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9/11 Commission Recommendations: New Structures and Organization

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Summary

Since the terrorist attacks of September 11, 2001, the structures and organization of the federal government have been modified, changed, and adjusted in various ways with a view to better achieving domestic security. Among the more visible entities to have been established in this regard are the Office of Homeland Security, the Department of Homeland Security, and two versions of the Homeland Security Council. The final report of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission), issued on July 22, 2004, held out the possibility of further developments with several recommendations for new entities and the suggested merger of the functions of the current Homeland Security Council into those of the National Security Council. These proposals, offered to address perceived shortcomings concerning civil liberties protection, intelligence development, intelligence community management, and intelligence expertise, are set out in this report, along with some assessment of their implications, and discussion of efforts to implement them. A chronology of developments regarding the recommendations of the 9/11 Commission, including the progress of implementing legislation (H.R. 10, H.R. 5024, H.R. 5040, H.R. 5050, S. 2774, S. 2845), is provided at the end of this report.

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9/11 Commission Recommendations: New Structures and Organization

When the National Commission on Terrorist Attacks Upon the United States (9/11 Commission) issued its final report on July 22, 2004, the panel recommended new structures with a view to strengthening the security of the nation. Statutorily established in November 2002, the commission was tasked with a fact-finding examination of the terrorist attacks of September 11, 2001, which would build upon the investigations of other government entities, and production of a full and complete accounting of the circumstances surrounding the attacks. The commission was directed to “report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.”¹

The day after receiving the report of the 9/11 Commission, House and Senate leaders announced an immediate effort to develop draft legislation to implement the panel’s recommendations, particularly two of them calling for new structures for better managing intelligence. Simultaneously, President George W. Bush ordered his chief of staff, Andrew H. Card, Jr., to lead an administration-wide review of the recommendations and to report to him “as quickly as possible.”²

The recommendations of the 9/11 Commission for new governmental structures were the most recent developments in efforts to better organize and manage the federal government for domestic security in the aftermath of the September 2001 terrorist attacks. Highlights of the previous efforts are reviewed in the paragraphs below, and are followed by an examination of the related 9/11 Commission’s recommendations and their subsequent realization.

Background

In the aftermath of the terrorist attacks on the World Trade Center and the Pentagon, President George W. Bush issued E.O. 13228 on October 8, which established the Office of Homeland Security (OHS) within the Executive Office of the President (EOP) to develop, and coordinate the implementation of, a comprehensive national strategy to secure the United States from terrorist threats or attacks, and to coordinate the efforts of the executive branch to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the nation. Later in the day, Tom Ridge was appointed as the Assistant to the President

¹ 116 Stat. 2408.

² Sheryl Gay Stolberg and Philip Shenon, “Congress Plans Special Hearings on 9/11 Findings,” *New York Times*, July 24, 2004, pp. A1, A8; Dan Eggen and Helen Dewar, “Leaders Pick Up Urgency of 9/11 Panel,” *Washington Post*, July 23, 2004, pp. A1, A11.

for Homeland Security and, by virtue of this position, became the director of OHS. The President's order also established the Homeland Security Council (HSC) to "serve as the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies."

From the outset of Director Ridge's leadership of OHS, concerns were expressed that he did not have adequate and clearly stated authority to carry out his responsibilities. During the early months of 2002, press reports indicated that he was "facing resistance to some of his ideas, forcing him to apply the brakes on key elements of his agenda and raising questions about how much he can accomplish,"³ and that, "instead of becoming the preeminent leader of domestic security, Tom Ridge has become a White House adviser with a shrinking mandate, forbidden by the president to testify before Congress to explain his strategy, overruled in White House councils and overshadowed by powerful cabinet members reluctant to cede their turf or their share of the limelight."⁴

In late April, the President directed senior officials, including Ridge, to begin drafting a proposal for the creation of a Department of Homeland Security. This initiative reflected a decision to move beyond the indeterminate coordination efforts of OHS to a strong administrative structure for managing consolidated programs concerned with border and transportation security, making effective response to domestic terrorism incidents, and ensuring homeland security. This proposal was publicly unveiled on June 6, 2002, transmitted to Congress as a draft bill on June 18, and, five months later, with various modifications, was signed into law on November 25.⁵ The statute transferred 26 major components (22 agencies) to the new department, which counted 170,000 employees, only 18,000 of whom worked in the Washington, DC, area, indicating a considerable field organization.⁶

The DHS statute also reconstituted the HSC and, in addition to advising the President on homeland security matters, directed it to "(1) assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President; (2) oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and (3) perform such other functions as the President may direct."⁷

³ Eric Pianin and Bill Miller, "For Ridge, Ambition and Realities Clash," *Washington Post*, Jan. 23, 2002, pp. A1, A10.

⁴ Elizabeth Becker, "Big Visions for Security Post Shrink Amid Political Drama," *New York Times*, May 3, 2002, pp. A1, A16.

⁵ 116 Stat. 2135.

⁶ Tim Kaufmann, "OPM Promises Homeland Security Personnel System by June," *Federal Times*, Dec. 2, 2002, pp. 1, 5; Christopher Lee, "OPM Begins Sorting Security Personnel," *Washington Post*, Dec. 9, 2002, p. A21.

⁷ 116 Stat. 2258.

As DHS began operations in the early months of 2003, the future of OHS came into question. In late July, a House report on appropriations legislation revealed that the Bush Administration had changed the “Office of Homeland Security” account to one for the “Homeland Security Council.” The report also noted the shift of 66 staff from OHS to the HSC.⁸ Subsequently, the final funding legislation provided \$7.2 million for the Homeland Security Council in the White House Office account, but made no allocation for OHS.⁹ The President’s FY2005 budget made no mention of OHS, which, while not formally abolished, had become dormant.

9/11 Commission Recommendations

Among the many recommendations in its final report, the 9/11 Commission offered several pertaining to new structures with a view to strengthening the security of the nation. These are set out below, along with some assessment of their implications, and discussion of their subsequent realization. The first, calling for the creation of a civil liberties oversight board, traced its origins to the fifth and final report of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, chaired by former Virginia Governor James S. Gilmore III (Gilmore Commission). Its proposal, like the one by the 9/11 Commission, arose from a concern that efforts at combating terrorism could result in the erosion of civil liberties, and that the board could function as a watchdog to resist such a development.¹⁰

The second structural recommendation of the 9/11 Commission would have transformed the Terrorist Threat Integration Center, which also had been proposed by the Gilmore Commission in December 2003, into a National Counterterrorism Center (NCTC) with responsibility for both joint operational planning and joint intelligence by, and for, the intelligence community.¹¹ The NCTC would have overridden the existing bifurcated arrangement in which principal players — the Central Intelligence Agency and Departments of Defense and Justice — were seen as operating without effective coordination and cooperation.

