to Team 5 researching border security issues.

Team 2, on the other hand, was a mix of intelligence community insiders and overseers. Team Leader Kevin Scheid for over 15 years had overseen intelligence community programs and budgets at both the Office of Management and Budget and at the CIA; he also served as staff

<sup>25</sup> Specifically, Team 8A looked in detail at actions taken by the Federal Aviation Administration (FAA) as well as the North American Aerospace Defense Command (NORAD). Team 8B examined what happened at the World Trade Center on September 11.

<sup>26</sup> See Appendix 2 for a list of the teams and their team leaders.

director from 2001 until he joined the commission for a presidential intelligence review chaired by General Brent Scowcroft. Lloyd Salvetti had retired from CIA's Directorate of Operations and was a former member of the CIA's Center for the Study of Intelligence.<sup>27</sup> Attorney Gordon Lederman had a national security practice at a DC law firm, and had written a book about the Defense Department. Colonel Lorry Fenner, a senior military intelligence official, was the first Air Force officer to win a Supreme Court fellowship. She, too, served on the Scowcroft intelligence review. The team was unusual in that Kean asked Commissioners Lehman and Kerrey specifically to work with the team because Kerrey had been on the Senate Intelligence Committee, and Lehman had a close friend's understanding of Senator McCain's views, as well as those of Secretary Rumsfeld. Commissioner Lehman "knew where the mines were planted and how to navigate these rather treacherous waters," says Scheid.

Zelikow and Kojm also selected team leaders, another time-consuming process. Kojm recalls that several candidates refused the offer; some quit before they started. Dietrich Snell, for example, took a leave from the New York Attorney General's office to lead Team 1A only at the end of May after his predecessor quit. Michael Hurley, leader of Team 3 on counterterrorism policy, also arrived in late May, fresh from several tours in Afghanistan for the CIA. Hurley was the third person the commission approached to lead Team 3.<sup>28</sup>

### Work Flow

Despite all the organizational hurdles, a common team approach to the work had evolved by early summer although, says Team Leader Snell, "I didn't get the feeling that there was that much structure. There was certainly no formal orientation ... Everybody was learning by doing."<sup>29</sup> The Front Office never presented staff with a comprehensive game plan. Instead, at frequent staff meetings Zelikow would state that "this is what we've accomplished, this is where we need to go. And today, this hour, this moment, this is how I think we're going to get there," says Team 2 Leader Scheid—one of the first staff hired. Zelikow's management style, adds Scheid, was to "focus very intensely on substance and to maintain a lot of control." Scheid felt there "could have been a lot more communication between Philip [Zelikow] and the staff."

As a rule, team members first reviewed secondary source literature. They then identified the categories of original documents they would need to read and analyze. The teams took the document list to the Front Office, where GC Marcus asked each team to justify its request. After approval, the general counsel submitted document requests to the Attorney General's office, which

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<sup>27</sup> Salvetti, like many other staff who worked with multiple teams, also worked with Team 1 and Team 1A on the history of Al Qaeda and the plot; with Team 3 on covert action; as well as with Team 6 on intelligence and law enforcement.

<sup>28</sup> Hurley had been asked earlier to join the staff, but at that time was headed back to Afghanistan.

<sup>29</sup> Author's interview with Dietrich Snell, New York City, January 20, 2005. All further quotes from Snell, unless otherwise attributed, are from this interview.

forwarded them after review to the relevant agencies. Where interests of teams overlapped, a document request for a particular agency reflected the needs of both teams. It was, says Scheid, “a cumbersome process.” But in most cases, it worked. Scheid’s team, for example, began to receive cartons of documents in June.

Most teams divided research responsibilities along agency lines. So in Team 3 (counterterrorism policy), for example, Scott Allan—a lawyer who had worked on war crimes, particularly in the Balkans—studied the State Department record. Warren Bass, who held a doctorate in history with special expertise on the Middle East, took the National Security Council. Alexis Albion, a PhD candidate with background in US intelligence history, dealt with the CIA—including how covert action was used as a policy instrument. Lieut. Commander (Navy Reserve) Bonnie Jenkins, a lawyer and disarmament expert, handled the Department of Defense (DOD). Professor Daniel Byman, a former CIA analyst and expert on terrorism, served as consultant. Retired Army Colonel Leonard Hawley, who joined in the fall of 2003, was a strategic planner who had worked in senior positions at both State and DOD. He took responsibility for the Department of Justice. Team leader Hurley helped each of them as needed.

A similar process developed for interview requests—with the Front Office again conducting triage when different teams had interest in the same person. The list of interviewees grew as documents came in and identified responsible parties. Each team member prepared interview questions according to area of expertise. Interviews were important to every team, and tremendously labor intensive. Interviewees had to be identified, contacted, a meeting scheduled, materials read and questions prepared.

In September 2003, in an effort to standardize the process, staff compiled a handbook on interview techniques which also established a protocol: provide interviewees with a copy of the commission’s enabling statute; ask for “best recollections”; emphasize understanding, not blame; ask for recommendations. Recalls Hurley:

We were asking sharp questions, there’s no question about that. But it was not a prosecution. It was ‘We need to question you so that we can understand what happened.’

To help themselves remember what they learned, staff in November 2003 assembled—at Zelikow’s direction—a chronological narrative which ran eventually to 130 pages or so. The chronology was used to help remind interviewees of the facts; it also allowed questioners to become ever more specific. This was all the more valuable because some interviews were held in public and others were not; questions had to be tailored accordingly. All who appeared before the commission in public hearings, for example, had been interviewed in private beforehand—often in a classified environment and sometimes more than once. CIA Director George Tenet, for example, met with the commission on three separate occasions; staff interviewed former NSC



counterterrorism expert Richard Clarke for three days, and former National Security Advisor Alexander “Sandy” Berger from early morning to night.

Members of the Front Office or commissioners generally took responsibility for interviews with top officials. The chair or vice chair, for example, were present at interviews with Cabinet members or presidential assistants (some 20 interviews); commissioners also sometimes attended interviews with officials at or above the assistant secretary level (some 80-100 interviews). For senior officials, the lead interviewer was usually Marcus or Zelikow, with Democrat Marcus taking most of the Bush Administration officials while Republican Zelikow questioned most of the Clinton Administration officials. The bulk of the commission’s total 1,200 interviews, however, were conducted by staff. After almost every interview, staff wrote a memorandum for the record. Some interviews, with the subject’s consent, were digitally recorded (although the White House Counsel’s office forbade the recording of any interviews with White House officials).

Teams learned to weigh interview testimony carefully. Team 8B, for example, which researched what happened in New York on 9/11, found that memories could be faulty; some even revealed an ongoing psychological unwillingness to accept what had actually happened. Moreover, each individual witness had only one view of events. “You had to interview enough people,” says Team 8B member Samuel Caspersen, “to build a base of knowledge about significant events in the evacuation and rescue effort, because there wasn’t a single interview where all the facts were right.”

Each team confronted unique challenges. Members of Team 1A, for example, working on the 9/11 plot, traveled extensively to such countries as Saudi Arabia, Yemen, Spain, Germany, and the UK. The team interviewed investigators and intelligence officials, as well as some foreign nationals. Sorting through mountains of interrogation and investigative reports, and reconciling those accounts with live interviews, was time-consuming and exhausting.

Ultimately, each staff member had to define for him or herself how best to do the job. Team 5 Leader Ginsburg, for one, looked for guidance to the statute which created the commission: pick up where the Joint Inquiry left off; ascertain the “facts and circumstances” of the attacks; and make recommendations. Ginsburg realized that, given the constraints of time and staff, the commission could not learn *all* the facts and circumstances—that would take generations. Her goal, therefore, became accuracy in what the commission did report. “It was very important,” she says, “to ensure that whatever facts we provided were true [and] to gather as many primary sources as possible.”

The commission’s workload was not, however, restricted to reviewing documents and interviewing officials. It also began as early as March 2003 to schedule public hearings—rather like taxiing a plane for takeoff before the engine is entirely built. Indeed, forging commissioner consensus to undertake something so arguably foolhardy had been far from easy.

## The Hearings Debate

One of the first issues to expose divisions among commissioners, as well as staff, was that of public hearings. Gorelick was not the only commissioner to imagine, as the commission was forming, “that we would, like most commissions, labor away in obscurity and then beg for public attention at the end.” This proved wrong. As Gorelick recalls: “When we finally were up and running, we had significant debates over how much of our time to spend investigating and writing, and how much of our time we should spend sharing what we were learning with the public.”

Some commissioners, such as Gorton and Gorelick, feared that extensive hearings would draw valuable time away from investigation. “I was dubious,” says Gorton. Others, such as Ben-Veniste and Roemer, wanted numerous hearings to win public acceptance and support. “My view,” says Ben-Veniste, “was that it was imperative we conduct a full, open, honest investigation.”

In order for our views to resonate, have any traction, it was imperative that the public take notice of what we were doing ... If we were seen to be a mere powder-puff organization, operating in secrecy behind closed doors, I think we would have gained little notice and little credibility with the American public.

Vice Chair Hamilton agreed that it would be “very unwise to do all of our work in secret, and then suddenly throw it into public.” For their part, the families were pressuring for a solid week of hearings.

**Staff Reluctant.** Most of the staff were unenthusiastic about hearings, all the more so after the first ones in spring and summer 2003 proved to be a tremendous amount of work without much visible payoff. “We wanted to concentrate,” says GC Marcus, “on doing our interviews and reviewing documents and writing the report. The public hearings were nice, but they seemed to us unnecessary. Frankly, we didn’t learn anything at the public hearings we didn’t learn from the private interviews.”<sup>30</sup> On the contrary, much of the information gleaned from private interviews was classified and could not even be discussed in public hearings.

Chairman Kean, however, felt open hearings were central to fulfilling the commission’s mandate. So he asked Zelikow to estimate the maximum number of public hearings the commission could undertake and still get out a reputable report. Zelikow projected five hours per staff member of preparation time for one hour of hearings; the number of staff needed would vary

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<sup>30</sup> Author’s interview with Daniel Marcus, December 14, 2004, in Washington, DC. All further quotes from Marcus, unless otherwise attributed, are from this interview.

by topic.<sup>31</sup> Before a hearing, staff must prepare briefing books, prepare questions for witnesses and brief commissioners on what issues to raise. Hearings, says Zelikow, “are terribly time-consuming and draining. It becomes a zero-sum game; the report will simply not be as good because you spent so much time with public hearings.”<sup>32</sup> Staff from the Joint Inquiry had, in fact, warned specifically against public hearings which they felt had, in their own case, seriously damaged their report. “There was a lot of tension,” says Kaplan, “between having a hearing just to do it and stay in the public spotlight, versus having the time to get our work done.”

But Kean wanted an answer, and the answer was 12. “He came back with that number, and we held that number,” says Kean. The first hearing was in New York City on March 31 and April 1, 2003; the 12<sup>th</sup> and last one was held June 16-17, 2004, in Washington, DC.<sup>33</sup> The hearings topics changed under the pressure of time. At first, says Kojm, the plan was to do a large number of historical and regional hearings on topics such as Pakistan, Saudi Arabia, and the history of Al Qaeda. While there were a few somewhat academic hearings, it quickly became evident that the commission would have its hands full simply telling the 9/11 story. In the end, the hearings in 2003 tended to focus on historical topics based on secondary sources and experts; those in 2004 were investigative hearings featuring witnesses who crafted the policies that in turn governed the actions taken on September 11.

The early hearings were organized in large part to assure the public and Congress that the commission was up and running. The first one in late March in New York City heard testimony from families and others involved directly with the events of 9/11. From her point of view, the first hearing was “just throwing staff at the situation,” says Kaplan. “We didn’t really have teams. Everyone who was available came to help.” Team Leader Scheid, who had worked on a number of commissions before, notes that in the early days especially “you just have to roll up your sleeves, leave your ego at the door and just pitch in and help get the job done.”

A second hearing, held May 22-23, 2003, in Washington, featured aviation security and included the Federal Aviation Administration (FAA) and the North American Aerospace Defense Command (NORAD). As the staff would soon discover, almost everything they heard that day was wrong—in part because those testifying did not have the information the commission sought; in part because the agencies were reluctant to cooperate with the investigation. Nonetheless, comments Ben-Veniste: “It was important to have that hearing even though we were not a finely-tuned machine by any means, simply to show that we were about our business, that we were prepared to ask hard questions of high officials ... We got some incomprehensible and some unacceptable answers from the FAA and NORAD.”

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<sup>31</sup> In reality, staff members typically spent upwards of 50 hours preparing for one hour of hearings.

<sup>32</sup> Zelikow, KSG, October 12, 2004.

<sup>33</sup> For a list of hearings dates and topics, see Appendix 3.

If the early hearings disappointed commissioners, they certainly did not satisfy one of the commission's most vocal constituents—the families who had lost loved ones in the 9/11 attacks. Many family members missed no opportunity to let commissioners and staff know just how unhappy they were with what they considered a lackluster performance so far.

### Family Relations

By the fall of 2003, many family members (the group was never monolithic) had become deeply suspicious of the commission. They had been disappointed once already—by the Joint Inquiry. As a consequence, they had played a pivotal role in getting the commission created, but to them it seemed bogged down. They found the commission's progress too slow and its attitude toward the Administration insufficiently confrontational. They wanted answers to their questions. They demanded investigative hearings, which the commission insisted it was not sufficiently prepared to hold. They wanted individuals blamed and punishment dealt out.

The difficulty, notes Commissioner Fielding, was that “you couldn't let the families run the commission. That had to be learned by the commissioners, some of whom were very close to the families.” The families, he adds, wanted the commission to name names—but “it wasn't our job to say this person didn't do theirs. It was our job to give the narrative of what happened.” In his previous experience with a commission on airline disasters, the presence of family members “just doesn't work ... Their view is so personalized that everyone is a demon. They can't be objective because they're just too full of angst and anxiety and resentment.”

