

# States' Role in Fighting Terrorism

*9-11 Commission report has implications for states*

By Chad S. Foster

**S**eptember 11, 2001, was a day of unprecedented shock and suffering in the history of the United States," said Thomas H. Kean. A former New Jersey governor, Kean was chair of the National Commission on Terrorist Attacks Upon the United States, also known as the 9-11 Commission, which issued its final report in July.



"This report is a product of a commission that came together with a unity of purpose that our nation demanded," he said.

The document sets forth broad policy recommendations for the nation in preventing and preparing for future terrorist attacks. It focuses mainly on Islamist extremism and terrorism, outlining three pillars of a global strategy: 1) attack terrorists and their organizations; 2) prevent the continued growth of Islamist terrorism; and 3) protect against and prepare for terrorist attacks.

Although the report focuses on federal and international change, many of its recommendations would directly or indirectly impact the states. The most significant implications relate to state and local law enforcement; driver's licenses and identification cards; formulas for homeland security funding; emergency management structures; and standards, technology and the private sector. Furthermore, many proposed changes for the Federal Bureau of Investigation and other federal agencies would affect the states.

## **State and Local Law Enforcement**

Whether citing civil violations or making criminal arrests, state and local police are the nation's front lines of law enforcement. Preliminary findings from a study by The Council of State Governments suggest that state law enforcement officials are already taking on many new or heightened roles and responsibilities regarding terrorism preparedness.

According to the Bureau of Justice Statistics, there were approximately 708,022 full-time state and local law enforcement personnel in 2000, including about 60,000 state law enforcement officers. The Federal Bureau of Investigation, on the other hand, employed just 11,633 special agents in 2003. The commission's report acknowledges the costs of neglecting state and local law enforcement personnel in the fight against terrorism, as well as the benefits of using them better.

For example, some of the Sept. 11 terrorists were cited for traffic violations before the attacks, while others were found to have obtained and used fraudulent driver's licenses. As this case illustrates, many experts believe there is a high probability of identifying terrorists through their involvement in "precursor" or lower-level criminal activity.

The commission recognized that "some terrorist operations do not rely on outside sources of money and may now be self-funding, either through legitimate employment or low-level criminal activity."

Emphasizing this connection, the report stresses that "counterterrorism investigations often overlap or are cued by other criminal investigations, such as money laundering or the smuggling of contraband. In the field, the close connection to criminal work has many benefits."

For this connection to occur, state and local agencies must be able to gather, analyze and share criminal information and information about suspicious activity with the FBI. Likewise, these intelligence systems must also enable the sharing of information by the FBI with state and



*Commissioners Jamie Gorelick (opposite page) and Timothy Roemer during hearings of the 9-11 Commission. Photos courtesy of the commission.*

local agencies, such as terrorist watch lists and tips.

The commission recognized the need for heightened intergovernmental cooperation in terrorism prevention efforts and promoted the work of the FBI's Joint Terrorism Task Forces as a model approach. Incorporating state and local law enforcement officials and first responders, these partnerships foster heightened awareness through the sharing of information and promote a "one team" approach to preventing terrorism. Today, there are 66 local JTTFs throughout the country.

Despite this progress, the commission acknowledged that state and local law enforcement agencies "need more training and work with federal agencies so that they can cooperate more effectively with those federal authorities in identifying terrorist suspects." Although many state and local officials believe that federal agencies also need to work to remove cultural barriers, most agree that progress and heightened cooperation is evident since 2001.

"The concern with the FBI is that it has long favored its criminal justice mission over its national security mission," the report noted. Today, the FBI is shifting resources and personnel away from many criminal investigations, including white-collar crimes and drug enforcement, and toward terrorism prevention. State and local law enforcement, therefore, are more likely to be involved in criminal investigations in the states, in addition to heightened homeland security responsibilities.