The suggestion of the 9/11 Commission, made in passing, that the Homeland Security Council be merged into the National Security Council (NSC) was consistent with the February 2001 recommendations of the Commission on National Security/21st Century, cochaired by former Senators Gary Hart and Warren B. Rudman, which sought to concentrate coordination of a number of national security

⁸ U.S. Congress, House Committee on Appropriations, *Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, 2004*, a report to accompany H.R. 2989, 108th Cong., 1st sess., H.Rept. 108-243 (Washington: GPO, 2003), p. 163.

⁹ 118 Stat. 321.

¹⁰ U.S. Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, *V. Forging America’s New Normalcy: Securing Our Homeland, Preserving Our Liberty* (Arlington, VA: Rand Corporation, 2003), pp. 22-23.

¹¹ *Ibid.*, pp. 31-32.

activities in the NSC.¹² The underlying view of both commissions in this regard appeared to be that the President was better served by a single hub of coordinated security policy advice with supporting staff resources. The President has the discretion to add to the NSC's statutory members and advisers such other participants, standing or otherwise, as he so desires.

Finally, the recommendation for a National Intelligence Director had its roots in a 1955 proposal of the Commission on Organization of the Executive Branch of the Government, chaired by former President Herbert Hoover, that the Director of Central Intelligence (DCI) "employ an executive officer or 'Chief of Staff'" to manage the CIA.¹³ The 9/11 Commission's recommendation in this regard was the most recent of a series of such suggestions, and legislative measures, to vest a national director with responsibility and authority to manage and coordinate the intelligence community without functioning, as well, as the head of the CIA.¹⁴ The report also pointed out that the DCI currently "lacks the three authorities critical for any agency head or chief executive officer: (1) control over purse strings, (2) the ability to hire or fire senior managers, and (3) the ability to set standards for the information infrastructure and personnel."¹⁵

The structural changes recommended by the 9/11 Commission, as the *New York Times* editorially commented shortly after the panel's report was issued, "will not work unless Congressional oversight changes too." The 9/11 Commission made recommendations in this regard, as well. "It makes no sense to streamline the executive branch," observed the *Times* editorial, "while leaving the legislative branch, which provides guidance and money, in chaos."¹⁶

Civil Liberties Oversight Board Recommendation. "At this time of increased and consolidated government authority, there should be a board within the executive branch to oversee adherence to the guidelines we [the 9/11 Commission] recommend and the commitment the government makes to defend our civil liberties."¹⁷ This recommendation was the third and final one made in a section of the commission's report concerning "The Protection of Civil Liberties." In the other two, the commission recommended that (1) the President, in the course of determining the guidelines for information sharing among government agencies, and by them with the private sector, "should safeguard the privacy of individuals about whom information is shared"; and (2) the "burden of proof for retaining a

¹² U.S. Commission on National Security/21st Century, *Road Map for National Security: Imperative for Change* (Washington: Feb. 15, 2001), pp. 51, 52, 80.

¹³ U.S. Commission on Organization of the Executive Branch of the Government, *Intelligence Activities* (Washington: June 1955), p. 71.

¹⁴ See CRS Report RL32506, *The Position of Director of National Intelligence: Issues for Congress*, by Alfred Cumming.

¹⁵ U.S. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington: GPO, 2004), p. 410.

¹⁶ Editorial, "And Now, the Hard Part," *New York Times*, Aug. 8, 2004, p. WK10.

¹⁷ U.S. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, p. 395.

particular governmental power should be on the executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the executive's use of the powers to ensure protection of civil liberties. If the power is granted," the report added, "there must be adequate guidelines and oversight to properly confine its use."¹⁸ Read together, these recommendations called for a board to oversee adherence to presidential guidelines on information sharing that safeguarded the privacy of individuals about whom information is shared, and adherence to guidelines on the executive's continued use of powers that materially enhance security.

The report offered no additional commentary on the composition, structure, or operations of the recommended board. It did, however, mention the Intelligence Oversight Board (IOB) of the President's Foreign Intelligence Advisory Board (PFIAB) as a model, noting that it, "in the past, had the job of overseeing certain activities of the intelligence community."¹⁹ Established by E.O. 12334 of December 4, 1981, the three-member IOB was responsible for informing the President of any intelligence activities that any board member believed to be in violation of the Constitution, statutory law, or presidential orders or directives; and forwarding to the Attorney General reports received concerning intelligence activities that the board believed might be unlawful. The board was authorized to conduct such investigations as it deemed necessary to carry out its functions.²⁰ In 1993, with the reestablishment of PFIAB by E.O. 12863, the IOB was reconstituted as a committee of the board.²¹

On August 27, 2004, President George W. Bush issued E.O. 13353 establishing the President's Board on Safeguarding Americans' Civil Liberties within the Department of Justice.²² Chaired by the Deputy Attorney General and composed of 19 other senior counsels and leaders largely from within the intelligence and homeland security communities, the board may advise the President regarding civil liberties policy, gather information and make assessments regarding such policy and its implementation, make recommendations to the President, refer information about possible violations of such policy by a federal official or employee for prompt action, enhance cooperation and coordination among federal departments and agencies in implementing such policy, and undertake other efforts to protect the civil liberties of the citizenry as the President may direct.

It might be noted that, pursuant to Section 892 of the Homeland Security Act of 2002, the President is responsible for prescribing and implementing procedures under which federal agencies "share relevant and appropriate homeland security

¹⁸ *Ibid.*, pp. 394-395.

¹⁹ *Ibid.*, p. 395.

²⁰ 3 C.F.R., 1981 Comp., pp. 216-217.

²¹ 3 C.F.R., 1993 Comp., pp. 632-634.

²² *Federal Register*, vol. 69, Sept. 1, 2004, p. 53585-53587.

information with other Federal agencies, including the Department [of Homeland Security], and appropriate State and local personnel.”²³

Of related interest, in terms of new structures is the August 27, 2004, establishment, with E.O. 13356, of an Information Systems Council, chaired by a designee of the Director of the Office of Management and Budget and composed of 10 other designees of the Secretary of State, the Treasury, Defense, Commerce, Energy, and Homeland Security; the Attorney General; the Director of Central Intelligence; the Director of the Federal Bureau of Investigation; and the Director of the National Counterterrorism Center, which had recently been created by another executive order.²⁴ The council is tasked with planning for, and overseeing, the establishment of an interoperable terrorism information sharing environment to facilitate automated sharing of terrorism information among appropriate agencies.

