

Final Report of the 9/11 Commission:
**How Congress Should Act to Fulfill the
9/11 Commission's Recommendations
To Secure Our Nation**



December 7, 2005

**Prepared by the Minority Staff of the
House Committee on Homeland Security for**

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Ranking Member**

**Representative Loretta Sanchez,
Ranking Member, Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity**

**Representative Zoe Lofgren,
Ranking Member, Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment**

**Representative Bill Pascrell,
Ranking Member, Subcommittee on Emergency Preparedness, Science, and Technology**

Representative Bob Etheridge, Ranking Member, Subcommittee on Investigations

**Representative James Langevin, Ranking Member,
Subcommittee on Prevention of Nuclear and Biological Attack**

**Representative Kendrick B. Meek,
Ranking Member, Subcommittee on Management, Integration, and Oversight**

Representative Edward J. Markey

Representative Norm Dicks

Representative Jane Harman

Representative Peter Defazio

Representative Nita Lowey

Representative Eleanor Holmes Norton

Representative Donna M. Christensen

Representative Sheila Jackson-Lee

***Final Report of the 9/11 Commission:* How Congress Should Act to Fulfill the 9/11 Commission's Recommendations To Secure Our Nation**

As members of the House Homeland Security Committee, we were strongly supportive of creating the 9/11 Commission and have worked hard to implement its recommendations. While there has been some progress – most notably in the creation of a Director of National Intelligence – this Congress has moved far too slowly to fulfill the 9/11 Commission's recommendations, as demonstrated by the 9/11 Public Discourse Project's¹ report released this week, *Final Report on 9/11 Commission Recommendations*.

Below is an analysis outlining the recommendations made by the 9/11 Commission, the 9/11 Public Discourse Project's grade and comments on how Congress and the Administration are fulfilling each recommendation, and a brief description of what we believe Congress should do to fulfill each recommendation. Specifically, there are numerous pieces of legislation that Members of this Committee have introduced or supported that would fulfill many of the issues raised by the 9/11 Commission report. The following analysis, however, only discusses recommendations within the jurisdiction of the House Homeland Security Committee.²

As the analysis demonstrates, we have actively pushed each of the 9/11 Commission's recommendations. Specifically, our efforts have:

- Sought to provide first-responders with the equipment, training, and resources they need to respond to a terrorist attack or other emergency.
- Pushed for stronger transportation and critical infrastructure security planning and support.

¹ The 9/11 Public Discourse Project is a non-profit organization that serves as a successor to the 9/11 Commission, which was a government-sponsored entity given a limited period of existence. The 9/11 Public Discourse Project is administered by the 9/11 Commission's members.

² We have repeatedly argued for an expansive view of this Committee's jurisdiction over the Department of Homeland Security. For example, we objected strenuously when Chairman Peter King (R-NY) recently found that several of our amendments to H.R. 4312, the "Border Security and Terrorism Prevention Act of 2005," were outside of the Committee's jurisdiction. However, there are several recommendations made by the 9/11 Commission that are clearly outside of the Committee's jurisdiction, such as those related to foreign policy or the authority of the Central Intelligence Agency. This report will not discuss those recommendations.

- Proposed countless measures to secure the border – some of which were finally accepted by the Republicans after years of debate.
- Worked to strengthen the intelligence community and its ability to share information with state and local law enforcement officials and others likely to encounter terrorists.
- Fought to ensure that the War on Terror does not cost us our privacy and civil liberty rights.
- Argued in support of clear and robust congressional oversight of homeland security efforts.
- Supported efforts to secure nuclear materials in the former Soviet Union.
- Called for aggressive investigations and hearings on terrorist financing.

Part I: Homeland Security, Emergency Preparedness and Response
EMERGENCY PREPAREDNESS AND RESPONSE

9/11 Commission Recommendation	9/11 Public Discourse Project Comments	Democratic Proposals
Provide adequate radio spectrum for first responders	<p>F (C if bill passes) The pending Fiscal Year 2006 budget reconciliation bill would compel the return of the analog TV broadcast (700 Mhz) spectrum, and reserve some for public safety purposes. Both the House and Senate bills contain a 2009 handover date—too distant given the urgency of the threat. A 2007 handover date would make the American people safer sooner.</p>	<p>Representative Jane Harman (D-CA), in cooperation with Representative Curt Weldon (R-PA), has introduced H.R. 1646, the “Homeland Emergency Response Operations (HERO) Act,” which would set a firm December 31, 2006 deadline for the return of the analog broadcast spectrum and its reallocation, including for public safety purposes.</p> <p>Representative Edward J. Markey (D-MA) has also offered the Dingell-Markey</p>

