

[page 370] there is anything wrong with the systems. I think there is a lot wrong with how they have been used over the last ten years.

Senator Rudman did not believe that a law-enforcement culture makes it impossible for the Bureau to be an effective intelligence-gathering agency, an issue he has also addressed as chairman of the President's Foreign Intelligence Advisory Board. "The best domestic intelligence-gathering organization . . . on the ground today is the FBI," although the Senator agreed that "[t]he problem is that they have had a law enforcement mind-set." In spite of that problem, the Bureau has 56 field offices and 44 offices overseas, and, therefore, "it is not a question of trying to get a new agency to do the domestic intelligence, counterintelligence; it is a question of [getting] the resources" necessary for the task.

Following the Joint Inquiry hearings, the Commission that Governor Gilmore chairs on assessing domestic response capabilities against terrorism, released recommendations in advance of its fourth annual report in December 2002. The Commission recommended establishment of a National Counter Terrorism Center (NCTC), a "stand-alone organization" headed by a Senate confirmed, presidential appointee, "responsible for the fusion of intelligence, from all sources, foreign and domestic, on potential terrorist attacks inside the United States." The Commission also recommended that "collection of intelligence . . . on international terrorist activities inside the United States, including the authorities, responsibilities and safeguards under the Foreign Intelligence Surveillance Act, which are currently in the FBI, be transferred to the NCTC" for two reasons: First, "while the FBI remains the world's preeminent law enforcement agency, there is a big difference between dealing with a terrorist act as a crime to be punished and dealing with it as an attack to be prevented." Second, "it is important to separate the intelligence function from the law enforcement function to avoid the impression that the U.S. is establishing a kind of 'secret police.'" The proposed NCTC would not have arrest authority.

Governor Gilmore's preference is "to maintain these [domestic intelligence] functions within the FBI and to build upon [its] considerable structures, sources and resources to upgrade and improve these functions." Nevertheless, he said he would support the Commission's recommendation, given the oversight provisions and legal restrictions described in the Commission's preliminary report to ensure that our civil liberties are not diminished. Another Commission member disagreed with the [Page 371] recommendation, however, asserting in