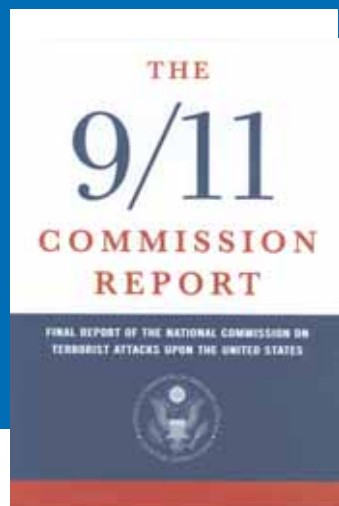
### **Driver's Licenses and Identification Cards**

Many public documents, such as driver's licenses and birth and death certificates, are managed at the state level. States are feverishly working to improve the security features on these documents and to refine issuance requirements.

"Secure identification should begin in the United States," according to the report. "The federal government should set standards for the issuance of birth certificates and sources of identification, such as driver's licenses."

Since Sept. 11, there has been a push for more uniform standards for driver's licenses. The question of whether states or the federal government should control standards, however, is controversial. In 2002, The Council of State Governments passed a resolution supporting "multistate cooperation that promotes state control of the standards and processes for issuing driver's licenses and identification cards."

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In addition to improving security features and issuance standards, states are developing and implementing new technologies and training for police officers to better identify fraudulent driver's licenses. Authentication of driver's licenses and identification cards has historically been a challenge for state and local law enforcement, especially given that each state's license has a unique appearance and security features.

In addition to national standards for issuing identification documents, the commission recommended a coordinated strategy to help spot potential terrorists by focusing on identifications and other travel documents. "The United States should combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility," the report advised. "Information systems able to authenticate travel documents and detect potential terrorist indicators should be used ... in intelligence and enforcement units."

### Formulas for Homeland Security Funding

In recent years, the federal government has provided homeland security funding to states based on population formulas, believing that every state needed a baseline level of preparedness. Now, the federal government is refocusing its support based on risk and vulnerability factors.

For example, because of their high population densities and because they house many of the nation's critical infrastructures, large urban areas began to receive direct funding through the U.S. Department of Homeland Security's Urban Areas Security Initiative in 2003. Although officials nationwide continue to struggle with how to identify critical infrastructure, vulnerabilities and risks, the federal government will likely maintain this approach to funding in the future.

"Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities," the commission recommended. "Federal funding should only supplement state and local resources based on the risks or vulnerabilities that merit additional support."

### Emergency Management Structures

The commission urged emergency response agencies throughout the country to adopt the Incident Command System. A component of the National Incident Management System, ICS is "the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure ... used by all levels of government." according to the National Emergency Management Association.

The report said the Department of Homeland Security "should consider making funding contingent on aggressive and realistic training in accordance with ICS and unified command procedures."

A recent survey by the National Emergency Management Association revealed that 30 states already require the use of ICS in disaster response. To fulfill this mandate and encourage the system's use statewide, 47 states provide training in the use of ICS through their emergency management agencies. According to a 2004 NEMA report, "states are now more committed to integrating use of the standardized response system into planning, training and exercises for all entities involved in disaster response."

"Emergency response agencies have long recognized the importance of a structured and predictable system of communication and coordination for disaster response," said NEMA Executive Director Trina Sheets. "Having ICS recognized as the cornerstone to the NIMS simply codifies its use nationwide."

The commission also recommends that "public safety organizations, chief administrative officers, state emergency management agencies, and the Department of Homeland Security should develop



Photo courtesy of the 9-11 commission.

a regional focus within the emergency responder community and promote multijurisdictional mutual assistance compacts."

Mutual aid may occur among local jurisdictions or among states themselves. One such multistate agreement is the Emergency Management Assistance Compact. Adopted in 48 states and two territories, this agreement allows states to readily share resources during times of disaster by outlining reimbursement expectations and liability for out-of-state workers. EMAC was widely used in response to Hurricanes Charley and Frances, which severely impacted Florida in August and early September. Congress ratified the compact in 1996.