		<p>Democratic Substitute to the digital television spectrum transfer provision in the Fiscal Year 2006 budget reconciliation bill which would set an effective “date certain” for freeing up spectrum to address the needs of first responders and dedicate \$5 Billion of auction proceeds to first responder interoperability grants. Unfortunately, the amendment was defeated along a party-line vote during consideration in the Energy and Commerce Committee.</p>
<p>Establish a unified Incident Command System</p>	<p>C Although there is awareness of and some training in the ICS, hurricane Katrina demonstrated the absence of full compliance during a multi-jurisdictional/statewide catastrophe—and its resulting costs.</p>	<p>The National Incident Management System (NIMS), which is based on the incident command system (ICS), was issued by the Department of Homeland Security on March 1, 2004 to provide a comprehensive and consistent national approach to all-hazard incident management at all jurisdictional levels and across functional disciplines. The Department set the deadline for full NIMS compliance to the maximum extent possible as October 1, 2004. The hard deadline for full compliance as a condition for federal preparedness funds is October 1, 2006. Ranking Member Thompson has called for more funding and aggressive steps to train government officials at all levels on the NIMS system. Additionally, we were pleased with the recent increase in funding to \$22 million in Fiscal Year 2006 for the NIMS Integration Center, which will help improve NIMS compliance nationwide.</p>

<p>Allocate homeland security funds based on risk</p>	<p>F (A if House provision passes) Congress has still not changed the underlying statutory authority for homeland security grants, or benchmarks to insure that funds are used wisely. As a result, homeland security funds continue to be distributed without regard for risk, vulnerability, or the consequences of an attack, diluting the national security benefits of this important program.</p>	<p>On several occasions the House has passed the “Faster and Smarter Funding for First Responders Act,” which would allocate homeland security grant funding based on the risk, vulnerability, and consequences of an attack on a given site. Most recently, on April 28, 2005, the Committee reported the bill and it eventually passed in the House with unanimous support from us. Additionally, Representative Nita Lowey (D-NY) co-sponsored an amendment attaching the bill to the House version of the Patriot Act Reauthorization, which is currently in conference with the Senate. We continue to support the House bill, which allocates more of the funding based on risk, while still ensuring that each state receives a minimum level of support needed for terrorism preparedness.</p>
<p>Critical infrastructure risks and vulnerabilities assessment</p>	<p>D A draft National Infrastructure Protection Plan (NIPP) (November 2005) spells out a methodology and process for critical infrastructure assessments. No risk and vulnerability assessments actually made; no national priorities established; no recommendations made on allocation of scarce resources. All key decisions are at least a year away. It is time that we stop talking about setting priorities, and actually set some.</p>	<p>Although Homeland Security Presidential Directive 7 set a deadline of December 2004 for the NIPP’s delivery, it has still not been completed. We have called repeatedly for the NIPP to be finished. For example, several Committee Members sent a letter to the Department of Homeland Security’s Assistant Secretary of Infrastructure Protection, Bob Stephan, on October 24, 2005 requesting information about the status of the NIPP. An answer has not yet been received. Recent testimony revealed that the NIPP and its accompanying sector-by-sector plans may not be completed until well into 2006.</p>

<p>Private sector preparedness</p>	<p>C National preparedness standards are only beginning to find their way into private sector business practices. Private sector preparedness needs to be a higher priority for DHS and for American businesses.</p>	<p>In the 108th Congress, several of us introduced the “Private Sector Preparedness Act of 2004,” which directed the Secretary of Homeland Security to develop and implement a program to enhance private sector preparedness for emergencies and disasters. In addition, we have called on the Administration to work more closely with business leaders to encourage all American businesses, especially those in high-risk areas, to incorporate National Preparedness Standards into their business practices.</p>
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TRANSPORTATION SECURITY