On September 7, 2004, legislation to implement the recommendations of the 9/11 Commission was introduced by Senator John McCain (S. 2774). Title IX of this bill would have established a five-member Privacy and Civil Liberties Oversight Board within the EOP. While board members were to be appointed by the President with Senate confirmation, and could not concurrently hold any other federal government position, their term of office was not specified, suggesting that they served at the pleasure of the President. Among the functions specified for the board to perform were provision of advice and counsel to the President and the executive departments and agencies on policy development and implementation related to protection of the nation from terrorism; provision of advice and counsel to the President and the executive departments and agencies to ensure that privacy and civil liberties were appropriately considered in the development and implementation of terrorism policy; continual review of such policy and its implementation, including information sharing practices, to ensure that privacy and civil liberties were protected; receipt and review of reports from privacy and civil liberties officers prescribed elsewhere in the legislation; and periodic submission, not less than semiannually, of reports to Congress and the President. Read the first time, the bill was placed on the Senate legislative calendar. A companion bill was introduced in the House on September 9 by Representative Christopher Shays (H.R. 5040) for himself and 32 cosponsors, and was referred to 10 committees. No further action was taken on either proposal.

A somewhat similar bill to implement the recommendations of the 9/11 Commission was offered by Representative Nancy Pelosi (H.R. 5024) on September 8. Title V of this legislation directed the President to determine guidelines for acquiring, accessing, using, and sharing information about individuals among federal, state, and local governments, as well as the private sector. It also would have established “within the executive branch a board to oversee adherence to” the President’s afore mandated guidelines and “the commitment the Government makes to defend civil liberties.” No additional details regarding the board were specified. The bill was referred to 11 House committees, but no further action was taken on the measure.

²³ 116 Stat. 2253.

²⁴ *Federal Register*, vol. 69, Sept. 1, 2004, pp. 53600-53601.

National Counterterrorism Center Recommendation. “We recommend the establishment of a National Counterterrorism Center (NCTC), built on the foundation of the existing Terrorist Threat Integration Center (TTIC). Breaking the older mold of national government organization, this NCTC should be a center for joint operational planning *and* joint intelligence, staffed by personnel from the various agencies. The head of the NCTC should have authority to evaluate the performance of the people assigned to the Center.”²⁵ The commission’s report emphasized that the recommended NCTC, to be located in the EOP, would combine operational planning and intelligence functions, while “keeping overall policy coordination where it belongs, in the National Security Council.” It “should lead strategic analysis, pooling all-source intelligence, foreign and domestic, about transnational terrorist organizations with global reach” and “should task collection requirements both inside and outside the United States,” according to the report. The new center also “should perform joint planning,” which would result in the assignment of “operational responsibilities to lead agencies, such as State, the CIA, the FBI, Defense and its combatant commands, Homeland Security, and other agencies.” It should not, however, “direct the actual execution of these operations” or “be a policymaking body.”²⁶

The report indicated that the “head of the NCTC should be appointed by the president, and should be equivalent in rank to a deputy head of a cabinet department,” and “would report to the national intelligence director,” a new position recommended by the commission. The individual nominated to head the NCTC “should be confirmed by the Senate and he or she should testify to the Congress.” In an unusual gesture, the report proffered that “the head of the NCTC must have the right to concur in the choices of personnel to lead the operating entities of the departments and agencies focused on counterterrorism,” and “should also work with the director of the Office of Management and Budget in developing the president’s counterterrorism budget.”²⁷

Finally, acknowledging that the “proposed NCTC would be given the authority of planning the activities of other agencies,” the report specified that a “[l]aw or executive order must define the scope of such line authority.” Furthermore, to “improve coordination at the White House,” the commissioners declared, “we believe the existing Homeland Security Council should soon be merged into a single National Security Council.”²⁸

TTIC, which the recommended NCTC would have replaced, arose from the President’s January 28, 2003, state of the union address, where he announced he was instructing the leaders of the FBI, CIA, Department of Homeland Security, and Department of Defense, to develop a center “to merge and analyze all threat

²⁵ U.S. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, p. 403.

²⁶ *Ibid.*, pp. 403-404, 411.

²⁷ *Ibid.*, p. 405.

²⁸ *Ibid.*, p. 406.

information in a single location.”²⁹ TTIC was subsequently established with an unpublished memorandum of understanding signed on March 4, 2003, by the Attorney General, DCI, and Secretary of Homeland Security. Its mission is to bring together and analyze all terrorist threat-related information available to the federal government from overseas and domestic collections, and to disseminate this information and analysis to appropriate recipients. Supervised by a director who reports directly to the DCI, TTIC began with “a little over one hundred (100) officers drawn from partner agencies,” and anticipated a workforce of “several hundred” by the end of its first year of operations.³⁰

Speaking from the Rose Garden of the White House on August 2, 2004, President Bush announced, “we will establish a National Counter-Terrorism Center,” which “will build on the analytical work, the really good analytical work of the Terrorist Threat Integration Center, and will become our government’s knowledge bank for information about known and suspected terrorists.” He indicated that the director of the new center “will report to the National Intelligence Director, once that position is created.” The President endorsed the establishment of this latter position at the same news conference.³¹

Several days later, United Press International reported that the recently retired Deputy Director of Central Intelligence, Richard J. Kerr, had warned, in a secret report to departing DCI George J. Tenet in March or April, that TTIC could undermine the CIA’s offensive operations against suspected terrorist operations overseas. The concern was that CIA’s offensive international efforts would be diluted by deploying its best personnel outside the agency to a center performing largely defensive work. The creation of NCTC, it was thought, could make the situation even more critical.³²

On August 27, 2004, President Bush signed E.O. 13354 establishing a National Counterterrorism Center headed by a director who is appointed by the DCI with the approval of the President.³³ This NCTC was mandated to serve as the primary organization for analyzing and integrating all intelligence possessed or acquired by the federal government pertaining to terrorism and counterterrorism; conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies; assign

²⁹ *Weekly Compilation of Presidential Documents*, vol. 39, Feb. 3, 2003, p. 113.

³⁰ U.S. Congress, House Committee on the Judiciary and Select Committee on Homeland Security, *Terrorist Threat Integration Center (TTIC) and Its Relationship with the Departments of Justice and Homeland Security*, joint hearing, 108th Cong., 1st sess., July 22, 2003 (Washington: GPO, 2004), p. 11.

³¹ White House Office, “Remarks by the President on Intelligence Reform,” Washington, DC, Aug. 2, 2004, available at [<http://www.whitehouse.gov/news/releases/2004/08/print/20040802-2.html>].

³² Shaun Waterman (UPI), “CIA Insider Warns Against Reform,” *Washington Times*, Aug. 13, 2004, p. A6.

