

BACKGROUND ESSAY

Prepared by the National Strategy Forum

Skating on Stilts: Why We Aren't Stopping Tomorrow's Terrorism

September marks the nine year anniversary of the 9/11 attacks. The past decade brought new focus to America's national security and foreign policy goals. Overreach and miscalculation mingle with triumph and security, and the legacy of 9/11 will always be with us. The emotional debate about the proposed mosque at Ground Zero is proof of how far we have come and how much further we have to go. The tragedy of 9/11 was the singular focusing event of the new millennium. How America adapts and implements the lessons learned will spell the future capacity for our success in national security and international relations.

Stewart Baker has been intimately involved in national security and legal reform for many years, including his service as Assistant Secretary for Policy in the Department of Homeland Security. His new book, *Skating on Stilts*, argues that foreign states and non-state actors such as al Qaeda are not the only threats to U.S. national security. On the contrary, some of the most dangerous and divisive foes can come from within our own country or from our allies abroad.

In chronicling the history of national security reform since 9/11, Mr. Baker found surprising adversaries in the ACLU and the privacy lobbies, the European Commission, the U.S. Congress and its staff bureaucracies, and the turf-centric U.S. national security agencies such as the NSA, NSC, FBI, DoD, and CIA. In unsurprising fashion, the media capitalized on these domestic shortcomings, and have been neither honest brokers nor accurate purveyors of information regarding national security issues and reform.

In the immediate aftermath of 9/11, American citizens demanded that the government take all actions necessary to protect and safeguard the homeland. The Bush administration fashioned the Patriot Act and implemented information reform so that criminals and potential terrorists could be more quickly identified and apprehended. The principle was a trade-off between absolute privacy and the most effective security protocols. Enter the American civil liberties establishment. Their legitimate concern was whether civil liberties and privacy concerns are real or hypothetical, and how these concerns enhance or impede government national security undertakings. In Mr. Baker's view, the ACLU and other civil liberty establishments, which were supported by the media, successfully opposed new national security measures based upon their belief that new security reforms were an intrusion on civil liberties.

National Strategy Forum Speaker Series, Luncheon and Lecture

Monday, September 27, 2010

"Skating on Stilts: Why We Aren't Stopping Tomorrow's Terrorism"

**Speaker: Stewart Baker, former Assistant Secretary for Policy, U.S. Department of Homeland Security
Union League Club of Chicago, 65 W. Jackson Blvd., Chicago, Illinois**

**this event is co-sponsored by the Authors Group of the Union League Club of Chicago*

The wall between foreign and domestic intelligence gathering and sharing also impeded effective security measures. This wall, established in 1947, prevented the CIA and FBI from gathering and sharing the necessary intelligence that could have prevented terrorist attacks, and even hindered communication within the FBI itself. President Bush sought to tear down this wall by passing three laws that required the sharing of terrorist data between the intelligence law enforcement communities. However, as the domestic wall crumbled, the European Commission created an international wall of its own.

For example, the U.S. had collected trans-Atlantic passenger data for many years. In 1995, the European Commission acted to prevent data from being transferred to the U.S. because it deemed U.S. data privacy protection to be inadequate. Mr. Baker was one of the U.S. Department of Homeland Security lawyers who negotiated with the European Commission on this issue. The result? The European Commission was found to have unsubstantiated and unsupported privacy concerns regarding U.S. data protection procedures.

Mr. Baker covers a number of other topics in his book, including future trends such as bioterrorism, international wire transfers, financial network intrusions, and cybersecurity. All of these issues are prone to domestic impediments for effective security reform. Americans are rightly concerned about excessive government intrusion into their private information. However, Mr. Baker provides cogent and important reasons to collect and collate data for widely differing purposes so that patterns of criminal and terrorist activities can emerge.

Stewart A. Baker is a partner in the Washington office of Steptoe & Johnson LLP. He returns to the firm following three and a half years at the Department of Homeland Security (DHS) as its first Assistant Secretary for Policy. At Homeland Security, Mr. Baker created and staffed the 250-person DHS Policy Directorate. He was responsible for policy analysis across the Department, as well as for the Department's international affairs, strategic planning and relationships with law enforcement and public advisory committees. This work required a broad understanding of all aspects of the Department's activities, including maritime regulation, customs enforcement, immigration, identity management, SAFETY Act implementation, money laundering enforcement, government contracts, and regulation of travel and air transportation, and its role in the Committee on Foreign Investment in the United States ("CFIUS").

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