<p>National Strategy for Transportation Security</p>	<p>C- DHS has transmitted its National Strategy for Transportation Security to the Congress. While the strategy reportedly outlines broad objectives, this first version lacks the necessary detail to make it an effective management tool.</p>	<p>The Intelligence Reform and Terrorism Prevention Act of 2004 called for the National Strategy for Transportation Security to be completed by April 2005. The report was not delivered in time. Over the next few months, Ranking Member Thompson and other Committee Members wrote at least 4 letters to President Bush, Secretary Chertoff and the then-Committee Chairman asking about the status of the report or calling for hearings. A classified version of the report was finally delivered in September. Representative Thompson then sent a letter to Secretary Chertoff asking that a declassified version of the report be produced and delivered to transportation stakeholders, such as managers of subway systems, so that it could be used by those most at-risk of a transportation attack. A declassified version of the report was produced in October. Since then, we have told Administration officials that the report</p>
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		lacks sufficient details.
<p>Improve airline passenger pre-screening</p>	<p>F</p> <p>Few improvements have been made to the existing passenger screening system since right after 9/11. The completion of the testing phase of TSA's pre-screening program for airline passengers has been delayed. A new system, utilizing all names on the consolidated terrorist watch list, is therefore not yet in operation.</p>	<p>We have supported the establishment of a Registered Traveler program to improve the processing of frequent air travelers, although we have expressed strong concerns about the current structure and timelines the Department is pursuing in developing this program.</p> <p>We have also called for a robust redress process for those who are wrongly flagged under Secure Flight or any other passenger prescreening program.</p> <p>Additionally, during the Committee's consideration of H.R. 4312, the "Border Security and Terrorism Prevention Act of 2005," which was recently passed by the Committee, Representative Peter DeFazio (D-OR) offered an amendment to ensure that the Department begins using technology to check U.S.-bound passengers against watch lists for admissibility before their flights depart. The Department's current policy of requiring passenger information to be transmitted no later than 15-minutes after a flight departs is inadequate in the post-9/11 era. Representative DeFazio withdrew his amendment after the Chairman agreed to work with him to craft bipartisan language to close this security gap for inclusion in the Manager's amendment to be offered when H.R. 4312 is considered in the full House. We look forward to continued discussion on Mr. DeFazio's proposed amendment in the</p>

		<p>coming weeks.</p> <p>Finally, after the Government Accountability Office issued a report in April 2003 finding that there were at least 12 different terrorist watch lists,³ despite the 9/11 Commission’s recommendation to create a unified terrorist watch list, we repeatedly called on the Administration to correct this problem. While the new Terrorist Screening Center (TSC) appears to have achieved that goal, there are still questions about the level of interoperability between the databases linked by the TSC, as well as the funding and support the TSC is receiving from various security agencies. We have continued to push the Administration to better support the TSC’s mission.</p>
<p>Improve airline screening checkpoints to detect explosives</p>	<p>C While more advanced screening technology is being developed, Congress needs to provide the funding for, and TSA needs to move as expeditiously as possible with, the appropriate installation of explosives detection trace portals at more of the nation’s commercial airports.</p>	<p>Ranking Member Thompson offered a Motion to Recommit with Instructions to H.R. 1817, the “Homeland Security Authorization Act for Fiscal Year 2006,” that would have amended the bill to ensure that the checkpoint and other passenger screening equipment commitments in the Intelligence Reform and Terrorism Prevention Act of 2004 (the “9/11 Act”) are met. For example, the 9/11 Act provides for \$250 million in funding for the Transportation Safety Administration (TSA) to research, develop, and install detection systems and other devices for the</p>

³ GAO-03-322.

		<p>detection of biological, chemical, radiological, and explosive materials.⁴ Another \$100 million was authorized strictly for research and development of improved explosive detection systems.⁵ Unfortunately, Mr. Thompson's Motion was defeated on the floor in a mostly party-line vote.</p>
<p>Checked bag and cargo screening</p>	<p>D Improvements here have not been made a priority by the Congress or the administration. Progress on implementation of in-line screening has been slow. The main impediment is inadequate funding.</p>	<p>During the Committee's mark-up of H.R. 1817, the "Homeland Security Authorization Act for Fiscal Year 2006," Representative Peter DeFazio (D-OR) offered an amendment to substantially improve aviation security by dedicating funding from the Aviation Capital Security Fund to fully-fund the installation of in-line explosive detection systems at all airports. In-line explosive detection systems use conveyor belts and other means to improve the speed and accuracy of baggage screening.</p> <p>We have also worked to reduce the vulnerability of our cargo systems. Two years ago, after investigative journalists shipped a material similar to weapons-usable highly enriched uranium undetected from Asia through the port of Long Beach, Representative Edward J. Markey (D-MA) and other Democrats began pressing the Department of Homeland Security to improve its ability to prevent radioactive materials that could be used in nuclear bombs from entering our country at ports-</p>

⁴ Intelligence Reform and Terrorism Prevention Act of 2004, section 4013.