³³ *Federal Register*, vol. 69, Sept. 1, 2004, pp. 53589-53592.

operational responsibilities to lead agencies for counterterrorism activities; and otherwise serve as a central and shared knowledge bank and provider of all-source intelligence support for agencies to execute their counterterrorism plans or perform independent, alternative analysis. The relationship of this NCTC to the DCI Counterterrorism Center, operative since 1986, or the Terrorist Threat Integration Center (TTIC), operative since May 2003, was not immediately clear. Another executive order, issued the same day as the one establishing this NCTC, indicated that a representative of the NCTC director, upon that official's appointment, would serve on the newly created Information Systems Council, and that a representative of the TTIC director would serve on the council in the interim.³⁴

Title I of the McCain-Shays legislation (S. 2774/H.R. 5040) would have created, as an independent establishment within the executive branch, a National Intelligence Authority (NIA) which would have been headed by a National Intelligence Director (NID) who would have been appointed by the President with Senate approval. Section 141 would have established within the NIA a National Counterterrorism Center, which would have been headed by a Director, who would have been appointed by the President with Senate approval and who would have reported to the NID. Among the duties and responsibilities specified for the center's Director were to serve, through the NID, as the principal adviser to the President on intelligence operations relating to counterterrorism; to provide unified strategic direction for the civilian and military counterterrorism efforts of the federal government and for the effective integration of counterterrorism intelligence and operations across agency boundaries both within and outside the United States; to advise the President and NID on the extent to which the counterterrorism program recommendations and budget proposals of federal entities conform to the priorities established by the President and the NSC; and to concur in, or advise the President on, selections of personnel to head the operating federal entities with principal missions relating to counterterrorism. Section 182 of the legislation retained and would have transferred the existing TTIC to the NIA.

The Pelosi bill (H.R. 5024), which was somewhat similar to the McCain-Shays proposal, would have established, in Title II of the legislation, a National Counterterrorism Center within the EOP. This center, according to the bill, would have been "built on the foundation of the Terrorist Threat Integration Center" (TTIC). The head of the new center would have been appointed by the President with Senate approval, but would have reported to the National Intelligence Director, who would have been mandated by Section 101 of the bill. Duties specified for the center included leading strategic analysis; pooling all-source intelligence, foreign and domestic, about transnational terrorist organizations with global reach; developing net assessments that compare enemy capabilities and intentions against U.S. defenses and countermeasures; providing warning of terrorist threats; tasking collection requirements for counterterrorism both inside and outside the United States; and performing, monitoring, and updating joint planning for counterterrorism.

National Intelligence Director Recommendation. "The current position of Director of Central Intelligence [DCI] should be replaced by a

³⁴ *Federal Register*, vol. 69, Sept. 1, 2004, p. 53600.

National Intelligence Director [NID] with two main areas of responsibility: (1) to oversee national intelligence centers on specific subjects of interest across the U.S. government and (2) to manage the national intelligence program and oversee the agencies that contribute to it.”³⁵ In addition to the NCTC recommended earlier, the commission’s report anticipated the establishment of other national intelligence centers on, specifically, counterproliferation, crime and narcotics, the Middle East, Russia/Eurasia, and China/East Asia, which “would be housed in whatever department or agency is best suited for them.” The management of these centers — their manner of creation, number, and replacement or elimination — was not discussed. While the report anticipated that the “National Intelligence Director would retain the present DCI’s role as the principal intelligence adviser to the president,” the commissioners also expressed the “hope that the president will come to look directly to the directors of the national intelligence centers to provide all-source analysis in their areas of responsibility, balancing the advice of these intelligence chiefs against the contrasting viewpoints that may be offered by department heads at State, Defense, Homeland Security, Justice, and other agencies.” In addition, said the report, “the National Intelligence Director should manage the national intelligence program and oversee the component agencies of the intelligence community.”³⁶

Concerning current arrangements, the report offered the following critical commentary on the responsibilities of the DCI.

The DCI now has at least three jobs. He is expected to run a particular agency, the CIA. He is expected to manage the loose confederation of agencies that is the intelligence community. He is expected to be the analyst in chief for the government, sifting evidence and directly briefing the President as his principal intelligence adviser. No recent DCI has been able to do all three effectively. Usually what loses out is management of the intelligence community, a difficult task even in the best case because the DCI’s current authorities are weak. With so much to do, the DCI often has not used even the authority he has.³⁷

The recommended NID, according to the report, not only “should be located in the Executive Office of the President,” but also “would be confirmed by the Senate and would testify before Congress,” and “would have a relatively small staff of several hundred people, taking the place of the existing community management offices housed at the CIA.”³⁸ Thus, it appeared that the commission wanted the NID to be structurally in close proximity to the President — he is, after all, an adviser to the Chief Executive — but also subject to congressional approval and availability in terms of briefings and testimony. The report was silent regarding a particular term of office for the NID; allowing or proscribing a second appointment to the position; conditions for removing an incumbent from the position; or reporting to Congress when such a removal did occur. Also, shortly after the 9/11 Commission issued its

³⁵ U.S. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, p. 411.

³⁶ *Ibid.*, pp. 411-412.

³⁷ *Ibid.*, p. 409.

³⁸ *Ibid.*, p. 414.

report, a *Washington Post* news analysis speculated that President Bush would take exception to having the leaders of units within the EOP — the NID and the head of the NCTC — confirmed by the Senate. The analysis pointed out that, when a legislative effort was made in 2002 to install a Senate-confirmed counterterrorism director in the White House, a presidential veto was threatened because, the White House said, the bill “seeks to interject Congress into the daily operations of the Executive Office of the President by requiring the director and a senior advisor to the president, within the president’s own executive office, to report directly to Congress and participate in agency budget processes in a statutorily mandated fashion that is unacceptable. The creation of this office,” it was contended, “represents undue interference with presidential prerogatives and management of his own staff and support structures.”³⁹ Another press account, however, reported that two senior Senators had expressed concern about the political independence a NID would have if located in close proximity to the President within the EOP.⁴⁰ Reporting on the President’s videoconference with senior advisers regarding the 9/11 Commission’s recommendations indicated that, among the many questions the administration was exploring were whether the NID “would be part of the cabinet or part of the executive office of the president and whether its term would overlap the president’s.”⁴¹

Speaking from the Rose Garden of the White House on August 2, President Bush asked Congress to create a NID to oversee and coordinate the foreign and domestic activities of the intelligence community and to serve as the President’s principal adviser on intelligence matters. He indicated that this official should be appointed by the President with Senate confirmation, but should not be placed in the White House Office, the Executive Office of the President, or the Cabinet. In response to a question, the President said the office of the NID “ought to be a stand-alone group,” such as an independent agency within the executive branch. Creating the position, he acknowledged, “will require a substantial revision of the 1947 National Security Act.” It was not clear, however, if a draft proposal would be offered in this regard.⁴²

Some senior Senate and House members, including some serving on the Senate Committee on Governmental Affairs and the House Committee on Government Reform where NID legislation was being developed, called for giving the new director more authority — budgetary and personnel powers — than that proposed by President Bush. Without this authority, it was contended, the NID would be a “figurehead,” by one estimation, or a “shell game,” according to another view. In

³⁹ Dana Milbank, “White House Notebook: Keeping the Power,” *Washington Post*, July 27, 2004, p. A21.