The families did have good personal relations with some of the commission members, including Chairman Kean—although even that had its ups and down. Kean recalls an early meeting with family representatives at his office. Passersby could hear the family members shouting at Kean that he must issue subpoenas. They were angry at what they considered the commission's slow pace and accommodating stance. Says Kean:

What you had to remember always is what they had been through. If occasionally they were irrational, as they were sometimes, you had to understand that. If they were impatient, you would certainly understand that.

Family members also felt they had an ally in Congressman Roemer, an author of the legislation creating the 9/11 commission. The regard was reciprocal. The families, says Roemer, “were the backbone and the moral suasion and the real motivating force for [the commission] ... They are what the Founding Fathers had in mind for constituency groups making the government work.” Four women from New Jersey, all of whom had lost husbands in the attacks, became a unit

unto themselves known as the “Jersey girls.”<sup>34</sup> They developed extraordinary political access and were not afraid to use it. They were abrasive, but effective. They were no friends of the commission.

There were many areas where misunderstandings and disagreement could and did arise. One was over how public commission business could be. The families, recalls Commissioner Gorelick, wanted the commission to operate entirely in the public domain, a demand impossible to satisfy because of the large amount of classified information involved. Over time, says staff member Kaplan, the families “became increasingly frustrated with the pace and the tenor of the investigation.”

The commission appointed two staff members, Elinore Hartz and Emily Walker, to work with the families. Both had personal connections to 9/11. Hartz had lost her husband in the World Trade Center. She knew Governor Kean, who had encouraged Zelikow to hire at least one family member to be on staff. She joined the New York team (Team 8A) in late May 2003. Walker had been in Building 7 of the World Trade Center at the time of the attacks. She joined the staff in April 2003 with the assignment of developing national standards of emergency preparedness for the private sector. She later volunteered to be a family liaison in addition. Though based in New York, both worked for the Front Office in their capacity as family liaison officers.

The two women absorbed much of the hostility and frustration various family members felt toward the commission at various times. The first time she met with family representatives, recalls Walker, “it would have been hard for them to be colder ... The families, especially the four ‘Jersey girls,’ were not nice. They were not cordial. They were not respectful.” The New Jersey women rarely spoke a word to either Walker or Hartz. At the same time, emphasizes Walker, numerous other family representatives were helpful and supportive: “There were many family members who were earnest, worked very hard and brought us a lot of valuable information.”<sup>35</sup>

Walker tried to come up with new strategies for helping the families. She took training in grief counseling. She tried to empathize. “I tried everything under the sun to relate and promise them that we were trying to get at the full story,” she says. Nonetheless, after many of their exchanges she and Hartz “were in tears.”

In an effort to help serve the families, the staff passed their questions to the commissioners during hearings. They also distributed family questions to the appropriate investigative team for consideration. Finally, the commission instituted conference calls with family representatives before every hearing. Those calls became a trial.

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<sup>34</sup> The Jersey girls officially called themselves September 11<sup>th</sup> Advocates. They were: Kristen Breitweiser, Patty Casazza, Lorie Van Auken and Mindy Kleinberg. Source: Sheryl Gay Stolberg, “9/11 Widows Skillfully Applied the Power of a Question: Why?” *New York Times*, April 1, 2004.

<sup>35</sup> She mentions, for example, Beverly Eckert, Carol Ashley and Carie Lemack.



Zelikow had to abandon early attempts to act as liaison with the families. A July 2003 conference call which Zelikow led degenerated into a heated exchange. His political history had already made the families suspicious of him; now they were prepared to see him as an Administration lapdog. In March 2004, the Family Steering Committee (FSC) called for Zelikow's resignation, charging that he shrank from assigning blame for September 11 due to conflict-of-interest.<sup>36</sup> Zelikow observed their aversion to him and handed off the responsibility for conference calls to Deputy Director Kojm.<sup>37</sup>

The calls, remembers Kojm, "were never any easier. They required great patience and great exercise of one's interpersonal skills." Kaplan concurs that the phone calls were "sometimes unpleasant, but necessary." Not that the families were unanimous. Kojm remembers that, after particularly fractious phone calls, he would often hear from individual family members "upset or embarrassed" by the hostility of other family representatives. Kojm saw his job, and that of Hartz and Walker, "to make sure that we had those lines of communication open to all people." Relations were difficult, but each side needed the other. As Walker acknowledges, "the families helped by pushing us. Especially the Jersey girls. That they were not nice does not mean they were not effective. If not for those four ladies, a lot would never have happened."

Meanwhile, the families were not the only ones experiencing frustration. Commissioners and staff alike chafed over what seemed unnecessary—or, to those inclined to suspect the Administration, politically motivated—delays to the commission's very time-constrained work. Every day counted, and the days were slipping away.

### Interim Reports

Although hearings were underway, the commission was having difficulty getting access to documents and people. Despite a memo which White House Chief of Staff Card had sent in March 2003 on behalf of the President asking all agencies to cooperate in the production of documents, many were moving too slowly. Document requests had gone out to agencies starting in May, but by July there were many non-respondents. Some commissioners and staff sympathized with the agencies. Logistics were complex, with most Clinton Administration archives in boxes in Little Rock, Arkansas, awaiting completion of a presidential library. The volume of requests was also overwhelming, with agencies working under a tough deadline of two weeks to produce thousands of documents. "They had clearly just dramatically underestimated what was going to be involved here," says Zelikow.

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<sup>36</sup> A second group known as 9/11 Citizens' Watch also called for Zelikow to resign. The Family Steering Committee grew out of the Campaign for an Independent Commission, which fought for the commission's creation.

<sup>37</sup> Zelikow continued, however, to meet with other family members and the leadership of the largest group, Families of September 11.

But commissioners also perceived plenty of obstinacy, laziness or sheer incompetence at work. The White House in March had appointed a Justice Department official as liaison for document and interview requests. But his assignment was part time, and he did not devote much energy to the job.<sup>38</sup> His attitude created serious hostility, recalls Gorelick, among commissioners and staff who felt he was slighting commission requests. Only in early July did Daniel Levin, at the Office of Legal Counsel of the Department of Justice, take over processing commission requests. He was full-time, and had four assistants.

By then, commissioner frustration had escalated. Kean and Hamilton, together with Zelikow, decided that the time had come to activate a potential public pressure instrument provided by the commission's mandate—interim reports. The law called for occasional progress reports, without stipulating how frequent they should be. While Hamilton insisted that any report be “factual and overwhelmingly nonjudgmental,” nothing prevented reports from also making a point. The commission issued its first report on July 8, 2003, at a press conference at the Woodrow Wilson Center.

**July Report.** The report was diplomatic, but straightforward. Kean and Hamilton read it in turn at the press conference. “The Administration,” it stated, “underestimated the scale of the commission's work and the full breadth of support required.” By now, the commission had made 26 requests for 44 sets of documents filed with 16 different agencies. The report singled out the CIA, State Department and FBI for their cooperation. The Department of Justice, however, was not providing necessary records. Problems with DOD, it continued, “are becoming particularly serious,” while the record of the Department of Homeland Security was “mixed.” Finally, in powerful language, the report stated that “we believe the President when he says he is committed to assisting the Commission .... But the next few weeks will be crucial.” Then the chair and vice chair took questions from the press.

The impact, recalls Hamilton, was slight on the public—but significant on the press. He says:

They appreciated the objectivity of it, the clarity of it, and they recognized when those reports began to come out that these fellows were serious on this commission, that they were trying to do a professional job, that it wasn't a whitewash for the President or a criticism of the President.

**September Report.** The commission followed up with a second, and what proved last, interim report on September 23, 2003. Again, Kean and Hamilton led with the question of access, and reported significant improvement since July. As for those (unnamed) agencies which continued recalcitrant, Hamilton and Kean said the commission had promises of documents within two weeks. “If they are not [forthcoming], we will not hesitate to inform the public,” said the

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<sup>38</sup> The official at Justice was Adam Ciongoli.

report. It made special mention of the unprecedented cooperation from the White House and National Security Council, but noted also that “we will inform the public promptly if the Commission does not receive the access it needs.”

The report catalogued the number of interviews completed so far, and introduced plans for the upcoming months—including a list of hearings January to April with top government officials. To criticism that it was moving too slowly, the commission responded that “waiting for right answers is better than rushing to judgment with the wrong ones.” The report also stated the commission’s goal of generating recommendations “that can be implemented, work in the real world, and make a difference.” It listed some of the central policy questions it hoped to address, including issues of intelligence community organization, military organization, counterterrorism strategy and law enforcement reforms.

The interim reports, and later strategically timed press conferences, contributed to an unspoken commission policy of using the media sparingly but thoughtfully to promote commission goals. Chairman Kean, says Commissioner Gorelick, “was very, very skillful at sending public signals.” She continues:

He used the currency of his position very wisely. He did not pop off, he was always gentlemanly, always courtly. He and Lee [Hamilton] were natural users of the same language, so they never were threatening, but they always said “Of course, we couldn’t possibly finish our report without ‘x.’”

Hamilton says he and Kean were well aware of the delicate balance involved in going public. “Tom and I,” he says, “spent an enormous amount of time on this question of how do we ratchet up the pressure, but at the same time don’t infuriate them to the point where they become uncooperative? ... Orchestrating that was our responsibility.” He continues:

We had to get access to the people we wanted, and we had to get access to the documents we wanted ... We had to get that access with respect to people and institutions which sometimes didn’t want to give it to us. So going to the public is one option. But it is an option that has to be very carefully used.

Kean agrees that “you’ve got to think. If you go public, it could be helpful in getting something done. On the other hand, you don’t want to be continually confrontational in the public eye. There’s a balance there, and we tried to maintain that balance.” The commissioners endorsed the strategic use of publicity. As Roemer had learned at the Joint Inquiry, “when you had a disagreement with the Executive branch and the White House, you almost always needed to take it public and be aggressive. And if you did, you almost always won.”

The interim reports, says Deputy Staff Director Kojm, were “enormously useful.” Between July, the date of the first interim report, and October, just after the second was issued, a “flood of documents” started to come in. In the end, says Commissioner Roemer, “our access to the CIA and the FBI was absolutely breathtaking, record breaking and earth shattering.”

The White House sent out another, more forcefully worded, order for agency cooperation with the commission in October. Unfortunately, that was too late for some of the commissioners (and staff) whose frustration with, in particular, the FAA, NORAD and New York City had reached boiling point.

### Subpoena or Not?

Over the summer of 2003, the staff had become aware that they were not getting the documents they needed from the FAA and NORAD. Both agencies had played critical roles on the day of September 11. In the fall, staff discovered that regional FAA officials did not even know about the commission’s request for documents. In the case of FAA, the problem seemed to be at a minimum poor communication, and perhaps actual defiance. Once the lack of documents was communicated to the FAA general counsel, however, the agency turned itself upside down to provide everything as quickly as possible. But the damage had been done—the investigation was many weeks delayed.

NORAD (part of the Defense Department), on the other hand, appeared to be willfully obstructionist. Its officials had protested—inaccurately—that there existed no after-action agency reports; they also failed to turn over tapes and transcripts from the day of September 11. The Corporation Counsel of New York City was likewise thwarting the commission, playing a waiting game and refusing to provide key documents in hopes that the commission would outrun its deadline.<sup>39</sup> These instances of non-cooperation led the commission to consider whether, or how, to use its weapon of last resort—subpoenas.

Commissioners had debated from the earliest days how to use subpoenas: liberally, rarely, or not at all. The statute granted the commission the power to issue subpoenas—legally binding demands to produce witnesses or documents. As the commissioners understood it, their mandate was to produce the most comprehensive account possible of the events of 9/11; withholding any relevant documents threatened that goal. As an early compromise—short of a subpoena but stronger than a request—commissioners had agreed to require that the most senior member of an agency certify a document request had been fully met. But a subpoena was another way to get what they needed.

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<sup>39</sup> For more information on the NYC Corporation Counsel and Law Department, see: <http://www.nyc.gov/html/law/html/lawfact.html>.

Some commissioners, such as Ben-Veniste, were litigators. In their professional life, they were accustomed to using subpoenas as a matter of course. Says Gorelick: "I did not see subpoenas as hostile or punitive, but rather as a signal of the seriousness of our need for these documents, based on my experience in government as a recipient of both requests and subpoenas." Kean and Hamilton disagreed strongly. "To me a subpoena is not something that's run of the mill," says Kean.

A subpoena is something you hold out there and it's the big hammer. If you use it too often, it loses its effectiveness. I thought its effectiveness, in fact, was more in the threat of it than it was in the actual use of it.

Their chief concern was that the White House would regard subpoenas as punitive, and that using them would alienate the President. In the long run, felt Hamilton and Kean, that could only hurt the commission. "I understood very early on," Hamilton explains, "that we had to have the support of the President. That if we made recommendations and the President didn't agree with them, nothing would result. Tom [Kean] understood that. Not all the Democratic commissioners understood it."

But now they confronted two instances of downright obstruction, and one of needless delay. The FAA and NORAD cases gave rise to the first votes in the commission—on whether or not to issue subpoenas. The FAA subpoena was considered first and the vote was unanimous. On October 15, 2003, the commission issued a subpoena to the FAA. In a statement, the commission said that FAA recalcitrance had led it "to reexamine its general policy of relying on document requests rather than subpoenas." It hoped this action would "put other agencies on notice that our document requests must be taken as seriously as a subpoena," and put them on notice other subpoenas would be issued as necessary.<sup>40</sup>

The second subpoena led to the first—and ultimately only—occasion on which Kean and Hamilton disagreed in front of the other commissioners. Hamilton had talked to Secretary of Defense Donald Rumsfeld and was confident the commission would get what it wanted without a subpoena. Kean, however, felt the subpoena was critical to demonstrate support for the staff as it fought to establish the commission's authority. The staff felt that officials at NORAD had lied, not least about the existence and availability of documents such as tapes and transcripts. Staff originally received only one garbled transcript from 9/11, when in fact there existed multiple transcripts and recordings. Moreover, the agency's after-action report was wrong: it described NORAD jets in pursuit of hijacked flights, when in fact NORAD did not even know of the hijackings until after the planes crashed.