⁵ *Id.*, section 4024.

		<p>of-entry. Representative Loretta Sanchez (D-CA) offered an amendment to H.R. 1817 to require the Department to develop container security standards.</p> <p>Representative Markey has also offered numerous amendments, motions, and legislation to improve air cargo screening.</p> <p>Finally, Representative James Langevin (D-RI) offered a successful amendment to H.R. 4312, the “Border Security and Terrorism Prevention Act of 2005,” to deploy radiation detection equipment at ports-of-entry that is capable of screening containers for radiological and nuclear weapons.</p>
<p>BORDER SECURITY</p>		
<p>Better terrorist travel strategy</p>	<p>Incomplete</p> <p>The first Terrorist Travel Strategy is in development, due to be delivered by December 17, 2005 as required by PL 108-458.</p>	<p>Beginning with H.R. 5130, “The Secure Border Act,” introduced in the 108th Congress, we have called for Congress to force the Administration and the Department to produce a comprehensive border security plan, something it has yet to do.</p> <p>By producing a comprehensive plan, the Department will finally have to decide what mix of personnel, equipment, technology and other assets are needed to prevent terrorist and other illegal travel across the border. In April of this year, Representative Loretta Sanchez (D-CA) and Representative Sheila Jackson-Lee (D-TX) offered an amendment to H.R. 1817, the “Homeland Security Authorization Act</p>

		<p>for Fiscal Year 2006,” which would have required the development of a comprehensive land border security strategy. That amendment was rejected along party lines.</p> <p>We are heartened that the Chairman endorsed our call for a national border security strategy by including a provision requiring such a strategy in H.R. 4312, the “Border Security and Terrorism Prevention Act of 2005,” which was recently passed by the Committee.</p>
<p>Comprehensive screening system</p>	<p>C We still do not have a comprehensive screening system. Although agencies are moving ahead on individual screening projects, there is lack of progress on coordination between agencies. DHS’ new Screening Coordination Office still needs to establish and implement goals for resolving differences in biometric and traveler systems, credentialing and identification standards.</p>	<p>We supported a provision in H.R. 1817, the “Homeland Security Authorization Act for Fiscal Year 2006” that would create universal biometric standards that can be used across a variety of screening programs.</p> <p>We have also repeatedly called for requiring connectivity between the IAFIS and IDENT databases used for watch-listing purposes by the FBI and the Customs and Border Patrol (CBP), respectively. Right now the FBI’s IAFIS system uses 10 fingerprints while the CBP’s IDENT system uses two fingerprints, leading to a lack of interoperability between the two systems. Criminals or even terrorists could enter the country because although they are wanted by the FBI and listed in IAFIS, that data is not always searchable when they are screened at the border by CBP personnel using the IDENT system. Representative Norm Dicks (D-WA) has argued for over</p>

		<p>two years that this security gap should be closed through a mandate that the IDENT database be made a 10 print system interoperable with IAFIS. The Chairmen endorsed our view and included a provision requiring interoperability between IDENT and IAFIS databases in H.R. 4312, the “Border Security and Terrorism Prevention Act of 2005,” which was recently passed by the Committee. However, we were disappointed that funds were not authorized to cover the transition costs of moving the IDENT database from a two to 10 fingerprint system.</p>
<p>Biometric entry-exit screening system</p>	<p>B The US-VISIT system is running at 115 airports and 15 seaports, and is performing secondary screening at the 50 busiest land borders. But border screening systems are not yet employed at all land borders, nor are these systems interoperable. The exit component of the US-VISIT system has not been widely deployed.</p>	<p>We believe this grade is too high and should be reassessed. In a series of November 28, 2005 press releases, the Department of Homeland Security reported the opening of only 16 additional US-VISIT stations at northern border land ports-of-entry. Therefore, when these new additions are combined with the 115 airports, 15 seaports and 50 largest land ports-of-entry where US-VISIT was already in operation, US-VISIT is operational at only 196 out of 395 ports-of-entry.⁶</p> <p>Even where implemented, the US-VISIT program, using its IDENT database, only captures two fingerprints from travelers, making it incompatible with the FBI’s ten fingerprint IAFIS criminal database. A lack of interoperability between these two systems creates a risk that an individual</p>

⁶ A Government Accountability Office report (GAO 03-174) indicates that as of Fiscal Year 2001, the U.S. had a total of 395 ports of entry.