⁴⁰ Walter Pincus, “Bush, Aides Discuss Findings of 9/11 Panel,” *Washington Post*, July 27, 2004, p. A2.

⁴¹ Richard Stevenson and David D. Kirkpatrick, “Administration Moves to Regain Initiative on 9/11,” *New York Times*, July 27, 2004, pp. A1, A12.

⁴² White House Office, “Remarks by the President on Intelligence Reform,” Washington, DC, Aug. 2, 2004, available at [<http://www.whitehouse.gov/news/releases/2004/08/print/20040802-2.html>].

response, a White House spokesman reportedly indicated that President Bush might be willing to negotiate on the matter.⁴³ At a August 4 hearing of the House Permanent Select Committee on Intelligence concerning the recommendations of the 9/11 Commission, five senior intelligence officials said they believed the NID would be ineffective without budget authority.⁴⁴

In an August 22 appearance on the CBS news program “Face the Nation,” Senator Pat Roberts, the chair of the Senate Select Committee on Intelligence, outlined an intelligence community and activities reform proposal, which he said had the support of eight Republican members of his panel.⁴⁵ The measure, which appeared to be more extensive than the reorganization recommended by the 9/11 Commission, would have broken up the CIA and divided its responsibilities among three new intelligence entities — national assessments, national clandestine service, and technical support — under the direct supervision of a NID, who would have had virtually complete control over the intelligence budget, including the counterterrorism and counterintelligence programs of the FBI. The Pentagon would have surrendered its sizable authority over the intelligence budget, as well as some of its intelligence agencies, such as the National Geospatial Intelligence Agency, National Reconnaissance Office, and the National Security Agency. The proposal reportedly was a surprise to the White House and Senate Democrats.

On August 27, 2004, President Bush issued E.O. 13355, which was intended to strengthen the capability of the DCI to manage the intelligence community.⁴⁶ The order emphasized the authority of the DCI as the principal adviser to the President, the NSC, and the HSC for intelligence matters; for ensuring the timely and effective collection, processing, analysis, and dissemination of intelligence; for structuring the National Foreign Intelligence Program (NFIP); and for establishing, operating, and directing new national intelligence centers, among other matters. Of particular importance, the order appeared to some to vest the DCI with coequal status vis-a-vis the Secretary of Defense regarding the establishment of collection requirements for the intelligence community and the tasking of national collection assets. Similarly, some noted that the DCI was authorized not only to develop and present to the President the annual consolidated NFIP budget, but also to “determine” that budget. Others were less certain that any significant change had occurred regarding these matters.

Meeting with congressional leaders on September 8 to discuss reforming and strengthening the federal intelligence services, President Bush endorsed establishing

⁴³ Walter Pincus, “Intelligence Plan Reviewed,” *Washington Post*, Aug. 4, 2004, p. A17; Philip Shenon, “The Recommendations: Critics Say Bush’s Intelligence Chief Would Be Toothless,” *New York Times*, Aug. 4, 2004, p. A12.

⁴⁴ Walter Pincus, “Caution Is Urged in Intelligence Overhaul,” *Washington Post*, Aug. 5, 2004, p. A10.

⁴⁵ Dan Eggen, “GOP Plan Calls for Revamping Intelligence,” *Washington Post*, Aug. 23, 2004, pp. A1, A7; Philip Shenon, “A G.O.P. Senator Proposes a Plan to Split Up C.I.A.,” *New York Times*, Aug. 23, 2004, pp. A1, A14.

⁴⁶ *Federal Register*, vol. 69, Sept. 1, 2004, pp. 53593-53597.

a NID who, among other considerations, would be appointed by the President with Senate approval; would report to, and serve at the pleasure of, the President; would testify before Congress; would be located within the executive branch, but not within the EOP; would not serve in the Cabinet; would serve as the head of the intelligence community; would receive NFIP funds and allocate them, as apportioned by OMB, to the intelligence community; would supervise the NCTC; and would have a role in the appointment of any individual to a position that heads an organization or element within the intelligence community. The President indicated that he would shortly send a proposal to Congress for consideration.⁴⁷

The McCain-Shays proposals (S. 2774/H.R. 5040) would have established a NID, who would have been appointed by the President with Senate approval. The principal duties and responsibilities of the NID, as assigned by the legislation, would have been to serve as the head of the intelligence community; to act as a principal adviser to the President for intelligence related to the national security; to serve as the head of the NIA, but not as the Director of the CIA; and to direct, manage, and oversee the execution of the National Intelligence Program, including the formulation of the budget for the entities having responsibility for such program.

The Pelosi bill (H.R. 5024) would have established a NID, who would have been appointed by the President with Senate approval and was located in the EOP. Among the principal duties and responsibilities of the NID, as assigned by the legislation, would have been to act as the principal adviser to the President for intelligence matters related to national security; to testify, upon request, before Congress; to manage the National Intelligence Program; to oversee national intelligence centers and the national intelligence agencies; to establish information sharing and information technology policies to maximize data sharing, as well as policies to protect the security of information; to develop a unified intelligence budget; to provide for the allocation of appropriated funds among the national intelligence agencies; to reprogram funds appropriated for the National Intelligence Program to meet any unforeseen priority; and to approve and recommend to the President individuals to fill specified senior-level positions within agencies of the intelligence community.

Another bill, introduced on September 9 by Representative Sheila Jackson-Lee (H.R. 5050) and referred to the Permanent Select Committee on Intelligence, would have established a Director of National Intelligence, who would have been appointed by the President with Senate approval. Designed as a Cabinet-level position located within the EOP, the Director, among other duties assigned by the legislation, would have managed the National Intelligence Program, including oversight of the budget, operations, and personnel of the intelligence community; reorganized the intelligence

⁴⁷ U.S. White House Office, Office of the Press Secretary, "Reforming and Strengthening Intelligence Services — Fact Sheet: Leading the Way on Reforming and Strengthening Our Intelligence Services," Sept. 8, 2004, Washington, DC, available at [<http://www.whitehouse.gov/news/releases/2004/09/print/20040908-5.html>]; Elisabeth Bumiller and Philip Shenon, "Bush Now Backs Budget Power in New Spy Post," *New York Times*, Sept. 9, 2004, p. A1, A25; Amy Fagen, "Bush Backs Budget Power for Intelligence Chief," *Washington Times*, Sept. 9, 2004, p. A3; Walter Pincus and Dana Milbank, "Bush Plan Draws on Advice of 9/11 Panel," *Washington Post*, Sept. 9, 2004, p. A1, A8.

services around specific threats, such as terrorism, weapons of mass destruction, and hostile countries; overseen national intelligence centers and the national intelligence agencies; advised the President regarding the most relevant and reliable intelligence information; identified national security threats and determined which secrets are most important to protect; advised the President regarding the coordinate efforts of the Department of Homeland Security; worked closely with the Director of the FBI and the DCI; and established information sharing and information technology policies to maximize data sharing, as well as policies to protect the security of information. After its referral to committee, no further action was taken on this legislation.