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<sup>40</sup> Statement by the 9-11 Commission, October 15, 2003. See website: [http://www.9-11commission.gov/press/pr\\_2003-10-15.pdf](http://www.9-11commission.gov/press/pr_2003-10-15.pdf).



John Farmer, head of the New York teams investigating the day of 9/11, insisted that only a subpoena would send NORAD the necessary message.<sup>41</sup> “I felt,” recalls Kean, “that if we didn’t get the staff the subpoenas they requested, we’d lose credibility with the staff.” Kean prevailed, and the commission issued a second subpoena—against NORAD—on November 7, 2003.

Finally, on November 20, the commission announced its intention to issue a subpoena to the Corporation Counsel of New York City because of its refusal, over four months, to provide transcripts of 911 emergency telephone calls, as well as transcripts of interviews with firefighters. The city’s lawyers, recalls Team 8B member Samuel Caspersen, were “just so hostile.” The team had already encountered similar resistance from the National Institute of Standards and Technology (NIST), which was in the midst of a massive study of the technical failures on 9/11. NIST, like the commission, planned to interview numerous police, fire and New York Port Authority personnel and the commission had hoped for a collaborative effort. Team 8B, however, found a way to compel NIST’s cooperation. It asked family members to exert pressure—which worked. New York City, however, opened genuine negotiations only after the subpoena threat. By December 3, 2003, the two sides had reached agreement. The team would get the 911 transcripts; and they could read uncensored versions of the firefighter interviews—although to do so they would have to visit the New York City Corporation Counsel’s office.

The subpoenas, acknowledges GC Marcus, were intended to “lay down a marker for other government agencies that they better watch out. And they had greater effect than I expected.” Confirms Commissioner Thompson: “By the time we issued most of the subpoenas, we had what we wanted, and we were just sending a message that we weren’t going to tolerate delay.” At the same time, observes Gorelick, “this added yet another extremely time-consuming process to our efforts to get the full story.”

*Rare to Vote.* Argument over subpoena use gave rise to most of what proved very rare votes by commissioners. Kean and Hamilton had, without being explicit about it, discouraged votes because, says Kean, he knew that “if we voted, the tendency would be for it to break on partisan lines.” Especially in the beginning, the commission could not afford that. So the two worked hard to reach consensus. When they finally did allow votes, it was only because they were confident that the vote would go their way. It was a necessary strategy, says Kean: “If the chairman and the vice chairman start losing votes on the commission, then they lose control of the commission. You can’t do that. So the only time I did permit votes was when I knew we already had them.”

The strategy was effective. Reports Senator Gorton: “There was never a partisan vote in the commission.” That, he says, was thanks to Kean and Hamilton’s united front. “No one pushing a

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<sup>41</sup> Farmer turned out to be right. The original after-action NORAD timeline for 9/11, which it submitted to the commission, was inaccurate; evidence it provided only in response to the subpoena contradicted the timeline. Other staff working on this issue were John Azarello, Dana Hyde and Miles Kara.

more radical position could ever conceive that they were going to win,” he says. Fielding agrees that a partisan vote “would have leaked out and been very destructive.”

But whether it came to a vote or not, as the fall progressed the issues became knottier and the stakes higher—and the commission’s decisionmaking more difficult. As the easier battles were won, the tougher ones moved to the forefront. Time was the harshest driver of commission activity. By October, time drove the commission to take on its most daunting adversary: the White House.

### **Negotiating Access**

The job of negotiating access to documents and witnesses across agencies fell mainly to General Counsel Marcus and his deputy, Steven Dunne. With Zelikow intervening as needed, the two dealt with lawyers at the White House Counsel’s office, at the National Security Council, and at the Pentagon, CIA and State Department, among others. “It was a pretty stressful job,” comments Marcus. But nowhere was it tougher than at the White House.

To do its job, the commission needed access in particular to numerous National Security Council documents. Counterterrorism coordinator Richard Clarke, for example, had served in both the Clinton and Bush administrations. He had sent a steady stream of memos both to Clinton National Security Advisor Berger, and to Berger’s successor, Rice.

*Executive Privilege.* Berger, the commission learned, had simply forwarded Clarke’s memos as attachments under his own signature to President Clinton. For months, the office of White House Counsel Gonzales refused to release the attached memos with the argument that they constituted Berger’s advice to Clinton. The White House lawyers were defending the concept of “executive privilege,” which holds that advice provided directly to the President by his trusted advisors must remain confidential. Without such assurance, this theory asserts, advisors would never allow themselves to be candid.

Eventually, the White House lawyers were persuaded to provide those of the memos they deemed to be in “draft” form—meaning there was no written indication that Berger had sent them on to the President. If Berger signed off on them before forwarding them to Clinton, then those were considered no longer in draft—and commission staff were briefed but could not read the original. The White House lawyers, says Marcus, “were very good about the briefings. They basically read the damn things to us.” With Rice, there was no issue: she never forwarded any of Clarke’s memos to Bush but presumably briefed him verbally. That meant the commission obtained all Clarke’s memos to Rice.

As for other NSC documents, the two sides arrived at compromises that were workable—but cumbersome. The primary restriction was that—unlike agreements with such agencies as the

CIA and FBI—commission members could not make copies of any NSC document. They could take notes on most documents, but only in the classified reading room set up for them in the New Executive Office Building. The notes, moreover, could not leave the premises until they had been reviewed and assigned their own classification level. Once cleared, most notes could be delivered to the Commission's SCIF and kept there. But for some of the most sensitive documents—concerning covert action, for example—notes could never leave the White House, although commissioners (and approved staff) could visit the notes at any time. Even that rule was bent, recalls Marcus, when the commission was writing the final report and “I finally prevailed on them to let us borrow some of the notes.” Conversations with foreign leaders, however, or any memo written directly to the President, were off limits. Commission members and senior staff could be briefed on them—but could take no notes.

A similar process attended commission efforts to arrange interviews with White House officials. “It was maddening,” recalls Marcus, “because it took a long time.” White House Counsel Gonzales insisted, for example, that an agency representative be present during all interviews of government employees, including former employees. His theory, says Marcus, was that “a government lawyer had to be there to assert executive privilege if we asked some government official about a conversation with the President. Which was silly, for 90 percent of the people we were interviewing would never have talked to the President.”

Nonetheless, Marcus says the commission decided early on never to ask about direct communications to the President. In interviews with National Security Advisor Rice, for example, the questioner did not ask what specifically she told Bush, but instead probed her general approach and his reaction. As for the presence of a monitor, the commission conceded on current employees; and compromised on former employees, saying an agency representative could attend if requested by the former employee. In the event, says Marcus, the “minders turned out not to be a problem.” Gonzales also won agreement to “pre-interviews” of all individuals at deputy cabinet level or above.<sup>42</sup> Commissioners did not like this, but in the interest of time agreed.

The commission pushed back as needed. At one point, the White House Counsel's office sent a letter stipulating conditions for interviews. The tone implied that the White House would grant interviews as a gracious concession to the commission. The letter forbade the commission to call the interviews “interviews”—they had to be called meetings. It also set time limits of two hours for meetings, and limits on the number of commission staff in attendance. The commissioners were so incensed by the letter's tone that they formally repudiated it—meaning the commission informed the White House it was not bound by the stipulated rules. “The White House,” recalls Marcus, “was very upset.”

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<sup>42</sup> These pre-interviews were generally conducted with a senior aide to the senior official in question.

By mid-fall, interviews were underway at a steady pace, starting with lower level officials and headed steadily higher up the line of authority. But the skirmishes with the White House Counsel's office had just begun.

### The Great PDB Debate

One class of documents which the Commission considered essential to review were the so-called Presidential Daily Briefs (PDBs), highly classified brief intelligence summaries prepared daily by the CIA for the White House. The commission did not need to review PDBs for their content; interviews with CIA officials and review of CIA documents had already provided the commission with the underlying information contained in PDBs. Review was necessary, rather, to know exactly what both Presidents Bush and Clinton and their closest associates had been told when.

The commission's credibility was at stake. As Vice Chair Hamilton puts it: "If we had conducted this investigation and had not achieved access to the PDBs, that would be the only thing the press would be interested in ... We understood the symbolic importance, if not the actual importance, of not being denied access to critical documents or critical people." The PDBs had attained disproportionate public visibility because, ironically, National Security Advisor Rice at a May 2002 press conference had summarized an August 6, 2001, PDB—with the result that the mystery of its actual contents had become a matter of national speculation.

*No Access.* But the White House—specifically the White House Counsel's Office, which handled this matter—was not comfortable making PDBs available to anyone, including the commission. Bush and his legal team were concerned that the Clinton Administration had sacrificed much of the authority of the presidency and Bush wanted to restore it. The PDBs was where they decided to draw the line. PDBs were, the White House argued, tantamount to advice to the President from the Director of Central Intelligence (DCI). To release them to the commission would set what the White House considered a deplorable legal precedent. Because most commissioners were congressional appointees and by statute the commission was located in the legislative branch, the White House regarded the commission as equivalent to the Congress. Whatever they did for the commission, the White House lawyers worried, they would have to do for congressional committees.

Kean understood the White House reasoning—but he did not accept it. The commission was *sui generis*. "I never discounted it. It was a very valid argument," says Kean. Moreover, he had no desire to go head-to-head with the White House. GC Marcus counseled him that no court had ruled against a President on presidential privilege in half a century. What's more, a court battle would consume precious time that the commission did not have. At the same time, Kean knew the commission could not give up on PDB access. He elaborates:

I just had to take the position that to do our job, if we couldn't tell the public what the President knew and when he knew it, that our report would not only be flawed, but the President himself would remain under a cloud.

Commissioner Thompson concurs: "While we respected the argument of protecting the presidency and its institutions and the separation of powers and all that, we were not going to take no for an answer." Zelikow recalls that he and Marcus even visited the White House with copies of the Pearl Harbor and Warren reports to illustrate the commission's position. "The way I put it to the White House people is I said, at the end of the story Tom [Kean] and Lee [Hamilton] have to be able to stand up and look the American people in the eye and say, 'We have seen every piece of evidence that we sought to see that was relevant to this inquiry.'" Zelikow argued that the White House would not be waiving executive privilege by allowing access to documents because the commission was a unique independent governmental body, not a congressional committee.

*Negotiations.* For weeks, negotiations went on behind the scenes. The logistics were complicated. White House Counsel Gonzales refused to meet with Zelikow or GC Marcus because, he argued, he was a principal and they were staff. Protocol demanded, he argued, that he meet solely with Chairman Kean and Vice Chair Hamilton. The chair and vice chair were amenable, but decisions had to be referred back to Marcus and Zelikow, and occasional errors in translation created a time-consuming process. "Again and again," says Zelikow, "they would have an agreeable conversation."

[But] it would break down within 24 hours because the key guy on their side and the key guy on our side hadn't been in there, and they hadn't really rolled up their sleeves and nailed the stuff down.

Concurs Marcus: "It was crazy." In addition, he says, Gonzales used these meetings to urge the chair and vice chair to "crack down on the commissioners" who talked to the media about commission negotiations with the White House and other sensitive matters. Some commissioners, frustrated by what they deemed White House failure to understand the position in which its hard line was putting the commission, resorted to the familiar Washington ploy of briefing the press on a potential unwelcome decision in hopes that a negative public reaction would persuade the White House to change its approach. While Kean and Hamilton urged the commissioners to be careful, their effort was not successful. In the final analysis, the two recognized that, as Marcus puts it, "every congressman is a king, every commissioner is a king—they can do whatever they want."

For his part, Kean was grateful to have his own expert advice in the negotiations. Commissioner Fielding, as a former Republican White House counsel himself, could advise Kean on the likely rationale behind the White House legal reaction to a particular document or request. On the PDBs, recalls Fielding, "I believed in the sensitivity of the issue, but also believed that there



were ways that we could rationalize and not set a precedent that was upsetting to the institution of the presidency.”

It wasn't a matter of loyalties. It was a matter of each side understanding the other's position. We had a need and they had a need.

In September, the White House made a concessionary move when it proposed highly limited access to the PDBs. It would allow the commission chair and vice chair—but only those two—to review the PDBs. This was the practice with the congressional intelligence oversight committees, whose leaders were the only ones allowed to attend the most sensitive briefings. But Kean and Hamilton insisted that, in some form or another, all 9/11 commissioners had to have access to the PDBs. Recalls Kean:

I think it was frustrating to the White House that I wouldn't work that way, and Lee wouldn't work that way. We said commissioners are equal, and everybody should see everything.

By late October, even Kean's legendary patience was wearing thin. So he turned once again to the media in order to send a carefully calibrated signal to the White House. In an interview with the *New York Times*, Kean restated the commission's mandate and its historic mission—and he listed the obstacles it faced. He expressed gratitude to the White House for the cooperation it had demonstrated so far. But, he made clear, it was not enough. “Any document that has to do with this investigation cannot be beyond our reach,” Kean said. “I will not stand for it.”<sup>43</sup> For the first time, Kean indicated a personal willingness to subpoena the White House, telling the reporter: “That means that we will use every tool at our command to get hold of every document.”