		<p>caught at the border may not be adequately screened against all terrorist watchlists. In the Democratic Substitute to H.R. 4312, the “Border Security and Terrorism Prevention Act of 2005,” we responded to serious concerns about this lack of interoperability by authorizing full funding to provide all US-VISIT stations and all U.S. consulates overseas with the equipment to capture ten fingerprints from visa applicants and visa-waiver country travelers. Our substitute also mandated the creation of a private-sector task force to provide the Department with independent expertise on how best to complete US-VISIT. Unfortunately, the Substitute was defeated by a party-line vote.</p>
<p>International collaboration on borders and document security</p>	<p>D There has been some good collaboration between US-VISIT and Interpol, but little progress elsewhere. There has been no systematic diplomatic effort to share terrorist watchlists, nor has Congress taken a leadership role in passport security.</p>	<p>We have repeatedly called for the Administration and the Department of Homeland Security to provide Congress with ongoing reports on the progress of accords and partnerships with the Mexican and Canadian governments that will enhance border security while also facilitating commerce and travel. We asked for such reports in legislation offered in the 108th Congress and in an amendment offered to H.R. 1817, the “Homeland Security Authorization Act for Fiscal Year 2006,” by Representatives Sheila Jackson-Lee and Sanchez.</p> <p>After we repeatedly raised the issue, a provision requiring these reports was included in H.R. 4312, the “Border Security and Terrorism Prevention Act of</p>

		<p>2005,” which was recently passed by the Committee.</p> <p>Our substitute offered to H.R. 4312 also would have created offices of Northern and Southern Border Coordinators to assure close collaboration with Canada and Mexico on sharing terrorist information, assuring document security, and taking all measures possible to secure our borders. Unfortunately, the Substitute was rejected.</p>
Standardize secure identifications	<p>B- The REAL ID Act has established by statute standards for state-issued IDs acceptable for federal purposes, though states’ compliance needs to be closely monitored. New standards for issuing birth certificates (required by law by December 17, 2005) are delayed until at least spring 2006, probably longer. Without movement on the birth certificate issue, state-issued IDs are still not secure.</p>	<p>Since the REAL ID Act’s passage, we have called for Congress and the Administration to ensure the Act does not lead to any unfunded mandates on the states by ensuring federal funds are provided to assist with meeting licensing requirements. According to National Conference of State Legislatures, it may cost states as much as \$500 million to implement the REAL ID Act.</p>
<p>Part II: Reforming the Institutions of Government THE INTELLIGENCE COMMUNITY</p>		
Director of National Intelligence	<p>B The framework for the DNI and his authorities are in place. Now his challenge is to exercise his authorities boldly to smash stovepipes, drive reform, and create a unity of effort—and act soon. He must avoid layering of the bureaucracy and focus on transformation of the Intelligence Community. The success of this office will require decisive leadership from the DNI and the president, and active oversight by the Congress.</p>	<p>While there has been progress on this front, concerns remain that more steps need to be taken to authoritatively delineate the DNI’s jurisdiction. Additionally, we remain concerned about the authority of the intelligence agencies within DHS. Secretary Chertoff’s recent decision to eliminate the Department’s Information Analysis and Infrastructure Protection Directorate and replace it with</p>

		<p>a new Chief Intelligence Officer (CIO) demonstrates the troubled status of intelligence operations at the Department. Furthermore, Secretary Chertoff has not proposed firm guidelines for the CIO's authority. We have unanimously supported H.R. 4009, offered by Ranking Member Thompson, which provides firm authority and responsibility for the CIO. Unfortunately, the Committee has not acted on H.R. 4009 or any other legislation setting out the duties of the CIO.</p>
<p>National Counterterrorism Center</p>	<p>B Shared analysis and evaluation of threat information is in progress; joint operational planning is beginning. But the NCTC does not yet have sufficient resources or personnel to fulfill its intelligence and planning role.</p>	<p>The Intelligence Reform and Terrorism Prevention Act of 2004 limited the operational role of the NCTC and did not allow for its input in setting budgets or nominating officials. Some observers have argued that the bifurcated reporting relationships the Act created for the Director of the NCTC lead to ill-defined distinctions between joint counterterrorism intelligence operations and joint counterterrorism operations (i.e., other than intelligence), as well as the authority of the NCTC to define operational success and have the tools necessary to ensure compliance with its joint plans. We have expressed concerns about this unclear authority and the inefficient business practices it could potentially create.</p>
<p>Incentives for information sharing</p>	<p>D Changes in incentives, in favor of information sharing, have been minimal. The office of the program manager for information sharing is still a start-up, and is not getting the support it needs</p>	<p>A recent hearing by the Committee revealed that the Information Sharing Environment (ISE) Program Manager lacks a specific funding earmark and depends upon the DNI to fund his</p>