FBI Specialized and Integrated National Security Workforce Recommendation. “A specialized and integrated national security workforce should be established at the FBI consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, rewarded, and retained to ensure the development of an institutional culture imbued with a deep expertise in intelligence and national security.”⁴⁸ This proposal, which the report indicated should be implemented by the President through the issuance of an executive order, appears to have been offered in support of FBI Director Robert Mueller’s proposed creation of an Intelligence Directorate within his agency, as well as “to ensure that the Bureau’s shift to a preventive counterterrorism posture is more fully institutionalized so that it survives beyond Director Mueller’s tenure.”⁴⁹ Establishing the recommended workforce would have heightened the need to create, administratively or statutorily, organizational arrangements for its successful utilization.

Section 165 of the McCain-Shays legislation (S. 2774/H.R. 5040) would have directed the head of the FBI, subject to the direction and control of the President, to develop and maintain a specialized and integrated national security workforce in terms echoing the recommendation of the 9/11 Commission, and contained a provision that would have required the FBI director to ensure that each field office of the bureau had an official at the deputy level or higher with responsibility for national security matters.

Section 901 of the Pelosi bill (H.R. 5024) would have required the President to direct the Attorney General “to take such steps as may be necessary to establish a specialized and integrated national security workforce” at the FBI. This workforce was described in the section in the same terms as those of the 9/11 Commission recommendation in this regard.

Legislative Action

S. 2845. Selected by the Senate majority and minority leaders to lead the effort to implement legislatively the recommendations of the 9/11 Commission, Senator Susan Collins, the chair of the Committee on Governmental Affairs, and Senator

⁴⁸ U.S. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, pp. 425-426.

⁴⁹ *Ibid.*, p. 425.

Joseph Lieberman, the ranking minority member on the panel, initially discussed the general terms of their reform bill at a September 15 press conference. It was indicated that the measure would establish a National Intelligence Authority (NIA), headed by a NID, as well as an NCTC and a civil liberties oversight board. The NIA would be an independent agency within the executive branch. The NID would have considerable budget and personnel authority over the intelligence community, including the FBI's intelligence office, the intelligence directorate of the Department of Homeland Security, and, with the exception of the Defense Intelligence Agency, the intelligence agencies of DOD. The NID also would have a role in the selection of individuals to head these entities.⁵⁰ The text of the legislation was made public in draft form on September 20. The Committee on Governmental Affairs began a markup of the Collins proposal on September 21, and completed their action the following day when the committee ordered the amended measure favorably reported as an original bill. Introduced on September 23 by Senator Collins as an original bill designated S. 2840, the legislation was also introduced a second time that day, with Senator Lieberman as a cosponsor, and was designated S. 2845.⁵¹ At the end of the day, a unanimous-consent agreement was reached providing that, on September 27, the Senate would begin consideration of S. 2845. A bill very similar to S. 2845 was introduced in the House on September 24 by Representative Christopher Shays with bipartisan support (H.R. 5150), but, after its referral to committee, no further action was taken on this legislation.

As the Senate began consideration of S. 2845 on September 27, the bill would have mandated a NIA as an independent establishment within the executive branch, which would have been headed by a NID, who would have been appointed by the President with Senate confirmation. No term of office was specified. A NCTC would have been established within the NIA; the head of this entity also would have been appointed by the President with Senate confirmation, and would have reported to the NID on the NCTC budget, programs, and activities and to both the President and the NID on the planning and progress of joint counterterrorism operations. A Privacy and Civil Liberties Oversight Board would have been established within the EOP. Its chair and four additional members would have been appointed by the President with Senate confirmation for six-year terms. Finally, the Director of the FBI, subject to the direction and control of the President, would have been mandated to develop and maintain a specialized and integrated national intelligence workforce along the lines recommended by the 9/11 Commission. The Senate completed action on October 6 with a 96-2 vote of approval of the legislation as amended.

H.R. 10. In the House, the vehicle for implementing the recommendations of the 9/11 Commission was introduced by Speaker of the House Dennis Hastert on September 24 and was designated H.R. 10. The bill drew upon the President's September 16 draft proposal, with additional input from committee chairs who had held hearings on the findings and recommendations of the 9/11 Commission during

⁵⁰ Amy Klamper and John Stanton, "Intelligence: ... As Collins, Lieberman Unveil a Response to 9/11 Panel," *CongressDailyPM*, Sept. 15, 2004, available at [<http://nationaljournal.com/pubs/congressdaily/dj040915.htm>]; Philip Shenon, "Intelligence Proposals Gain in Congress," *New York Times*, Sept. 16, 2004, p. A15.

⁵¹ See *Congressional Record*, daily edition, vol. 150, Sept. 23, 2004, pp. S9615-S9638.

August and the early weeks of September. As a result, the bill contained various provisions not found in S. 2845, as introduced. The House bill was referred to the Committees on Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, and Ways and Means, as well as the Permanent Select Committee on Intelligence and the Select Committee on Homeland Security. Committee markups were scheduled to begin on September 29.

As introduced, H.R. 10 would have created a NID, who would have been appointed by the President with Senate confirmation, and not located within the EOP. Allowance was made that the individual serving as DCI on the date immediately preceding the enactment of the legislation may, at the discretion of the President, become the NID with the enactment of the legislation. A NCTC would have been established within the office of the NID and would have been headed by a director, who would have been appointed by the NID. A Civil Liberties Protection Officer, who would have been appointed by the NID, also would have been created within the office of the NID to serve as a civil liberties and privacy overseer of the intelligence community, but no provision was made for a civil liberties oversight board. Finally, the Director of the FBI would have been mandated to develop and maintain a specialized and integrated national intelligence workforce along the lines recommended by the 9/11 Commission. On October 7, the Committee on Rules reported a version of the legislation for floor consideration and made 23 amendments in order for consideration.⁵² The House completed its action on the legislation on October 8 when it approved the modified bill on a 282-134 vote.