### Subpoena the White House?

It was a high stakes game. As Kean was the first to realize, the subpoena dispute posed a danger to the commission because it could so easily turn partisan, with the standoff portrayed as a Republican White House standing in principled opposition to what could be perceived as a Democrat-controlled commission. “The potential during that period for partisanship was so obvious,” notes Fielding. The commission itself, of course, could easily split along partisan lines as well.

**Commission Divided.** Debate among the commissioners was brisk. A number of them pushed hard for a White House subpoena. As an investigative lawyer, Ben-Veniste for one favored a routine use of subpoenas. “Typically,” says Ben-Veniste, “subpoenas are used as a matter of course.”

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<sup>43</sup> Philip Shenon, “9/11 Commission could subpoena Oval Office files,” *New York Times*, October 26, 2003, p.1.

We were reluctant to use the full measure of our authority that had been provided to us by Congress ... We wound up using the subpoenas in essentially a punitive way once there had been a failure in good faith to comply.

He believes the very fact that it was public knowledge that some commissioners favored an aggressive use of subpoenas benefited the commission: "The threat at least of some members of the commission being very vigorous in demanding compliance I think acted as a foil to those who were actively working to get voluntary compliance."

But Kean, despite his hint to the media that the commission might subpoena the White House, was determined to avoid such an action if humanly possible. In this, he had the full support of Hamilton and Marcus. Marcus argued that a subpoena would result in the "end of cooperation. We could win the public relations battle, but we would end up with less information." He did not believe the White House would ever cave in, although he recognized that the White House itself was torn about how much to cooperate with the commission. Fielding concurs: "It's so easy for somebody to say, screw the White House—let's drop a subpoena on them. That would have ended the whole story." To the argument that the commission could have simply issued subpoenas to one and all, Fielding responds: "That's not a valid argument."

You don't routinely subpoena the secretary of defense. You don't routinely subpoena the White House and then say, 'Oh it's just a friendly subpoena.' That argument was used and rejected.

Kean favored diplomacy over force—and his diplomats were the commissioners. This was one of several pivotal moments when commissioners were able to use their personal ties to leaders on both sides of the political aisle to the benefit of the commission. At one point, when tensions with the White House were particularly high, Lehman and Fielding met with Vice President Richard Cheney, whom they knew personally, for an hour. "It was trying to let the vice president know how we viewed what was happening ... and that we needed the White House's understanding and support," says Fielding.

### **PDB Compromise—and Re-compromise**

The commission and the White House finally reached a compromise on November 12, 2003—without a subpoena. The agreement allowed four people—the commission chair, the vice chair, a Democrat and a Republican—to review all relevant PDBs. These four would write a report, to be reviewed by White House Counsel Gonzales, for distribution to the remaining commissioners. There were some public expressions of dissatisfaction: Roemer expressed his regret that not all commissioners would see the PDBs; Commissioner Cleland damned the arrangement. But the compromise had bipartisan support.

The commissioners discussed whether Commissioner Fielding, given his history as White House counsel, should be the Republican reader. But he demurred, insisting instead that Zelikow, with his encyclopedic knowledge of the intelligence community, take the job. That left the question of which Democrat to appoint, and again Fielding made a suggestion: Commissioner Gorelick. Hamilton and Kean agreed on Gorelick because, says Kean, the White House was “deeply suspicious” of a couple of the other Democratic commissioners, whom they found overly partisan. Gorelick was acceptable. In addition, Hamilton and Kean thought she could work well with Zelikow.

Gorelick and Zelikow became the two who through Thanksgiving and well into December laboriously read through what turned out to be 362 germane PDBs. In late December, working many late nights and long days, they wrote up the summary report which would go to all commissioners. When this was submitted to the White House for review as part of the agreement, Gorelick says commissioners trusted that review and approval would be straightforward.

The White House, however, refused to allow it to circulate. The lawyers objected to such details as citing actual PDB titles, which had been included in the summary because they reflected the drumbeat of warnings leading up to September 11. White House lawyers also disliked the fact that the report, written in a journalistic style, identified who knew what. “Each side had different interpretations of the November agreement,” recalls Zelikow, “and there was a two-level classification of documents. It was too complex and too unwieldy an agreement in the first place.”

But by now, Kean and Hamilton’s early dream—that the commission work as a cohesive body united by a sense of mission—had become a reality. It refused to take no for an answer. Republican and Democrat alike, the commissioners rallied together to insist on the report’s release. Anything less, elaborates Gorelick, “put us collectively in an impossible position with the public and with our historical obligations.” She continues:

Whether you’re a Republican or a Democrat, you need to be able to say with a clear conscience that I did my job as well as I could. That’s not a Republican or Democratic issue.

The commission had already made what several considered a bad bargain in restricting direct PDB access to four. “We got very limited access,” says Commissioner Roemer. “I think we could have gotten fuller access if we had taken that fight more aggressively to the public.” Faced with this new obstacle, commissioners were prepared to take legal action. Although they recognized the enormity of such a move, “we were very close to actually filing suit, two or three days away,” says Zelikow. A law firm was identified and retained.

*Rewrite.* Over the weekend before the commission intended to file suit, however, Zelikow decided to try to rewrite the report using a different approach that would neutralize the Administration's objections.<sup>44</sup> He elaborates:

The original deal had effectively collapsed because it was too Byzantine, especially as interpreted by the White House. So we had to enlarge the problem in order to solve it, by writing a thorough but broader summary of all the relevant documents.

As it happened, many details to which the White House objected were available in less-restricted documents to which the commission already had access. If commissioners read Zelikow's report in tandem with those other documents, the full picture would emerge.

Over 30 hours, Zelikow worked straight through to produce what, in the end, proved a 7,000-word document (plus appendixes). Gorelick edited and approved the work. After further negotiation involving Gorelick, Kean, Hamilton and Gonzales, this document proved acceptable to both sides. On February 10, Kean and Hamilton issued a public announcement that agreement had been reached with the White House. "We are confident," said the statement, "that the Commission has obtained an account of all PDBs that relate to the al Qaeda threat and the events of September 11."

Gorelick says she understood the White House sensitivity and "tried very, very hard to make this work. But the final document was "highly contorted. The whole process was very aggravating to the commissioners as a whole ... It was maddening to try to accommodate their concerns and yet communicate what we needed to."

### **Puzzled**

Many commissioners and staff found the White House stance throughout the PDB debate puzzling. White House stalling led the public to assume the Bush Administration had something to hide—even though the majority of the PDBs the commission reviewed were written during the Clinton Administration, and many did not reflect well on the Clinton White House.

Kean, for one, feels the White House made a tactical error. "It was so strongly in the White House's interest to have those documents out there that the opposition just didn't make a lot of sense to me," says Kean. Moreover, he could never accurately discern where the opposition came from. "I never knew when I was talking to Gonzales, and he was saying this is the position, whether it was his position or it was [Karl] Rove's position, or the President's position," recalls Kean. Adds Marcus: "Gonzales may not have been wholly a free agent on this."

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<sup>44</sup> Zelikow is vague about the details of the original as well as the rewritten report because of the classified information in the reports.

Zelikow, too, says that “we didn’t understand why they were being so resistant to this all along ... The reluctance to reveal [the PDBs] made it look like they were the magic bean.” Zelikow feels that the much publicized PDB of August 6, 2001, for example, was in context “not a very important report ... It had no current intelligence to speak of.” In his view, it was ironic that the PDBs were “not central to our investigation ... Because the commission already had access to the underlying intelligence reports, there was going to be no new substantive information we would get from these documents.”<sup>45</sup>

But the PDBs had become super important politically because of the mystique they had acquired in the public eye, which was in part because of the way the President’s opponents had seized on it as the holy grail. Then in part because the President’s lawyers decided to pick this as the place where they would mount a last-ditch fight, that made it look like the President’s opponents were right.

Democrats, meanwhile, had much to gain from the apparent intransigence of the Bush White House. The Bush legal team could have tried to predict how a public battle over access would play out in the court of public opinion—and could have conceded before concession looked like defeat. But it did not make that choice. Notes Zelikow:

They made the choice instead to do trench warfare, and fight every step of the way on everything ... They ended up fighting over [presidential] prerogatives, and we ended up getting access to whatever it was we wanted anyway. They hadn’t protected the prerogative, or protected the President.

The White House lawyers, he adds, “were quite ideological about presidential prerogatives and particular beliefs about executive privilege and the law.” Adds Marcus: “Their concerns were not crazy. They were just too slow to accommodate.”

*Silver Lining.* The PDB experience, while stressful at the time, eventually helped to cement relations among the commissioners and established their nonpartisan bonafides. One secret to unity, suggest several commissioners, was Kean’s willingness to let all parties be heard. Kean “is a much more patient man than I am,” notes Vice Chair Hamilton with a laugh. “He’ll sit there till hell freezes over to discuss things. And several times it did freeze over.” Roemer adds that Kean and Hamilton “just provided full participatory influence and opportunities for all 10 commissioners.” Kean acknowledges his philosophy that “people have to have their say.”

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<sup>45</sup> Commissioners Ben-Veniste and Gorelick do not agree that the PDBs were unimportant. The August 6 PDB, contends Ben-Veniste, was “predictive” in its language—and therefore key. Gorelick says the PDBs as a group were crucial because they disclosed who knew what, and when.



Anytime anybody believes that they're not able to express themselves, to get across their point, they're going to find another way to do it. The end result is you get a minority report—and that we were trying to avoid.

The experience also demonstrated, eventually, the confidence the White House had in the commission chair and vice chair. "The White House people," says GC Marcus, "trusted Hamilton and Kean, especially Hamilton." Hamilton enjoyed close personal relations with Vice President Cheney from days together on the Iran-Contra investigation; and with Secretary of Defense Rumsfeld, who had been a fellow junior congressman in the early 1960s.<sup>46</sup> Adds Marcus:

They knew [Hamilton] wouldn't go talk to the press. They knew he was a man of his word, and that he understood foreign policy and intelligence ... He understood the Executive branch.

### Interviewing Prisoners

The commission did not, however, win every battle. Its major defeat came over access to Al Qaeda detainees. Team 1A under Dietrich Snell had been adamant that the commission should interview some seven Al Qaeda members held by the US at Guantanamo Bay in Cuba and elsewhere. Snell and his team were working off a detailed chronology established by the FBI, which distilled the findings of nearly 200,000 interviews in the US and abroad. Snell wanted to fill in the blanks because the FBI, too, had had no access to the detainees. As Snell notes, the surviving conspirators were "the only ones who really know what happened ... The notion was initially almost sort of scoffed at, but I think we brought people around as to the value." The mastermind of the September 11 plot, Khalid Sheikh Mohammed, for example, was high on the list.

The Commission already had access to existing interrogation reports—they had started to arrive in the thousands of pages as early as July 2003. But the reports by CIA and DOD personnel raised as many questions as they answered. Moreover, those agencies were understandably focused on averting future incidents, not exploring the minutiae of pre-9/11. Yet that was the information Snell wanted. Commissioners felt that the agency interrogators did not know the 9/11 story as well as Snell and his team.

Snell also valued in-person interviews for their intangible attributes. "You learn so much more from being face-to-face with somebody, seeing how they respond to questions, and what the body language looks like," he says. But the CIA and Department of Defense denied the commission request for interviews repeatedly and consistently. In December 2003, DCI Tenet informed Kean and Hamilton in no uncertain terms that they would never see the prisoners. Recalls Zelikow:

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<sup>46</sup> Hamilton was from Indiana, Rumsfeld from Illinois.

They just didn't want us to get close to seeing where these people were held ... They were in such a defensive and denial mode about this that they were afraid of any sunlight.

Zelikow and a couple of others wanted to fight the White House further, to issue a subpoena or take them to court. Gorelick used her own personal relationships with FBI Director William Mueller and DCI George Tenet to try to persuade them. Commissioner Roemer says the detainee access issue was "very important to many of us." Gorton also favored direct contact with the detainees. But Kean, Hamilton and Marcus strongly disagreed. "I thought it was crazy," says Marcus, "because if I were in the government, I'd never let us interview these people."

In the end, the commissioners agreed to desist. "We weren't unmindful of the national security concern," says Snell. As a compromise, the commission was allowed to submit questions to be put to the detainees by their assigned interrogators. Those answers were then returned to the commission. This was useful, although many answers begged other questions—and there was no time to follow up. But the information from the detainees provided key details for two chapters—on Al Qaeda, and the history of the 9/11 plot.

Meanwhile, there was no shortage of fires to fight. All the delays, the protracted negotiations, the cumbersome requirements for reviewing sensitive documents, had finally resulted in making real what the commissioners most feared—the threat that they would be unable to finish the job. The commission wanted an extension.

### Extending the Deadline

After months of press speculation, the commissioners decided in early January 2004 to request an extension. For that, they would have to return to Congress—their authorizing authority. But there was disagreement about how much of an extension to request. Commissioner Gorton, for one, felt strongly that the deadline should be pushed back well beyond the November 2004 election date in order to remove it entirely from the campaign. Ben-Veniste was agnostic as to whether it should finish substantially before the election, or wait until after the election—but he, too, favored keeping it out of the election crossfire.

Kean, Hamilton and Zelikow, on the other hand, did not want the report delayed past the election. "We wanted it to come out in the middle of the campaign," says Zelikow. "Why? Because it would become a political football. It would be kind of a political battleground."<sup>47</sup>

This is a story about one of the great traumas of American politics. The whole election campaign is in part shaped by the events of 9/11 and its

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<sup>47</sup> Zelikow, KSG, October 12, 2004.

aftermath. So the American people should be armed with the story of 9/11 when they pick the president.

If the commission waited past the election to publish, he argued, “far fewer people would read it, and the odds of our recommendations being enacted into legislation would be a fraction of what” was possible. After some discussion, the commissioners agreed to support the chair and vice chair’s view that a modest extension of two or three months would allow the commission to finish. On January 27, the Commission formally requested an extension of “at least 60 days.”