Continued on page 37

# Fighting Terrorism

Continued from page 30

## Standards, Technology and the Private Sector

The commission's report recounts the difficulties first responders at the World Trade Center had communicating with each other. There are many challenges with developing interoperable communications for first responder stakeholders, including costs, technology, governance and a limited radio spectrum.

The commission recommended that "Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes." Although this is an important step in a long-term strategy, states are seeking short-term solutions to the interoperability problem.

The private sector not only manufactures much of the equipment for first responders, it is responsible for roughly 85 percent of the nation's critical infrastructure. Finding the right balance between government regulation and industry-driven solutions is an ongoing challenge for the states.

To this end, the commission endorsed the American National Standards Institute's recommended standards for private preparedness, which address businesses' general preparedness, disaster management, emergency management and business continuity programs. The panel also "encourage[d] the insurance and credit-rating industries to look closely at a company's compliance with the ANSI standards in assessing its insurability and creditworthiness."

## Future Challenges

While outlining the circumstances related to the Sept. 11 attacks and making recommendations, the commission identified several sensitive or problematic issues that warrant close scrutiny in the future.

First, states need to find a balance between quantitative and qualitative measurements for homeland security preparedness and progress. The report cites the dangers in relying only on vague, qualitative measures that raise accountability concerns and the possibility of unlimited spending. The commission noted, however, that "government cannot measure success in the ways that private firms can," referring to the private sector's close adherence to quantitative criteria. Despite the need for clear objectives and guidance, homeland security requires a delicate balance of qualitative and quantitative measurements.

The commission also acknowledged the challenge for the country in dealing with Islamic nations and communities while responding to acts of Islamist extremism. On a domestic level, states need to be sensitive about the messages sent to Islamic citizens regarding the nation's policies and responses. Furthermore, Islamic communities may warrant additional protection from acts of hate crime, such as those that occurred soon after the Sept. 11 attacks.

Finally, national and state homeland security policies must strike a balance among security, privacy and civil liberties. "As the president determines guidelines for information sharing among government agencies and by those agencies with the private sector, he should safeguard the privacy of individuals about whom information is shared," the report urged. "While protecting the homeland, Americans should be mindful of threats to vital personal and civil liberties."

## Founding of the 9-11 Commission

On November 27, 2002, President George W. Bush signed Public Law 107-306 establishing the National Commission on Terrorist Attacks Upon the United States. Over the course of the following 20 months, this 10-member commission (also known as the 9-11 Commission) collected and examined facts related to the attacks. The final report, released to the public on July 22, 2004, describes these circumstances and issues recommendations to the president, Congress and the American people on measures to prevent future attacks.

To learn more about the report and the commission's work, visit [www.9-11commission.gov](http://www.9-11commission.gov).

## Joining the Fight: Terrorism Implications for State Law Enforcement

The Council of State Governments, in partnership with Eastern Kentucky University, is conducting research on terrorism implications for state law enforcement agencies. Through support from the National Institute of Justice, this 18-month project seeks to inform state leaders about the new roles and responsibilities of state-level agencies and critical implications such as new resource, communication, governance and training needs. The project will culminate in March 2005 with a final report describing research findings and recommendations for the states.

In March 2004, CSG conducted a survey of every state and territorial general-purpose law enforcement agency. More than 75 percent of respondents said they are allocating more or many more resources toward the following operational responsibilities since Sept. 11:

- Security for critical infrastructure (96 percent)
- Intelligence gathering and analysis (92 percent)
- Security for special events and dignitaries (83 percent)
- Terrorism-related investigations (76 percent)

For other preliminary findings and additional information about this project, please visit [www.csg.org](http://www.csg.org), (keyword: protect).

Although the commission formally disbanded in August, its accounts and recommendations have sparked a national debate regarding change and improvement. "We believe terrorism is the national security challenge of our generation, and now is the time to meet it," Kean said, "not as Republicans or Democrats, but together, united, as Americans." Thanks in part to the commission's work and the ensuing debate, the vital role of the states is becoming more clear.

—Chad S. Foster is a public safety and justice policy analyst at The Council of State Governments.