Conference committee deliberations on the reform bills began on October 20, but became prolonged due to considerable differences between them, including their institutional and organizational aspects. Agreement on a November 20 compromise version of the legislation quickly unraveled in the House. Subsequently, another compromise version was realized, and the conferees filed their report on this legislation on December 7.⁵³ That day, the House, on a 336-75 vote, approved the conference committee report, and the Senate accepted it the following day on a 89-2 vote. President George W. Bush signed the bill into law on December 17.⁵⁴ The reform legislation establishes a National Intelligence Director (NID), appointed by the President with Senate confirmation, to serve as the principal intelligence adviser to the President, head the intelligence community, and oversee and direct the National Intelligence Program. Other new components include a National Counterterrorism Center, within the office of the NID, to serve as the primary executive branch organization for counterterrorism intelligence and strategic operational planning. In addition, the President is authorized to establish a National

⁵² U.S. Congress, House Committee on Rules, *Providing for Consideration of H.R. 10, 9/11 Recommendations Implementation Act*, H.Rept. 108-751, a report to accompany H.Res. 827, 108th Cong., 2nd sess. (Washington: GPO, 2004).

⁵³ U.S. Congress, House Committee of conference, *Intelligence Reform and Terrorism Prevention Act of 2004*, H.Rept. 108-796, a report to accompany S. 2845, 108th Cong., 2nd sess. (Washington: GPO, 2004).

⁵⁴ P.L. 108-458; 118 Stat. 3638.

Counter Proliferation Center to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies; and the NID is authorized to establish one or more national intelligence centers to address intelligence priorities, including regional issues. A Privacy and Civil Liberties Oversight Board, composed of five members appointed by, and serving at the pleasure of, the President, is also created and located within the Executive Office of the President. Finally, the Director of the FBI is mandated, with detailed guidance, to develop and maintain a specialized and integrated national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner that ensures the existence within the FBI of “an institutional culture with substantial expertise in, and commitment to, the intelligence mission of the Bureau.”

Chronology

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| July 22, 2004 | The National Commission on Terrorist Attacks Upon the United States (9/11 Commission) issued its final report. |
| July 23, 2004 | Leaders of the House of Representatives and Senate announced plans for August committee hearings preparatory to the drafting of legislation to implement recommendations of the 9/11 Commission. The Senate majority and minority leaders deputized the chair and ranking minority member of the Committee on Governmental Affairs to produce bills by October 1 that would carry out commission recommendations for a National Intelligence Director and a National Counterterrorism Center. |
| July 26, 2004 | From his Crawford, TX, ranch, President Bush spoke with nearly all of his most senior advisers by videoconference regarding the recommendations of the 9/11 Commission. |
| July 29, 2004 | President Bush held a second videoconference with his senior advisers regarding the recommendations of the 9/11 Commission. |
| July 30, 2004 | The Senate Committee on Governmental Affairs held a hearing to receive testimony from 9/11 Commission chairman Thomas H. Kean, a former Governor of New Jersey, and vice chairman Lee H. Hamilton, a former member of the House of Representatives. |
| August 2, 2004 | In remarks from the Rose Garden of the White House, President Bush asked Congress to create the position of a National Intelligence Director to oversee and coordinate the foreign and domestic activities of the intelligence community and to serve, as well, as the President’s principal intelligence adviser. To be appointed by the President with Senate confirmation, this official, according |

to the President, should not be placed in the White House Office, Executive Office, or Cabinet. The President also indicated his intent to establish a National Counterterrorism Center, which would build on the work of the Terrorist Threat Integration Center.

August 3, 2004 The Senate Committee on Governmental Affairs held a hearing to receive testimony on the 9/11 Commission's recommendation to establish a National Counterterrorism Center.

The House Committee on Government Reform, Subcommittee on National Security, held a hearing to receive testimony on the 9/11 Commission's recommendations concerning information sharing.

August 4, 2004 The House Permanent Select Committee on Intelligence held an initial hearing on recommendations of the 9/11 Commission concerning counterterrorism analysis and collection.

August 6, 2004 The House Committee on International Relations held a hearing on the 9/11 Commission recommendation on denying sanctuaries to terrorists.

August 10, 2004 The House minority leader held a meeting with the 9/11 Commission for House Democratic members.

The House Committee on Armed Services held a hearing on the 9/11 Commission report.

August 11, 2004 The House Committee on Armed Services held a hearing on the implications of the 9/11 Commission recommendations for the Department of Defense.

The House Permanent Select Committee on Intelligence held a hearing on recommendations of the 9/11 Commission concerning sufficiency of time, attention, and legal authority.

August 16, 2004 The Senate Committee on Armed Services held a hearing on proposals to reorganize the intelligence community.

The Senate Committee on Commerce, Science, and Transportation held a hearing on the transportation security recommendations of the 9/11 Commission.

The Senate Committee on Governmental Affairs held a hearing on reorganization of the intelligence community.

- August 17, 2004 The House Select Committee on Homeland Security held a hearing on the information sharing findings and recommendations of the 9/11 Commission.
- The Senate Committee on Armed Services held a hearing on the 9/11 Commission’s report concerning intelligence and the military.
- The Senate Committee on Governmental Affairs held a hearing with representatives of the families of 9/11 victims regarding the need for implementing the recommendations of the 9/11 Commission.
- August 18, 2004 The House Permanent Select Committee on Intelligence held a hearing on recommendations of the 9/11 Commission concerning intelligence community operational considerations.
- The Senate Select Committee on Intelligence held a hearing on intelligence reform.
- August 19, 2004 The House Committee on International Relations held a hearing on the Department of State’s strategy for diplomacy in the age of terrorism.
- The Senate Committee on the Judiciary held a hearing on the 9/11 Commission report concerning the future of federal enforcement and border security.
- August 20, 2004 The House Committee on the Judiciary, Subcommittee on Commercial and Administrative Law and Subcommittee on the Constitution, held a hearing on the 9/11 Commission report and the Department of Defense Technology and Privacy Advisory Committee.
- August 22, 2004 Senator Pat Roberts, chair of the Senate Select Committee on Intelligence, outlined, during an appearance on CBS’ “Face the Nation,” an intelligence community and activities reform proposal endorsed by eight Republican members of his committee.
- August 23, 2004 The House Committee on Financial Services held a hearing on further steps to be taken to impede terrorist financing and money laundering in light of the 9/11 Commission report.
- The House Committee on Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations held a hearing on 9/11 Commission recommendations and public diplomacy.

The House Committee on the Judiciary, Subcommittee on Commercial and Administrative Law and Subcommittee on the Constitution, held a hearing on privacy and civil liberties, receiving testimony from 9/11 Commission and DOD Technology and Privacy Advisory Committee representatives.