The White House was not eager to move the report’s release any closer to November. A White House spokeswoman in mid-January said that “the Administration has given them an unprecedented amount of cooperation ... and we expect they will be able to meet that deadline.”<sup>48</sup> The Republican congressional leadership understandably had similar reservations. House Speaker Hastert’s spokesman John Feehery told the press that “I can’t imagine a situation where they get an extension.”<sup>49</sup>

So commission members reached out in whatever way they could to explain and reassure. Commissioner Thompson, for example, brought commission leaders to discuss the need for an extension with Hastert. Others spoke to the press. The commission also had help from the families, who were indignant that the commission might cancel long-awaited public hearings with top-level officials in order to meet the deadline.

The strategy began to yield dividends. By early February, the Administration declared its support for a two-month extension. Speaker Hastert, however, continued to hold firm for several more weeks. But public pressure grew; a CNN anchorman termed Hastert’s opposition “unconscionable and indefensible.”<sup>50</sup> The White House also presumably was urging compromise. On February 27, Hastert capitulated. Congress in early March approved an extension of what amounted in practice to one month. The commission had been scheduled to finish on May 27, 2004, with a two-month wrap-up period. Instead, it would finish on July 26 with a one-month wrap-up.

### Investigative Hearings

The commission desperately needed the extra time. Only in late January 2004 was it ready to launch the centerpiece of its work so far—six public hearings based on its own investigation. Commissioners hoped these hearings would help the public learn—from the mouths of those who had made the decisions—about the policies and practices leading up to 9/11. What Kean and Hamilton did not anticipate was that the hearings would also create some of the most dangerous

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<sup>48</sup> Dan Eggen, “9/11 Panel Unlikely to Get Later Deadline,” *Washington Post*, January 19, 2004, p.A9.

<sup>49</sup> Ibid.

<sup>50</sup> Aaron Brown, host of NewsNight With Aaron Brown, made the comment during his program on February 26, 2004.

moments the commission had confronted so far. Managing the group's temptation to break along partisan lines would require some of the chair and vice-chair's most advanced diplomatic skills.

The commission's seventh hearing—and the first of 2004—was held January 26 and 27 in Washington, DC. It was called "Borders, Transportation and Managing Risk." The hearing let the public know that, while the FBI and CIA had said on the record that the hijackers entered the US legally, in fact many of them had falsified travel documents or made fraudulent statements to US consular authorities that could have been detected. The hearing featured sharp questioning of officials from the State Department, the Department of Justice and others. On the second day, Federal Aviation Administration officials returned—their second appearance before the commission. Commissioners went into prosecutorial mode, with Lehman and Gorton withering in their criticism of professed airline inability to handle terrorist watch lists, given that the airlines had no apparent difficulty in managing frequent flyer lists of millions. The day's proceedings were lent a somber note when in-flight tapes from the doomed airplanes were played aloud.

The January hearing got plenty of media attention. But this proved merely prelude. The most fiery hearings by far were yet to come.

*Richard Clarke Hearing.* The eighth hearing on March 23-24, 2004, in the Hart Senate Office Building addressed counterterrorism policy. It featured a star lineup of witnesses: current and former secretaries of state Colin Powell and Madeleine Albright; current and former secretaries of defense Rumsfeld and William S. Cohen; as well as CIA director Tenet, former National Security Advisor Berger and Deputy Secretary of State Richard Armitage.

But it was the testimony on March 24 of Richard A. Clarke, the coordinator for counterterrorism at the National Security Council over four administrations, that nearly brought down the house. Clarke, who worked for two years in President Bush's NSC, had just published a book highly critical of Bush—particularly his decision to invade Iraq. He launched the book's promotional campaign with an interview on the CBS television newsmagazine *60 Minutes*. In the much-noticed March 21 interview, Clarke asserted that the Bush Administration had failed to do all it could to thwart the September 11 attack.<sup>51</sup> The White House, put on the defensive, had been on the counterattack since.

Now at the commission hearing three days later, Clarke captured attention and headlines again. He offered, in a moment of high emotion, an apology to the families of those who died on September 11. He asserted—questionably in the eyes of many—that "your government failed you ... I would ask, once all the facts are out, for your understanding and for your forgiveness."<sup>52</sup> He

<sup>51</sup> The commission knew about Clarke's book, and under an agreement three staff members—Michael Hurley, Warren Bass and Alexis Albion—had read it in galleys. But no one else—neither commissioners nor Zelikow—was given a copy.

<sup>52</sup> Philip Shenon and Richard W. Stevenson, "Ex-Bush Aide Says Threat of Qaeda Was Not Priority," *New York Times*, March 25, 2004, p.1.

also repeated his charge that the Bush Administration had failed to do all it could to thwart an attack. "My view," he told the commission, "is that this Administration, while listening to me, either didn't believe me that there was an urgent problem, or was unprepared to act as though there was an urgent problem."

Clarke's testimony drove the commission to partisan behavior it had up to now avoided. During the hearing, questions broke on openly partisan lines, with the Republicans asking which reflected Clarke's real views: what they characterized as more temperate language in his classified interviews with the commission, or the incendiary language of his book and public testimony? As Zelikow recalls the day:

The Republicans on the commission really had no use for him.<sup>53</sup> And the Democrats on the commission basically had to be his friends, and the Republicans became his enemies, and the commission looked as overtly partisan as it ever looked on both sides ... That was a very dangerous time.

Kean and Hamilton had only minutes to decide how best to manage the fallout from the Clarke hearing. The afternoon's testimony made the commission the top news story in the country. That night, commissioners were in high demand by the media, especially the cable television news shows. At that juncture, Kean for the first time since the commission's creation intervened with commissioners to ask them to limit their public appearances. "I thought we were being overexposed," says Kean. "I thought that wasn't our job, to be continually talking, but to talk when we had something to say." Not all commissioners agreed with him, but they complied. The dynamics had changed dramatically from a year before. "By the time we hit the Rice and Clarke problems," says Kean, "we were pretty well bonded together."

### Hitting Their Stride

*The Condi Hearing.* The "Rice problem" to which Kean referred arose only two weeks later. National Security Advisor Rice had finally agreed to testify before the commission—and the date was set for April 8. The lead-up alone had already been suffused with drama. She had given the commission a four-hour private interview on February 7, 2004. But the White house had refused for months to allow Rice to testify in public for fear of setting what it considered a regrettable legal precedent. As an NSC spokesman said: "White House staff have not testified before legislative bodies. This is not a matter of Dr. Rice's preferences."<sup>54</sup>

<sup>53</sup> Commissioner Gorton, however, was favorably impressed that Clarke answered "no" when asked whether 9/11 could have been prevented if all Clarke's recommendations had been adopted. Source: Gorton's email to author, August 9, 2005.

<sup>54</sup> Philip Shenon, "9/11 Panel Rejects White House Limits on Interviews," *New York Times*, March 3, 2004.



Kean knew the Executive branch was on solid ground in its refusal because he called former National Security Advisor Henry Kissinger to ask if he had ever testified as NSA, and Kissinger said no. "He said, 'When I was in Condi's position, no. Because presidential advisors don't testify in public,'" remembers Kean. Nonetheless, Kean and Hamilton once again did not allow a lack of precedent to stand in their way. With the full support of their fellow commissioners, they pressed politely but with determination for Rice's appearance. At least twice, they publicly expressed disappointment at the "no" decision: in a February 25 press announcement and again at the March 23-24 counterterrorism policy hearing. Individual commissioners had also made comments to the press.

Then inadvertently, Rice herself made it hard to refuse the commission's request. After Clarke's *60 Minutes* appearance, Rice went on multiple television talk shows to refute Clarke's charges. On the morning of March 22, she appeared on the breakfast shows of ABC, CBS, NBC and CNN, followed by interviews with Tom Brokaw of NBC News, Sean Hannity of Fox News, and other journalists. She also published an op-ed piece in the *Washington Post*. Rice's decision to discuss, in what were highly public forums, the very topics about which the commission wanted to question her made the White House refusal to allow her to testify harder to justify. When the press made much of this, the White House changed its mind and, in a double headline, on March 30 announced both that Rice would testify in public and—in another contested matter discussed below—that President Bush and Vice President Cheney would meet with all the commissioners in closed session.

The hearing itself earned multiple headlines, not least because under pressure of questioning from Commissioner Ben-Veniste, Rice finally made public the title of the notorious August 6, 2001, PDB: *Bin Laden Determined to Strike in US*. The hearing drew intense press attention. Commissioner Thompson had never seen so many still photographers assembled for any event as were in the hearing room for Dr. Rice. "When she raised her hand to take the oath, they all clicked at once, and it was like a thousand crickets," he chuckles.

During the hearing, the commission once again flirted with partisan behavior. Commissioner Ben-Veniste directed some particularly pointed questioning at Rice—which drew criticism, including from some fellow commissioners.<sup>55</sup> But Ben-Veniste comments: "My view was that it was appropriate for the members of the commission to ask hard questions ... It was important to me that the PDB was made available in view of its historic importance."

I started out on a very simple lawyer level: just get the facts, publish the facts, unless there was a very good reason as to why there ought to be a

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<sup>55</sup> The media criticism came mostly from the political right. The editorially conservative *Boston Herald*, for example, called Ben-Veniste's questions "scathing." Source: David R. Guarino, "Partisanship pushes panel to play politics," *Boston Herald*, April 9, 2004, p.4.

blackout on facts for reasons of national security. Put it all out there. Our society can withstand self-criticism and self-examination.

Most commentators agreed with Governor Kean that Dr. Rice acquitted herself well. "Condi [Rice]," says Kean, "was particularly important to the public and the families, and she did very well and she handled herself beautifully."

*Ashcroft Hearing.* With such potentially explosive hearings under their belts, the commission felt well prepared to withstand partisan pressures by the time it approached hearing No. 10 of April 13-14, 2004, devoted to law enforcement and intelligence. It featured the FBI and the Department of Justice. Commissioners knew the hearing would hit a nerve with the Administration. In a statement prepared for the hearing, commission staff quoted former FBI Acting Director Thomas Pickard as saying Attorney General John Ashcroft had instructed Pickard in the summer of 2001 to stop briefing him about terrorist threats. Ashcroft denied the charge.

Whether to create a smoke screen for this allegation or for other reasons, Ashcroft during the hearing staged a blatantly partisan attack on Commissioner Gorelick. He pulled out a piece of paper signed by Gorelick during her tenure as deputy attorney general under President Clinton, and accused her of erecting a wall between intelligence and law enforcement investigations at the FBI and Justice Department—implicitly blaming her for a lack of coordination which some felt had allowed 9/11 to happen. Gorelick says Ashcroft's attack shocked her: "It was a shameless misstatement of the facts which were not checkable by anybody because everything was classified."

The charge was unexpected and commissioners resented the unscripted theatrics. Moreover, it instantly backfired. Republican Commissioner Gorton quickly turned to Gorelick and advised her to remain silent. Instead, he came to her defense. That evening, so did all the other Republican commissioners, who went on national television to do so. "I was bitterly disappointed with Ashcroft," recalls Gorton. "Curiously enough, Ashcroft's attack on Jamie Gorelick had a very unifying impact on the commission. One of our people said 'Jamie ended up with nine older brothers.'" Commissioner Fielding adds that Ashcroft's approach was inappropriate. "You didn't have to do it like a big surprise and a *gotcha*," says Fielding. "There were many ways to bring that to everybody's attention."

President Bush ultimately upbraided Ashcroft for his behavior during and after the hearing. This action as much as any, feels Zelikow, demonstrated that "the President ultimately decided we were not a partisan group." But the hearings clearly also challenged each commissioner to move beyond party loyalty and demonstrate his or her commitment to their mission. Zelikow, for one, feels that "the commissioners who ended up doing well were those who really thought hard about what their role was. I said, 'The way to think of yourselves is you are judges. Not prosecutors or defense lawyers, but judges. Think about the demeanor judges

exhibit.” Finally, the hearings provided a constant reminder of why this particular group of people had come together. Comments Zelikow:

The hearings brought commissioners together not only because they defended one another. The matters under discussion were often so horrific that, by their sheer emotional content, they brought the commissioners back to the mindset of common purpose experienced by the entire country in the immediate wake of 9/11.

### Interviewing Presidents

By now, the commission had established its credibility and its bipartisan commitment to getting the job done. But skirmishes remained. The commissioners had decided that it was important to secure testimony from all who played a role in the lead-up to 9/11, including US presidents. But the White House—again citing precedent—did not want President Bush or Vice President Cheney to testify before the commission. The commissioners had already decided to invite former President Clinton and former Vice President Albert Gore to testify. On January 27, 2004, Kean let the public know that the commission hoped to interview both Presidents Bush and Clinton.<sup>56</sup>

Kean recognized that the Commission was setting new precedent with this request. After all, Lyndon Johnson had refused as President to testify before the Warren Commission. But as with the PDB dispute, Kean simply asserted that “this time is different.” By February, the White House had offered a compromise: Bush would attend a meeting, but only with the chair and vice chair, with no staff present. Moreover, the meeting would be limited to one hour. “That was not acceptable to any of us,” says Commissioner Gorton. Commissioner Ben-Veniste proposed a strategy to break the logjam: that the commission either announce publicly that Clinton and Gore had agreed to meet without limitations, or wait until the Clinton-Gore interviews took place—when it would be clear there had been no limitations—and see whether that unrestricted access exerted pressure on the White House.

Accordingly, on February 25, 2004, the commission announced that Clinton and Gore would be glad to be interviewed, with no restrictions. Clinton and Gore would meet with all 10 commissioners; there would be no time limit. The next day, Bush and Cheney reiterated their refusal. Just two weeks later, however, on March 9, a White House spokesman indicated that Bush had dropped his time limit demand and instead would stay as long as it took to answer all the commission’s questions: “Nobody’s watching the clock.”<sup>57</sup>

<sup>56</sup> Mike Kelly, “Giving Voice to Horror in the Air,” *Bergen County Record*, January 28, 2004.