<p>Government-wide information sharing</p>	<p>from the highest levels of government. There remain many complaints about lack of information sharing between federal authorities and state and local level officials.</p> <p>D Designating individuals to be in charge of information sharing is not enough. They need resources, active presidential backing, policies and procedures in place that compel sharing, and systems of performance evaluation that appraise personnel on how they carry out information sharing.</p>	<p>activities – specifically, promoting information sharing across the federal government and with state, local, and tribal authorities by developing a common set of guidelines and policies. The Program Manager estimated that he needs \$30 million to conduct the work of his office for the next fiscal year – a request that Chairman Rob Simmons (R-CT) and Ranking Member Zoe Lofgren (D-CA) supported in a letter to the Appropriations Committee.</p> <p>Additionally, the Program Manager admitted during a July hearing before the Senate Judiciary Committee that the Bush Administration had provided him with only one full-time employee and two contractors to assist him with his work. His testimony came on the heels of his June 15, 2005 report to Congress – mandated by the 9/11 Act – that required him to (1) prepare a preliminary report to include a description of the technological, legal, and policy issues presented by the creation of the ISE and the way in which those issues would be addressed; (2) establish an initial capability to provide electronic directory services, or the functional equivalent, to assist in locating within the federal government intelligence and terrorism information and people with relevant knowledge about same; and (3) conduct a review of relevant current federal agency capabilities, databases, and systems for sharing information. The Program Manager’s ten-page report was</p>
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		<p>sparse on details and arguably failed to meet this statutory mandate.</p> <p>Finally, while the Program Manager has apparently completed guidelines prescribing how the Intelligence Community should convert classified intelligence information to a shareable format for use by state, local, and tribal law enforcement officers, those guidelines have not been forthcoming. The 9/11 Act required the guidelines to be completed by September 13, 2005. The DNI's office advised the Committee in early September, however, that Hurricanes Katrina and Rita would delay their delivery by a month. We will continue to push for the completion of these guidelines.</p> <p>Information sharing among intelligence agencies is also hindered by a lack of coordination at the Department of Homeland Security. At a November 2005 Committee hearing, Representative Markey questioned the Department's incoming Chief Intelligence Officer and determined that the Department not only lacks a central database to share information among its own 10 intelligence units, but does not convene a daily conference call with the chief and the heads of each of the Department's 10 intelligence offices. We will continue to encourage the Department to better coordinate these intelligence offices.</p>
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CIVIL LIBERTIES AND EXECUTIVE POWER

Balance between security and civil liberties

B
The debate surrounding reauthorization of the PATRIOT Act has been strong, and concern for civil liberties has been at the heart of it. Robust and continuing oversight, both within the Executive and by the Congress, will be essential.

We remain concerned about the respect for privacy and civil liberties as we conduct the War on Terror. The Privacy and Civil Liberties Oversight Board (the “Board”), although formally established, is not up to the task envisioned by the 9/11 Commission. It has no mandate to inform, educate, or lead privacy practice among executive branch components involved in war on terror-related intelligence and law enforcement activities. It likewise has no power to help develop consistent, comprehensive, and effective privacy guidelines within those components. Instead, the Board can only “advise” the President and agency and department heads to ensure that privacy and civil liberties “are appropriately considered” and advise when adequate guidelines are lacking.

Privacy and Civil Liberties Oversight Board

D
We see little urgency in the creation of this Board. The President nominated a Chair and Vice Chair in June 2005, and sent their names to the Senate in late September. To date, the Senate has not confirmed them. Funding is insufficient, no meetings have been held, no staff named, no work plan outlined, no work begun, no office established.