Senator Pat Roberts, chair of the Senate Select Committee on Intelligence, released the draft text of an intelligence community and activities reform bill endorsed by eight Republican members of his committee.

August 24, 2004

The House Committee on Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations, held a hearing on over classification as a barrier to information sharing.

The House Committee on International Relations held a hearing on 9/11 Commission recommendations for public diplomacy.

August 25, 2004

The House Committee on Transportation and Infrastructure, Subcommittee on Aviation, held a hearing on the 9/11 Commission aviation security recommendations.

The House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, held a hearing on 9/11 Commission recommendations.

The House Permanent Select Committee on Intelligence held a hearing on recommendations of the 9/11 Commission concerning intelligence community reconstruction.

August 26, 2004

The House Committee on Veterans Affairs held a hearing on the preparedness of the Department of Veterans Affairs to fulfill its homeland security roles.

The Senate Committee on Governmental Affairs held a hearing to reorganize the intelligence community, focusing on the authority of the National Intelligence Director over intelligence funding and the operational planning authority of the National Counterterrorism Center.

September 7, 2004

The Senate Select Committee on Intelligence held a hearing on implementing the 9/11 commission recommendation for intelligence reform.

S. 2774 — Senator John McCain introduced the 9/11 Commission Report Implementation Act of 2004. The bill was read the first time and placed on the Senate legislative calendar.

September 8, 2004

President Bush met with congressional leaders at the White House to discuss reforming and strengthening the federal intelligence services and to offer his views regarding these matters.

The Senate Committee on Commerce, Science, and Transportation held a hearing on 9/11 Commission recommendations to provide spectrum for public safety users.

The Senate Committee on Governmental Affairs held a hearing on 9/11 Commission recommendations and other proposals for building an agile intelligence community to fight terrorism and emerging threats.

H.R. 5024 — Representative Nancy Pelosi introduced the 9/11 Commission Recommendations Implementation Act of 2004. The bill was referred to the Permanent Select Committee on Intelligence, as well as the Committees on Armed Services, Energy and Commerce, Financial Services, Government Reform, International Relations, Judiciary, Rules, Science, Transportation and Infrastructure, and Ways and Means.

September 9, 2004

H.R. 5040 — Representative Christopher Shays introduced the 9/11 Commission Report Implementation Act of 2004, a companion bill to S. 2774. The legislation was referred to the Permanent Select Committee on Intelligence, as well as the Committees on Armed Services, Energy and Commerce, Government Reform, International Relations, Judiciary, Rules, Transportation and Infrastructure, Ways and Means, and (Select) Homeland Security.

H.R. 5050 — Representative Sheila Jackson-Lee introduced the Director of National Intelligence Act of 2004, which was referred to the Permanent Select Committee on Intelligence.

September 13, 2004

The Senate Committee on Governmental Affairs held a hearing on intelligence reform to examine ensuring the intelligence community supports homeland defense and departmental needs.

September 14, 2004 The House Select Committee on Homeland Security held a hearing on homeland security and the recommendations of the 9/11 Commission.

The Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, held a hearing on legislative and administrative options to address the human capital recommendations of the 9/11 Commission.

September 15, 2004 Senator Susan Collins and Senator Joseph Lieberman, the chair and ranking minority member, respectively, of the Committee on Governmental Affairs, held a press conference to discuss their jointly sponsored proposal for implementing recommendations of the 9/11 Commission.

- September 20 — The text of the Collins-Lieberman proposal became publicly available.
- September 21 — The Committee on Governmental Affairs began a markup of the text of the Collins-Lieberman proposal.
- September 22 — The Committee on Governmental Affairs completed its markup of the Collins-Lieberman proposal, and ordered it favorably reported, as amended, as an original bill.
- September 23 — The original bill reported by the Committee on Governmental Affairs was introduced as **S. 2840**, the National Intelligence Reform Act, which was read twice and placed on the Senate calendar; the text of the bill was introduced again as **S. 2845**, the National Intelligence Reform Act, with bipartisan support. A unanimous-consent agreement was reached providing that on September 27 the Senate would begin consideration of **S. 2845**.
- September 24 — **S. 2845** was read the second time and placed on the Senate calendar. A similar bill, **H.R. 5150**, the National Intelligence Reform Act, was introduced in the House by Representative Christopher Shays, with bipartisan support, and was referred to the Permanent Select Committee on Intelligence.

- September 27 — The Senate began consideration of **S. 2845**, with three amendments offered, discussed, and left pending further action.

September 21, 2004 The Senate Committee on Appropriations held a hearing to examine the 9/11 Commission intelligence recommendations.

September 22, 2004 The House Committee on Financial Services held a hearing on legislative proposals to implement the recommendations of the 9/11 Commission.

The House Committee on Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations, held a hearing on the recommendations of the 9/11 Commission and the national strategies for combating terrorism.

The Senate Committee on Appropriations held a hearing to examine the 9/11 Commission intelligence recommendations.

September 24, 2004 **H.R. 10** — Representative Dennis Hastert introduced the 9/11 Recommendation Implementation Act, which was referred to the Permanent Select Committee on Intelligence, as well as the Committees on Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and (Select) Homeland Security.

September 29, 2004 The House Committee on Armed Services ordered reported, as amended, **H.R. 10** (H.Rept. 108-724 Part 2).

The House Committee on Financial Services ordered reported, as amended, **H.R. 10** (H.Rept. 108-724 Part 3).

The House Committee on Government Reform ordered reported, as amended, **H.R. 10** (H.Rept. 108-724 Part 4).

The House Committee on the Judiciary ordered reported, as amended, **H.R. 10** (H.Rept. 108-724 Part 5).

The House Select Committee on Intelligence ordered reported, as amended, **H.R. 10** (H.Rept. 108-724 Part 1).

The Senate Committee on Baking, Housing, and Urban Affairs held a hearing on 9/11 Commission

recommendations concerning the identification and combating of terrorist financing.

- October 6, 2004 The Senate completed floor discussion of **S. 2845** and approved the bill, as amended, on a 96-2 vote.
- October 7, 2004 The House Committee on Rules reported a version of **H.R. 10** for floor consideration and made 23 amendments in order for consideration (H.Rept. 108-751).
- October 8, 2004 The House completed floor discussion of **H.R. 10** and approved the proposal, as amended, on a 282-134 vote.
- October 20, 2004 Conference committee deliberations on the texts of **H.R. 10** and **S. 2845** began.
- December 7, 2004 Conferees reported a compromise version of the legislation (H.Rept. 108-796).
- The House approved the conference version of the legislation on a 336-75 vote.
- December 8, 2004 The Senate approved the conference version of the legislation on a 89-2 vote.
- December 17, 2004 President Bush signed the legislation into law (P.L. 108-458; 118 Stat. 3638).