<sup>57</sup> The speaker was White House spokesman Scott McClellan. Philip Shenon, “Bush Vows to Answer All Questions Posed by 9/11 Panel,” *New York Times*, March 10, 2004, p.18.

As with the PDB dispute, the deadline controversy and Rice's testimony, however, White House reluctance eventually withered in the face of outspoken public censure. Clinton and Gore's example, believes Ben-Veniste, "was one of the factors that ultimately convinced the President that he ought to change his opposition and accede." Whatever the reason, on March 30, 2004, the White House finally conceded. The President would speak to all 10 commissioners, but with one significant stipulation: Bush and Cheney would appear together.

On the afternoon of April 8, 2004, the same day as the Rice hearing, the commission met with former President Clinton in closed session for some three hours. On April 9, commissioners discussed 9/11 with former Vice President Gore for a similar length of time. The commission publicly thanked both men for their cooperation.

President Bush's turn came nearly three weeks later, on April 29. Some of the commissioners and staff, like the public, thought Cheney was included out of fear of letting the President—often mocked for verbal gaffes—speak for himself. So when Bush and Cheney did appear together, Zelikow noted the surprise to skeptics that "instead of dumb Bush, it's dominant, commanding, articulate Bush, who's completely in charge of the interview." Gorton concurs: "They both handled themselves extremely well." Cheney said very little. The interview lasted three hours.

Once again, says Zelikow, White House foot-dragging had resulted in "one more hit." He adds:

This was one more Saturday Night Live skit. The President probably didn't need nearly as much protection as they were offering to him at this time. But when you act like the President's a cripple, people think he's a cripple.

By the spring of 2004, feels Zelikow, the commission "had created a sufficient public constituency for the report that actually the White House could no longer effectively fight on some of these process issues ... The families helped, but the White House's own obstructionism had helped make that result possible by creating a sense of this battle."<sup>58</sup> Adds Gorton:

The White House mismanaged it from the beginning. Because every time we ran into any kind of difficulty and went to the press, they ended up surrendering. We ended up getting everything we needed, all the materials and all the people, and the White House got the reputation of having stonewalled it all along. So they had the worst of all possible worlds.

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<sup>58</sup> Zelikow, KSG, October 12, 2004.

Commissioners meanwhile had united to the degree that, says Ben-Veniste, “there was a strong consensus that it was not fair to withhold documents that were critical. It was not fair that only the chairman and vice chairman should meet with the President and Vice President and then only for a very short, perfunctory meeting. It was not fair that the national security advisor should not appear before the commission in open session.” He continues:

There was much more agreement than disagreement. The more we worked together, the more that fostered a mutual appreciation of both the integrity and the insight and the perceptions of our fellow commissioners.

*Leaks.* The one problem Kean and Hamilton had warned against most forcefully—leaks of classified information—never materialized. There were instances when commissioners leaked information, but never on national security matters. Sometimes they simply made mistakes. In May 2004, for example, a commissioner in the lead-up to a hearing on “Emergency Response” mischaracterized to a *New York Times* reporter what the commission would say had happened to hijacked American Flight 77 (the one that hit the Pentagon). The mistake, says commission communications deputy Alvin Felzenberg, held the potential for “great embarrassment” because the commission did not intend to say what the article reported.<sup>59</sup> Zelikow learned of the error when it appeared in a Web version of the story, and spent much of a Saturday night persuading the reporter and his bureau chief to rewrite the story for the print edition.

“I can’t say there weren’t any leaks, because there were,” notes Gorton. “But they were certainly minimal, and the staff wasn’t doing it.” As Kean explains it: “They [the commissioners] made a difference in their minds between leaks on process and leaks that would affect national security.” Leaks were few, adds Gorton, because “the associations inside the group became more important than those outside.”

### Staff Statements

The staff, too, was drawing together. To a considerable degree, they were united by getting the work done. Their understanding of just what that meant, however, had changed more than once. Many team leaders, when they were first hired in spring/summer 2003, had assumed that their teams would write the relevant sections of the final report. Instead, Zelikow told them, he would write the report based on their investigations.

In the summer of 2003, Zelikow elaborated that each team—drawing on interviews and documents—would produce a monograph on its subject area. Then Zelikow and his former colleague from Harvard, Professor May, would use the monographs as a resource in drafting a unified final report. Zelikow had retained May, a distinguished historian with particular expertise

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<sup>59</sup> Author’s interview with Alvin S. Felzenberg, December 13, 2004, in Washington, DC. All further quotes from Felzenberg, unless otherwise attributed, are from this interview.



in US foreign policy and the intelligence community, as an advisor to the commission. The two men had collaborated on a number of books, articles and projects, and Zelikow trusted May's judgment. During the fall of 2003, each team worked on the assumption that it would write a monograph on its area of investigation.

Most staffers were not happy with this arrangement. Zelikow, says General Counsel Marcus, "was not sensitive enough to the need to give other people responsibility and satisfaction. These team leaders were shocked when he made it clear that they weren't going to have a significant role in writing the report." He adds:

People respected him because of his intellect and his abilities, but he has something of a tin ear when it comes to dealing with people. He had problems dealing with the White House because of this, too.

Kojm, as the commission's chief administrator, bore the brunt of staff frustration. As he puts it diplomatically:

This is kind of a brave new world, when you get all the alphas and all these really superb people together, how do you manage that? How do you manage a world where everybody is far above the average and you've got so many excellent people?

Zelikow had expected that some of the monographs would eventually be published.<sup>60</sup> He and May also expected large excerpts from the monographs to make their way into the final report. Instead, as the 2004 investigative hearings approached, Zelikow asked staff to generate a different kind of document. These became known as "staff statements"— a concept he borrowed from Eleanor Hill, staff director of the earlier congressional Joint Inquiry into intelligence aspects of 9/11. Commissioner Roemer, who had served on the Joint Inquiry, also recommended the use of staff statements. The statements were read at the opening of hearings as, says Zelikow, "devices to frame and set the scene for the public hearings."

The staff statements resembled background papers. Their tone was factual and neutral. The statements, says Commissioner Gorelick, "allowed us to show what we had learned so far, provided background for the hearings, and also served as an invitation to anyone who disagreed to let us know." Because so much of the material the teams covered was classified, the staff statements had to go through clearance procedures from the CIA and FBI. With time, the staff statements contributed significantly to winning the commission both public and media credibility. Says Zelikow:

Some commissioners were seen as being very partisan and having partisan objectives. The staff statements did not have a visible partisanship, so as

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<sup>60</sup> Three were in fact distributed by the commission as book-length annexes to the main report.

the partisanship and acrimony surrounding the commission built up and the storms became bigger and bigger, the staff statements were the one place where there was a secure anchor.

Staff statements also served, along with the hearings themselves, to educate the public. “We were relieved,” says Zelikow, “that there was general agreement we had chosen the right style. The substance in fact was seen as nonpartisan, and we’d found the right balance. Yet people saw that it was breaking new ground and it was hard-hitting.”

The first staff statement—*Entry of the 9/11 Hijackers into the United States*—was issued on January 26, 2004, early in the day of the seventh hearing dedicated to “Borders, Transportation and Managing Risk.” The 17<sup>th</sup> and last, *Improvising a Homeland Defense*, was made public the morning of June 17, 2004, the second day of the 12<sup>th</sup> and last hearing about the 9/11 plot and the federal government’s immediate response to the attacks.<sup>61</sup>

Quite a few of the staff statements dealt with controversial material. Team 5, for example, which examined border security issues, discovered in the course of research and interviews that several of the hijackers’ passports had been altered, but immigration officials had not noticed the forgeries. This fact was sensitive because it contradicted crucial earlier testimony to the Joint Inquiry from both DCI George Tenet and former FBI Director Mueller that the hijackers had “come in clean” such that no one could have detected them. Its discovery led the team, says Leader Ginsburg, to discern “an entirely new set of relationships between the intelligence community and the border security community, which had historically been quite separate.”<sup>62</sup> This realization eventually informed some of the commission’s recommendations on dismantling the terrorist travel infrastructure (in itself a new category of inquiry).

Most teams ended up responsible for at least one staff statement. Team 2, for example, studied the intelligence community and its pre-9/11 terrorism policies. Their staff statement, *Performance of the Intelligence Community*, was delivered on April 14 at the 10<sup>th</sup> public hearing. The work schedule to produce staff statements was grueling. Just days before the hearing Team 2, together with the Front Office, worked on final revisions from 8 p.m. to 4 a.m. The statement then went to the White House for classification review.

The first four staff statements (SS) established the writing process for all the rest, and gave the teams extensive practice in writing together and editing together. Zelikow assigned SS-1, 3 and 4 to individual teams whose investigations corresponded with those topics. SS-2, because it would require input from three separate teams, he decided to write himself from information provided by

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<sup>61</sup> For a list of all the staff statements, their dates, team investigators and the hearings for which they were prepared, see Appendix 4.

<sup>62</sup> Author’s interview with Susan Ginsburg, Washington, DC, on January 6, 2005. All further interviews with Ginsburg, unless otherwise attributed, are from this interview.

the teams. The drafts then circulated between Front Office and team until they were ready to submit to the White House for classification review. “It was a genuinely collegial process,” says Zelikow. “We ended up with a product that was much better than any of us would have envisioned at the start.”

Team 2 Leader Scheid admired the editing system, though he termed it a “murder board ... It just really improved the product and made us fight for every word, and have a justification for every word.” Zelikow and Kojm, adds Scheid, “policed for any sort of politicization of the issues.” Through the process, team members acquired a common writing voice, which was close to Zelikow’s own. That often meant, says Scheid, “a brighter language or a brighter text.”

The first statements, recalls Front Office member Kaplan, were fairly straightforward—the authoring teams and the Front Office together edited them, and Kaplan implemented the changes. SS-5, 6, 7, and 8, however, were far more contentious and it was hard to keep track of the consensus. So a second editing system developed. Starting in April 2004, they attached a laptop computer with the statement to a digital projector in the main conference room. “With the text of the draft projected on the wall, and with someone at the keyboard recording the changes, everyone in the room could edit the document together and literally stay on the same page,” says Kaplan. Thus, when the meeting was done, so was the draft. This process continued throughout the editing of the final report.

By May and June, the staff statements—especially getting them declassified—became a serious drain on staff because they were also preparing for hearings, briefing the commissioners, and writing the report and recommendations. But for all the blood and sweat, the staff statements proved that a group approach to writing the final report could work. They confirmed, says Gorelick, “that sharing responsibility for writing with those who knew the substance the best was the right course.” They also provided, recalls Zelikow, a “dramatic vindication of both the process and substance of our approach to the draft [report], which had been very controversial internally before that. Therefore, [the statements] enormously strengthened our hand on every level in managing the process the way we wanted to from then on.” They also created a narrative record which witnesses could endorse or contradict—and in some instances corrections were made, or reactions led to discovery of new evidence.

## Writing the Report

The way Zelikow wanted to write the report had changed with the pressure of time and other work demands. In the spring of 2003, Zelikow had asked Professor May to draw up an outline of the entire report. May’s work, which resembled a table of contents, created the basic architecture of the report—order of chapters, chapter headings, subheadings. The two showed the outline to Kean and Hamilton during 2003, but submitted it to other commissioners only in March 2004. Zelikow was deliberately secretive about the report outline; he calls himself a “black hole on

this." May elaborates that the outline "was perhaps the most sensitive document in circulation because differences of opinion about the character of the report could create irreparable divisions within the commission or the staff or both."<sup>63</sup>

But by February 2004, Zelikow had substantially modified his approach to writing the report. He perceived that its scope was too broad for him to be able to write or edit it virtually alone. He abandoned the idea of single authorship in favor of asking individuals—whom he and May, not the team leaders, selected—from each team to draft chapters. The Front Office, complemented by interested commissioners and relevant staff, then edited the draft in what became lengthy group sessions. The challenge, says Zelikow, "was how we could all work collaboratively in a collective process yet maintain kind of a common voice in a kind of standard style."

Using the staff statements as groundwork, the designated members of the relevant teams wrote draft chapters or sections of chapters. Some 30 staff contributed substantially. John Farmer, for example, with Teams 7 and 8 drafted the two most gripping chapters—No. 1 ("We Have Some Planes") and No. 9 ("Heroism and Horror"). Dietrich Snell and his team wrote the draft chapters on the plot (No. 5, "Al Queda Aims at the American Homeland," and No. 7, "The Attack Looms"). John Roth wrote much of the material on terrorist financing. "The work product," says Hamilton, "was very much a staff product."

Once a draft was ready, the hardest work began. Drafts were gone over word by word, sentence by sentence, line by line, for hours. Interested commissioners joined in. The most involved were Gorelick, Roemer, Ben-Veniste, Gorton, Lehman and Kerrey. The most politically freighted chapters, remembers Vice Chair Hamilton, could go through as many as six iterations because "the underlying tension here was partisan: it was between the Democrats who wanted to protect Clinton, and the Republicans who wanted to protect Bush." He adds:

Tom and I played the role in those discussions of facilitator ... We were worried about the clock. What Tom and I did in this process was to push them to move faster. What we did not do was enter into the discussion of what adjective should be used and what fact should be emphasized.