The Board likewise has practically no independence from the White House. For example, it consists of five members (1) all of whom are appointed by the President, and only two of whom – the chairman and vice-chairman – require Senate approval; (2) all of whom serve “at the pleasure of the President”; (3) none of whom need be of different political parties; and (4) none of whom need have any expertise in civil liberties matters. The Board’s oversight powers, moreover, are severely constrained because it lacks the subpoena power.

Guidelines for government sharing of personal information

D
The Privacy and Civil Liberties Oversight Board has not yet begun its work. The DNI just named a Civil Liberties Protection Officer (November 2005).

Compounding these problems, President Bush failed to appoint a single member to the Board until June 10, 2005. Only one – Lanny Davis – can be considered a progressive. Moreover, the President set aside only \$750,000 for the Board’s budget – a mere fraction of the \$13 million allotted to the Department’s separate Privacy Office. “The failure to move on the [Board] is part of a disturbing trend,” one commentator stated. “Too often, the Bush White House has chosen to simply ignore that which it doesn’t like. Congress didn’t vote to ask the administration to think about having a privacy board. It established the board and gave the White House the power to populate it.” Many other observers have likewise concluded that the Board amounts to nothing more than a powerless entity that is unequipped to accomplish the goals laid out by the 9/11 Commission.

To address these deficiencies, we have co-sponsored H.R. 1310, the “Protection of Civil Liberties Act.” This bill would address the litany of deficiencies with the Board by (1) establishing it as an independent agency in the executive branch outside the Executive Office of the President; (2) requiring that all five of its members be confirmed by the Senate; (3) requiring that no more than three of its members come from the same political party; (4) setting six-year, staggered terms

		<p>for the members; (5) requiring that members have prior experience with protecting civil liberties; (6) specifying that the chairman shall be a full-time member of the Board; (7) increasing the Board's Congressional reporting requirement from once to at least twice yearly; and (8) requiring that each executive department or agency with law enforcement or antiterrorism functions designate a privacy and civil liberties officer. Perhaps most importantly, the Act would give the Board subpoena power so it can conduct a meaningful analysis of privacy and other civil liberties protections.</p> <p>H.R. 1310 is still pending. This past spring, Democrats in the House were successful in boosting the funding of the Board to \$1.5 million.</p>
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CONGRESSIONAL AND ADMINISTRATIVE REFORM

<p>Homeland Security committees</p>	<p>B The House and Senate have taken positive steps, but Secretary Chertoff and his team still report to too many bosses. The House and Senate homeland security committees should have exclusive jurisdiction over all counterterrorism functions of the Department of Homeland Security.</p>	<p>As previously discussed, we have called for an expansive view of the Committee's jurisdiction over the Department of Homeland Security. For example, we recently expressed disappointment during consideration of H.R. 4312, the "Border Security and Terrorism Prevention Act of 2005," when amendments they offered dealing with border security-related detention policies were held to be outside the Committee's jurisdiction. We will continue to push for a better organized congressional system for conducting</p>
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		oversight over the Department of Homeland Security.
Part III: Foreign Policy, Public Diplomacy, and Nonproliferation NONPROLIFERATION		
Maximum effort by U.S. government to secure WMD	D Counteracting the greatest threat to America's security is still not the top national security priority of the President and the Congress.	We have repeatedly called for stronger support for non-proliferation programs abroad, such as the Nunn-Lugar program to secure nuclear materials in the former Soviet Union. Additionally, we have called for stronger measures to prevent terrorists from transporting nuclear materials and other weapons of mass destruction into the U.S. As previously discussed, Representative James Langevin (D-RI) recently offered a successful amendment to H.R. 4312, the "Border Security and Terrorism Prevention Act of 2005," providing funds for radiation portal monitors at ports-of-entry.
FOREIGN POLICY		
Vigorous effort against terrorist financing	A- The U.S. has won the support of key countries in tackling terrorism finance—though there is still much to do in the Gulf States and in South Asia. The government has made significant strides in using terrorism finance as an intelligence tool. However, the State Department and Treasury Department are engaged in unhelpful turf battles, and the overall effort lacks leadership.	In May 2004, we called on our counterparts to conduct a joint investigation into allegations of terrorism financing by an American mining company and to consider Committee hearings on the subject in the fall. Our staff had uncovered cases where U.S. and international corporations were either negligently or intentionally supporting terrorist organizations in their off-shore operations. The Committee has still not acted on this hearing and investigation request.