

MARKLE FOUNDATION

August 24, 2004

The Honorable Susan M. Collins
Russell Senate Office Building
Washington, DC 20510-1904

The Honorable Ernest F. Hollings
Russell Senate Office Building
Washington, DC 20510-4002

The Honorable Joseph I. Lieberman
Hart Senate Office Building
Washington, DC 20510-0703

The Honorable John S. McCain
Russell Senate Office Building
Washington, DC 20510-0303

Dear Senators Collins, Hollings, Lieberman and McCain:

On behalf of the Markle Task Force on National Security in the Information Age, and in response to a request from the Committees for technical assistance, we are pleased to submit the enclosed "Essential Elements of Legislation Should the Committees Recommend Implementing the SHARE Network."

The Markle Task Force, now in its third year, is a diverse group comprised of leading national security experts from the administrations of Presidents Carter, Reagan, George H.W. Bush, Clinton, and George W. Bush, as well as widely recognized experts on technology and civil liberties. It was created to focus on the question of how best to mobilize information and intelligence to improve security while protecting established liberties.

In December 2003, the Task Force released its second report, *Creating A Trusted Information Network for Homeland Security*. The report concluded that by using currently available technology, the government is able to set up a network that substantially improves our ability to prevent terrorist attacks and protect civil liberties. We outlined details for the necessary elements of a proposed System-wide Homeland Analysis and Resource Exchange (SHARE) Network that would more effectively combat terrorism than does our current system, while protecting privacy.

In its report, the 9/11 Commission endorsed the SHARE concept, recommending:

“The president should lead the government-wide effort to bring the major national security institutions into the information revolution. He should coordinate the resolution of the legal, policy and technical issues across agencies to create a ‘trusted information network.’”

The Commission stated:

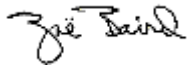
“An outstanding conceptual framework for this kind of ‘trusted information network’ has been developed by a task force of leading professionals in national security, information technology, and law assembled by the Markle Foundation.”

To assist the Committee should it decide to proceed with legislation implementing the SHARE network, and in response to your request, we have prepared the attached list of essential elements of such legislation.

We would be honored if you would distribute this letter and the attachment to your colleagues.

The Task Force is prepared to provide further additional technical assistance at your request.

Sincerely,



Zoë Baird



Jim Barksdale

Co-Chairs of the Markle Task Force on National
Security in the Information Age

cc: The Honorable Pat Roberts, Senate Select Committee on Intelligence
The Honorable John D. Rockefeller, Senate Select Committee on Intelligence

The Honorable Porter J. Goss, House Permanent Select Committee on
Intelligence
The Honorable Jane Harman, House Permanent Select Committee on Intelligence

The Honorable Christopher Cox, House Select Committee on Homeland Security
The Honorable Jim Turner, House Select Committee on Homeland Security

Markle Task Force Response to Senate Committees' Request for Technical Assistance: Essential Elements of Legislation Should the Committees Recommend Implementing the SHARE Network

Findings:

- Findings from 9/11 Commission Report
- Powerful statement of urgency
- Reference Markle Task Force reports for attributes of SHARE network
- Make clear that SHARE is a trusted information sharing and collaboration network that provides security and protects privacy and civil liberties, combining technology and policy. It is not just a new communications network.
- TTIC, while a step in the right direction, by itself does not solve the problem

Mandate establishment of the SHARE network with the guidelines and attributes below.

Architecture: The President shall develop the SHARE network capability as soon as possible, including the guidelines and architecture for agency implementation. Require that President in consultation w/ DHS, DOD, CIA/NID, DOJ/FBI, present to Congress within 180 days a system design and implementation plan that includes:

- the governance, legal and policy, and process framework for an information sharing network that prevents terrorism and protects the security of our homeland, while preserving civil liberties;
- the high level system architecture and requirements for the SHARE network capability, linking and enhancing existing networks;
- a review of relevant current federal agency capabilities;
- a plan, including a timeline, for the phased implementation of the SHARE network capability;
- budget requirements;
- proposal for any legislation needed to implement;
- identification of the agency or agencies that will build the infrastructure uniquely needed for management and operation of the network.

Architecture and Building: Congress designates Director of OMB, assisted by any other officials that may be designated by President, to prepare system design and implementation plan as required above. The Director of OMB, working with the CIOs of affected agencies, will compel SHARE compliance by ensuring that relevant IT expenditures in the Federal government will be SHARE compliant, including meeting guidelines for civil liberties protection.

Funding: Authorize appropriation to Director of OMB of \$50-60 million for first year to perform work mandated by this statute.

Report language – note that President may designate an Assistant to President fully empowered on the model of the Y2K approach (i.e., paired with OMB, capable of testifying to Congress).

Guidelines: Require President to issue guidelines that express the objectives of the network for sharing information and collaborating horizontally and vertically among all Federal departments and agencies and with state and local authorities and private sector entities while protecting civil liberties and ensuring oversight and accountability. At a minimum, the guidelines shall require that collection, use and sharing shall be carried out using policies and methods that minimize the impact on privacy and that compliance with this standard shall be subject to audit.

Require IGs and GAO to make SHARE compliance and effectiveness – both degree to which it facilitates sharing and collaboration and protection of civil liberties -- a focus of periodic reviews and audits.

Report language – reference Markle report (Dec 2003), Exhibits G and F for factors to be used in evaluating improvements in information sharing and analysis and in the use of data while protecting civil liberties.

Create Civil Liberties Board

Coordination of Stakeholders: Establish Intergovernmental Advisory Board [Council] composed of federal government representatives, state and local representatives and those private sector experts who are familiar with the technological and privacy concepts of the SHARE network.

Attributes of the SHARE network

The SHARE network capability promotes coordination, communication and collaboration of people and information among all federal, department and agencies, state and local authorities, and relevant private sector entities by using policy guidelines and technologies that support: writing information so that it can be broadly shared through distribution and access processes; directories; supporting analysis and collaboration between the people participating in the network; and systems that provide the audit and privacy protections.

The technical component of the network should build on existing systems capabilities at relevant agencies and be a decentralized, distributed and coordinated environment, providing connectivity between existing systems where appropriate and designing new core services built on a foundation of directory services for locating people and information. It should also utilize industry best practices such as minimizing the centralization of data and seeking to use common tools and capabilities when ever possible.

To enhance trust and oversight, it should incorporate [flexible] access controls, authentication and authorization, immutable audits, and other strong mechanisms for information security and privacy guideline enforcement across all levels of security.

Oversight: Require each department or agency participating in the SHARE network to submit to the ___ Committees an annual report on the expenditure of resources in the past year and a plan for allocating resources in the coming year for development and operation of that department or agency's participation in the network.