From Commissioner Gorton's point of view, Kean and Hamilton—the latter because he had chosen to focus on the recommendations—largely left the details of the narrative up to their commissioners:

Tom Kean almost never expressed a view on anything substantive, almost to the end. He had that marvelous old aristocratic view of people. I think

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<sup>63</sup> Ernest May, unpublished draft of an article on the 9/11 Commission, November 2004.

we got to the point where no one wanted to hurt Tom Kean ... Hamilton rarely engaged in debates over the history.<sup>64</sup>

The entire commission went over the entire report at least three times. Roemer, with Fielding's support, made an important narrative suggestion: that the story begin with the events of September 11 rather than, as originally planned, with the rise of Al Qaeda. Inevitably, discussion sometimes bogged down. That's when Kean asked the staff to resolve the impasse. Recalls Kean: "After anywhere from five to 45 minutes of conversation of the points, I would turn to Chris Kojm or Philip and I'd say, 'Have you all got enough so you can write it?' ... There was a point where the discussion was not going anywhere, and I figured well, let them try it." The process was unusual, notes Zelikow:

You get the hand of central direction and central vision, but you can't just do it as a top-down process. You have to really bring the people who are doing the work along with you so that they internalize a lot of the elements of the style. If you can pull that off, then you've achieved something unusual in a group way.

The style and tone evolved to reflect a range of influences. Staff members credit Zelikow with setting the impartial narrative tone, but also say Kojm brought a brutal editorial knife to the writing in the service of making language direct and simple. Individual commissioners also supplied numerous paragraphs and sections. Each team considered its topic the most critical; each suffered as large sections were cut to make the whole story flow. Extensive footnotes provided some consolation. The editing sessions typically started at dinnertime and ran into the small hours of the morning.

Both Democrats and Republicans felt the pressure of ensuring facts were presented in a balanced fashion. The Democratic commissioners, says Gorelick, felt a special burden to be vigilant because while the Bush White House had ample opportunity through the clearance process to argue over facts with which it disagreed, the Clinton Administration did not. For his part, Zelikow says that to achieve the necessary objectivity in writing about people he knew in both administrations, he made a deliberate effort to imagine he was writing about an administration 40 or 60 years earlier, such as the Kennedy or Wilson Administrations. "I would turn the telescope around and consciously push them back in time and treat them as these characters [from the past]," he says. He also tried to put himself in the position of the people the commission was writing about. He says:

I thought it was really important to try very hard to be fair to people, and to empathetically try to recapture their world and their dilemmas. We

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<sup>64</sup> Second half of quote is from an email Commissioner Gorton sent the author, August 9, 2005.



came down, nevertheless, with some pretty hard conclusions about failures and missed opportunities.

**Political Hot Topics.** There were numerous difficult passages and subjects. Some had too much current political resonance. For example, were there connections between Iraq strongman Saddam Hussein and Al Qaeda? In particular, did hijacker Mohammed Atta meet an Iraqi intelligence officer in Prague in April 2001? Commissioners were well aware that, in the wake of the 2003 war with Iraq, the answers carried political consequences—but they also considered it indisputable that the report should include what they had learned.

Based on the facts, the commission staff decided that while there were Al Qaeda-Iraqi contacts over the years, they had never progressed to active cooperation. Looking for exact language, the report said Hussein and Al Qaeda never had a “collaborative operational relationship.” As for the Atta Prague meeting, says Team Leader Snell, “everybody was in agreement that we had to say something about this.” Commission staff had concluded that the meeting never took place—but decided to devote a special box in Chapter 7 to their investigation of the alleged meeting.

Some passages posed editorial challenges because the facts were inconsistent. For example, the team examining the 9/11 plot decided it could not make a clear judgment on whether the hijackers had a network of assistants in the US. Others required extraordinary political tact. Thus, no one could find language to—in a neutral fashion—interpret some of the actions taken by Presidents Clinton or Bush. The Front Office, plus the teams, developed a strategy for resolving such impasses: state the facts and let readers judge for themselves. In Commissioner Ben-Veniste’s view, this meant some sections were “sanded down so that neutral language was used simply to present the facts and allow the reader to draw the conclusions.”

But Zelikow applauds the result. “We didn’t pull our punches on any of the facts related to either President or to any agency,” says Zelikow. “But we didn’t write additional paragraphs saying here, this is what this means.” He recalls that some early drafts did include interpretive flights, but the staff and commissioners objected strongly and so they were dropped. The editing, says Commissioner Fielding, was difficult because there was a “funny line not to cross.”

You didn’t want to pull a punch, and yet you didn’t want to be biased, get away from the facts themselves. You couldn’t just drop an issue because it was too hot.

Another difficult question was how much credibility to give detainee accounts, particularly that of Khalid Sheikh Mohammed—a crucial witness to 9/11 planning. To address this problem, writers carefully attributed statements to those who made them. “The challenge,” comments Snell, “was whether you could be confident enough in the material to be able to say this is what happened, as opposed to this is what somebody says happened.” He continues:

My concern was that we not put something out where we would overstate the confidence that we might have as to how right it really was. Because none of us was there, and there's an awful lot of circumstantial evidence that has to be used to draw conclusions.

Only two weeks before the commission deadline did all 10 commissioners agree on the narrative, as told in 11 chapters over nearly 400 pages.<sup>65</sup> That was also about the time that the commission realized it would, in fact, meet the deadline. "We could not have gotten the report done unless a lot of people basically worked much harder and much better than any manager should have a right to expect," says Zelikow. "We were fortunate. You can't plan on superhuman effort."

*A Publisher.* Then there was the matter of who would publish the report. The Government Publications Office (GPO) intended to publish it, but said at first it would have to charge \$65 a copy. GPO also said it would need three weeks to print, could not guarantee distribution to bookstores and could not ensure the book would be available the day of the report's release. This did not accord with the vision Kean, Hamilton and Zelikow had embraced 18 months earlier of distributing copies in bookstores nationwide at a reasonable price. To accomplish this, they would apparently need a commercial publisher. On May 19, 2004, they announced that W.W. Norton & Co. would publish the report at \$10 a copy.<sup>66</sup> It would be made available in bookstores across the country. No royalties could flow to the commission, but Norton would donate a portion of earnings to charity.

There was a brief flurry of negative press reports alleging favoritism because Norton had been Zelikow's publisher.<sup>67</sup> That charge was wrong; Norton was the publisher for the center Zelikow headed at the University of Virginia. He personally never had a contract with Norton. Chairman Kean responded that Norton had been selected because it offered the best proposal. The matter subsided quickly.

## Making Recommendations

As the report approached completion, so did the commission's recommendations. Professor May and Zelikow had initially envisioned six short chapters of recommendations organized by topic such as intelligence or national defense. Instead, the commission produced two longer chapters: one on future counterterrorism strategy, the second on how to organize government in pursuit of that strategy. They constituted Chapters 12 and 13 of the final report.

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<sup>65</sup> For a list of the chapters and subchapters, see Appendix 5.

<sup>66</sup> GPO eventually produced its own version at a comparable price.

<sup>67</sup> The article originally alleging conflict of interest was: Philip Shenon, "9/11 Panel Chooses Publisher for Report," *New York Times*, May 25, 2004, p.A20. For another look at the topic, see Allan Wolper, "Who is 'sore loser' in 9/11 book deal?" *Editor & Publisher*, July 2004, Vol. 137, Issue 7.

Vice Chair Hamilton had made the recommendations his special interest from the start. To guide him, he emphasizes, he turned time and again to the commission's authorizing statute—which “really drove the recommendations.” As early as summer 2003, Hamilton met with each team in turn to discuss the nature of the recommendations which would emerge from their investigation. He wanted only a few: three or four, not 50. Separately, he convened an unofficial advisory committee of what he calls “wise men”—some 20 individuals such as former National Security Advisor Brent Scowcroft, former Secretary of Defense William Cohen, Brookings Institution head Strobe Talbott and former Secretary of State George Shultz—to ask their advice. He also met with almost all the members of the House and Senate intelligence committees. Based on this collective counsel plus their own work, Hamilton, Kean, Zelikow and Kojm drafted a number of recommendations. These went first to the relevant staff for modifications and additions, and then to the commissioners for their comments.

There was minimal debate over what the recommendations should address. Both the statute creating the commission, and the investigation itself, made the topics clear: intelligence, law enforcement, aviation security and so forth. All the commissioners, for example, agreed that they had to decide whether or not to recommend the creation of a new position: national intelligence director (NID) to oversee all intelligence agencies. This question had plagued many earlier commissions dealing with intelligence reform. In the end, the commissioners concluded that such a position was essential. “We all came to the idea of the NID,” says Thompson, “because our notion was that having the head of the CIA as the head of the rest of the [intelligence] community didn't work and, in a political culture like ours, it couldn't work.” Commissioner Lehman took an active role in helping to draft consensus language.

There was, however, spirited debate on the details of the recommendations. “Each one of us,” says Commissioner Gorelick, “had issues that we literally hammered out.” Commissioners Roemer and Gorton, for example, did not agree on whether the FBI should retain both its law enforcement and its counterintelligence responsibilities. Roemer wanted to separate the two functions in all but name. Gorton believed that the FBI, under the leadership of Robert Mueller, had made significant strides in reforming itself and ought to be allowed to continue on course without outside interference. He felt the CIA under DCI Tenet, on the other hand, had done nothing. The final report recommended leaving counterterrorism intelligence collection in FBI hands *if* other recommendations—to establish a national counterterrorism center and NID—were followed.

Other matters sparking debate included the powers of the national intelligence director, how best to describe the enemy (Al Qaeda), and the breadth of congressional oversight. On the nature of the enemy, for example, there was disagreement. Did the US face a political challenge, to which there was a political answer? Or was this a conflict motivated by religion, which could be answered only with force because compromise was impossible? The discussion was settled when Commissioners Gorton and Kerrey jointly submitted language Gorton drafted, which tended more

toward the latter view. The other commissioners accepted it without dissent and the text became part of Chapter 12.<sup>68</sup> In another example, Hamilton and Zelikow were adamant that foreign policy recommendations lead the list and include US policy toward Saudi Arabia, Pakistan and other nations, while other commissioners questioned whether that was the commission's mandate. "There were almost existential debates," recalls Gorelick, "about who we were and what we should be opining on. We tried to adhere to the principle that the recommendations had to flow from the problems that we found." The thorniest disputes were settled either by extended discussion reaching eventual consensus, or during occasional side meetings when the chair or vice-chair pulled commissioners aside before or after Commission meetings.

Individual commissioners pursued their particular passions. Lehman worried about inadequate monitoring of immigration. Thompson and Gorelick wanted to see a national counterterrorism center established. Roemer contributed a section on public diplomacy (educating the Arab world about the US), and one on proliferation. Commissioner Gorelick was firm in her insistence on addressing civil liberties in the recommendations. "I read the whole report," she says, "and felt that we cumulatively had made a number of recommendations with which I concurred but which, when read together with actions already taken like the Patriot Act, created what would be viewed as a draconian set of governmental powers that needed to be offset by mindfulness of civil liberties."

Up until the very end, several commissioners—Roemer and Gorton among them—intended to provide additional, dissenting views.<sup>69</sup> But on the final day, as the recommendations came together, Commissioner Gorton recalls that "people one after another said no, it's more important there not be any differences." They refrained from writing extra views so there could be agreement down to the last footnote. That, says Gorton, grew out of "this immense feeling of satisfaction and respect for one another after a year and a half." Thompson recalls his amazement that the group reached consensus "within the context of a very partisan presidential campaign. It's incredible that we were able to hold ourselves apart from that."

When the draft was completed, it was handed over to separate groups from the Pentagon, CIA and FBI for clearance. Thanks to the fact that the staff statements had already prepared the ground for clearance, as well as extraordinary cooperation from the Administration, the draft was cleared within two weeks. Among other changes, the commission deleted some names of detainees the CIA had not yet identified as captured (though the media had printed their names). The manuscript went to Norton's for printing on July 17.

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<sup>68</sup> The language is part of Section 12.1, pp. 362-363 in the final report.

<sup>69</sup> Gorton explains that he was concerned about earlier characterizations of the enemy as a mostly political problem. His concern was allayed when his language was accepted for the final report. Gorton email to author, August 9, 2005.

## Release of Report

The commission's final report was released to the public on Thursday, July 22, 2004—four days before the deadline of July 26. Commissioners decided on the early release in order to avoid conflict with presidential election conventions scheduled for the following weeks. On Wednesday, July 21, Chairman Kean and Vice Chairman Hamilton formally briefed the White House and leaders of Congress on the report. Norton meanwhile shipped 600,000 copies to bookstores across the country for a noontime Thursday release. On Thursday morning, the chair and vice chair personally delivered copies of the report to President Bush and key congressional leaders.

One of the biggest unknowns, up to the day of publication, was the reaction of the families. "I don't think any of us knew how they were going to accept the report," says staff member Kaplan. The staff had gone so far as to create an annotated index for the families which gave them the relevant page numbers in the report where they could find answers to their questions. Walker and Hartz, the commission's liaisons to the families, were even more skeptical. "I could not have predicted what their reaction would be. It really took me by surprise," remembers Walker.

To the commission's delight, the families were supportive—thanks in no small measure to Commissioner Roemer and his efforts to build bridges to the families. Sometime during the summer, they apparently decided that the commission had done the best job it could under the circumstances. "If they had wanted to," acknowledges Zelikow, "they could have done a lot to delegitimize us, but they made a deliberate decision not to do that."

## Changing the Law

The commission, as mandated, wrapped up its official activities on August 21, 2004. Before closing down, it published two monographs. Final expenditures came to \$13.6 million.

Its members, however, did not disband. Instead, they formed a nonprofit organization—the 9/11 Public Discourse Project. Its president was commission Deputy Director Kojm; the former commissioners comprised its board of directors; its mandate was to ensure a robust public debate on the commission's recommendations. "It's hard for me to remember a commission who, when their official duties ended, stayed on and made sure that the report was turned into legislation," says Commissioner Thompson.

Throughout the fall of 2004, the commission report and its recommendations received extraordinary attention and did become part of the presidential campaign. The Democratic nominee, Massachusetts Senator John Kerry, endorsed it immediately as consistent with his platform. The White House offered public support of its recommendations in early August. Congress reconvened in extraordinary session during the August recess and held some two dozen



committee hearings on the recommendations. The report sold over 1.5 million copies. It was even in the running for a National Book Award.

**Reservations.** Not all reactions to the commission's report were positive. Some criticisms focused on recommendations; others on the report's narrative; and yet others on the implementation process. The recommendation to create a new director of intelligence, for example, met with considerable skepticism. Some felt it would simply add a layer of bureaucracy. Others, Democrats and Republicans alike, objected to placing the new director within the White House, but confirmed by the Senate. They feared that such an arrangement would politicize intelligence. Senator John Warner (R-Virginia), chair of the Armed Services Committee, voiced his "strong feelings that there was a need to depoliticize the head of intelligence." His Democratic colleague Senator Carl Levin (Michigan), a member of both the armed services and the intelligence committees, expressed concern about "whether or not we can separate any kind of political pressure from the intelligence assessments."<sup>70</sup>

As for the narrative, some critics charged that, in its effort to avoid blaming individuals, the report failed to establish accountability. Others faulted the commission for deciding to sidestep the Iraq war issue. Richard Clarke, for one, said the commission—in search of consensus—produced a "workmanlike" report which avoided controversy.<sup>71</sup> "In pulling its bipartisan punches," he wrote, "the commission failed to admit the obvious: we are less capable of defeating the jihadists because of the Iraq war."<sup>72</sup> Charles Hill, a fellow at the Hoover Institution at Stanford University and former aide to Secretaries of State George Shultz and Henry Kissinger, had a different complaint: that by its focus on changing institutions, the report had "crowded out attention to the nature of the enemy we face."<sup>73</sup>

Finally, as momentum built to enact the commission's recommendations, worries emerged that political pressure to implement—fortified by the rhetoric of a presidential campaign—might lead to hasty and unnecessary bureaucratic fixes rather than effective reform. As Senator Chuck Hagel (R-Nebraska), a member of the Senate Select Committee on Intelligence, put it: "We must not allow false urgency dictated by the political calendar to overtake the need for serious reform."<sup>74</sup>

Nonetheless, the campaign to reform the intelligence infrastructure gathered strength, overcoming initial reluctance in both the White House and Congress to expedited action. The former commissioners had powerful new allies—the 9/11 families. Through relentless lobbying,

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<sup>70</sup> Walter Pincus, "Bush, Aides Discuss Findings of 9/11 Panel," *Washington Post*, July 27, 2004, p.A2.

<sup>71</sup> Dana Millbank and Walter Pincus, "Sept. 11 Commission Purposely Avoided Judgments on Iraq War," *Washington Post*, July 25, 2004, p.A6.

<sup>72</sup> Richard Clarke, "Honorable Commission, Toothless Report," *New York Times*, July 25, 2004, Section 4, p.11.

<sup>73</sup> Charles Hill, "Commissionism," *Wall Street Journal*, July 23, 2004, p.A12.

<sup>74</sup> Chuck Hagel, "Intelligence Reform and False Urgency," *Washington Post*, August 3, 2004, p.A17.

press conferences and other actions, the families let the world know that they intended to see legislation enacted which they believed would prevent another attack like September 11.

The tactics paid off. Both the House and Senate passed bills before the election on November 2, 2004, which returned President Bush to office. The two bills were quite different, however. For the month following the election, a House-Senate conference committee debated the details of the legislation. Conservatives were especially concerned about immigration and law enforcement provisions. But compromise was finally reached. On December 7 the House, followed by the Senate on December 8, passed a bill to overhaul the US intelligence community, and sent it to the President to sign.

*Revamp Intelligence.* On December 17, 2004, President Bush—flanked by Commission Chair Kean, Vice Chair Hamilton and congressional leaders—signed into law the most sweeping reorganization of the US intelligence community since the creation of the Central Intelligence Agency in 1947. The law revamped the nation’s intelligence structure, combining 15 separate intelligence agencies under a single director—with control over most of those agencies’ budgets—who reported directly to the President. It also, among many other measures, created a national counterterrorism center, strengthened airline and border security, and established a civil liberties board.

The former commissioners were gratified—not least because their prospects at times had seemed so dim. Chairman Kean, looking back at the commission experience, acknowledges that—particularly as a fellow Republican—his stand-offs with the White House were sometimes personally difficult. “I think it’s still true in some areas of the White House that I’m looked at as the guy who gave us more problems than anybody else,” he notes wryly. “It’s not easy, but it’s what you’ve got to do so you do it.”

**Appendix 1**  
**Commissioners, National Commission**  
**on Terrorist Attacks Upon The United States**

Thomas H. Kean, *Chair*  
Former Governor of New Jersey, Republican

Lee H. Hamilton, *Vice chair*  
Former Congressman from Indiana, Democrat

Richard Ben-Veniste  
Litigator, former Chief of Watergate Task Force, Democrat

Max Cleland (December 2002-December 2003)  
Former Senator from Georgia, Democrat

Bob Kerrey (December 2003-August 2004)  
Former Senator from Nebraska, Democrat

Fred F. Fielding  
Former White House Counsel, Republican

John F. Lehman  
Former Secretary of the Navy, Republican

Jamie S. Gorelick  
Former Deputy Attorney General, Democrat

Timothy J. Roemer  
Former Congressman from Indiana, Democrat

Slade Gorton  
Former Senator from Washington, Republican

James R. Thompson  
Former Governor of Illinois, Republican

## Appendix 2 Commission Teams

Team 1: Al Qaeda, its organization and history

Location: K St. SCIF

Team leader: Douglas J. MacEachin

Team 1A: The 9/11 Plot

Location: K St. SCIF

Team leader: Dietrich L. Snell

Team 2: Intelligence Collection, Analysis and Management

Location: K St. SCIF

Team leader: Kevin J. Scheid

Team 3: Counterterrorism Policy

Location: K St. SCIF

Team leader: C. Michael Hurley

Team 4: Terrorist Financing

Location: K St. SCIF

Team leader: John Roth

Team 5: Border Security and Foreign Visitors

Location: L'Enfant Plaza

Team leader: Susan Ginsburg

Team 6: Law Enforcement and Intelligence Collection Inside the United States (FBI)

Location: L'Enfant Plaza

Team leader: L. Christine Healey

Team 7: Commercial Aviation and Transportation Security

Location: L'Enfant Plaza

Team leader: Sam Brinkley (until spring 2004)

Team 8A: Immediate Response to the Attacks: NORAD, FAA, national decisionmaking

Location: L'Enfant Plaza

Team leader: John Farmer

Team 8B: Immediate Response to the Attacks: New York City and the Twin Towers (local, state and national emergency management)

Location: New York City

Team leader: John Farmer

### Appendix 3 9/11 Commission Hearings

- No. 1: **March 31 - April 1, 2003**; Alexander Hamilton US Customs House, New York City  
Dialogue about the Commission's goals and priorities
- No. 2: **May 22 - 23, 2003**; Washington, DC  
Congressional oversight, aviation security
- No. 3: **July 9, 2003**; Washington, DC  
"Terrorism, Al Qaeda, and the Muslim World"  
Washington, DC
- No. 4: **October 14, 2003**; Washington, DC  
"Intelligence and the War on Terrorism"  
Washington, DC.
- No. 5: **November 19, 2003**; Drew University, Madison, New Jersey  
"Emergency Preparedness"
- No. 6: **December 8, 2003**; Washington, DC  
"Security and Liberty"
- No. 7: **January 26-27, 2004**; Washington, DC  
"Borders, Transportation, and Managing Risk"  
Washington, DC
- No. 8: **March 23-24, 2004**; Washington, DC  
"Counterterrorism Policy"
- No. 9: **April 8, 2004**; Washington, DC  
Testimony from Dr. Condoleezza Rice
- No. 10: **April 13-14, 2004**; Washington, DC  
"Law Enforcement and the Intelligence Community"
- No. 11: **May 18-19, 2004**; New School University, New York City  
"Emergency Response"
- No. 12: **June 16-17, 2004**; Washington, DC  
"The 9/11 Plot" and "National Crisis Management"

For additional details, see: <http://www.9-11commission.gov/hearings/index.htm>



## Appendix 4 Staff Statements

No. 1: *Entry of the 9/11 Hijackers into the United States*

Investigators: Susan Ginsburg, Thomas Eldridge, Janice L. Kephart-Roberts  
Prepared for Hearing No. 7: "Borders, Transportation and Managing Risk"  
Washington, DC Jan. 26-27, 2004

No. 2: *Three 9/11 Hijackers: Identification, Watchlisting and Tracking*

Investigators: Douglas MacEachin, Barbara Grewe, Susan Ginsburg, Lloyd Salvetti, Alexis Albion, Thomas Eldridge, Michael Hurley, Lorry Fenner  
Prepared for Hearing No. 7: "Borders, Transportation and Managing Risk"  
Washington, DC; January 26-27, 2004

No. 3: *The Aviation Security System and the 9/11 Attacks*

Investigators: William Johnstone, John Raidt, Sam Brinkley  
Prepared for Hearing No. 7: "Borders, Transportation and Managing Risk"  
Washington, DC; January 26-27, 2004

No. 4: *The Four Flights*

Investigators: John Raidt, William Johnstone, Sam Brinkley  
Prepared for Hearing No. 7: "Borders, Transportation and Managing Risk"  
Washington, DC; January 26-27, 2004

No. 5: *Diplomacy*

Investigators: Scott Allan, Michael Hurley, Warren Bass, Dan Byman, Thomas Dowling, Len Hawley  
Prepared for Hearing No. 8: "Counterterrorism Policy"  
Washington, DC; March 23-24, 2004

No. 6: *The Military*

Investigators: Bonnie Jenkins, Michael Hurley, Alexis Albion, Ernest May, Steve Dunne  
Prepared for Hearing No. 8: "Counterterrorism Policy"  
Washington, DC; March 23-24, 2004

No. 7: *Intelligence Policy*

Investigators: Alexis Albion, Michael Hurley, Dan Marcus, Lloyd Salvetti, Steve Dunne  
Prepared for Hearing No. 8: "Counterterrorism Policy"  
Washington, DC; March 23-24, 2004

No. 8: *National Policy Coordination*

Investigators: Warren Bass, Michael Hurley, Alexis Albion, Dan Marcus  
Prepared for Hearing No. 8: "Counterterrorism Policy"  
Washington, DC; March 23-24, 2004

No. 9: *Law Enforcement, Counterterrorism, and Intelligence Collection in the United States Prior to 9/11*

Investigators: Caroline Barnes, Christine Healey, Lance Cole, Michael Jacobson,  
Peter Rundlet, Doug Greenburg  
Prepared for Hearing No. 10: "Law Enforcement and the Intelligence Community"  
Washington, DC; April 13-14, 2004

No. 10: *Threats and Responses in 2001*

Investigators: Barbara Grewe, Michael Jacobson, Thomas Eldridge, Susan  
Ginsburg  
Prepared for Hearing No. 10: "Law Enforcement and the Intelligence Community"  
Washington, DC; April 13-14, 2004

No. 11: *The Performance of the Intelligence Community*

Investigators: Kevin Scheid, Lorry Fenner, Gordon Lederman, Lloyd Salvetti,  
Doug MacEachin  
Prepared for Hearing No. 10: "Law Enforcement and the Intelligence Community"  
Washington, DC; April 13-14, 2004

No. 12: *Reforming Law Enforcement, Counterterrorism, and Intelligence Collection in the United States*

Investigators: Peter Rundlet, Christine Healey, Caroline Barnes, Lance Cole,  
Michael Jacobson  
Prepared for Hearing No. 10: "Law Enforcement and the Intelligence Community"  
Washington, DC; April 13-14, 2004

No. 13: *Emergency Preparedness and Response*

Investigators: Sam Caspersen, George Delgrosso, Jim Miller, Madeleine Blot, Cate Taylor,  
Joseph McBride, Emily Walker, John Farmer. Audio-visual: Allison Prince  
Prepared for Hearing No. 11: "Emergency Response"  
New York, NY; May 18-19, 2004

No. 14: *Crisis Management*

Investigators: Sam Caspersen, Emily Walker, Mark Bittinger, Kevin Shaeffer,  
George Delgrosso, Jim Miller, Madeleine Blot, Cate Taylor, Joseph McBride,  
John Farmer  
Prepared for Hearing No. 11: "Emergency Response"  
New York, NY; May 18-19, 2004

No. 15: *Overview of the Enemy*

Investigators: Douglas MacEachin, Yoel Tobin, Nicole Grandrimo, Sarah Linden, Thomas Dowling, John Roth, Douglas Greenburg, Serena Wille

Prepared for Hearing No. 12: "The 9/11 Plot and National Crisis Management"

Washington, DC; June 16-17, 2004

No. 16: *Outline of the 9/11 Plot*

Investigators: Dietrich Snell, Rajesh De, Hyon Kim, Michael Jacobson, John Tamm, Marco Cordero, John Roth, Douglas Greenburg, Serena Wille

Prepared for Hearing No. 12: "The 9/11 Plot and National Crisis Management"

Washington, DC; June 16-17, 2004

No. 17: *Improvising a Homeland Defense*

Investigators: John Farmer, Miles Kara, Dana Hyde, John Azzarello, Kevin Shaeffer, Steve Dunne, Geoffrey Brown, Lisa Sullivan, Cate Taylor

Prepared for Hearing No. 12: "The 9/11 Plot and National Crisis Management"

Washington, DC; June 16-17, 2004

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## Appendix 5

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<sup>75</sup> Source: [http://www.9-11commission.gov/report/911Report\\_FM.htm](http://www.9-11commission.gov/report/911Report_FM.htm).

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