



Report on the Status of 9/11 Commission Recommendations

Part II: Reforming the Institutions of Government

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RECOMMENDATION	STATUS	NEXT STEPS
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THE INTELLIGENCE COMMUNITY		
Director of National Intelligence	Congress: Fulfilled Executive: Some Progress	Executive
National Counterterrorism Center	Congress: Fulfilled Executive: Some Progress	Executive
Create FBI national security workforce	Insufficient Progress Analytic capability: Minimal Progress Information Systems: Unsatisfactory	Executive
New missions for CIA Director	Some Progress	Executive
Incentives for information sharing	Minimal Progress	Executive
President should lead national security institutions into the information revolution	Minimal Progress	Executive
Homeland airspace defense	Some Progress	Executive

CIVIL LIBERTIES AND EXECUTIVE POWER		
Balance between security and civil liberties	Some Progress	Exec. & Congress
Privacy and Civil Liberties Oversight Board	Minimal Progress	Exec. & Congress
Set privacy guidelines for government sharing of personal information	Minimal Progress	Exec. & Congress

CONGRESSIONAL & ADMINISTRATIVE REFORM		
Intelligence oversight reform	Minimal Progress	Congress
Homeland Security committees	Some Progress	Congress
Declassify overall intelligence budget	Unsatisfactory	Congress
Standardize security clearances	Minimal Progress	Executive

The Intelligence Community

DIRECTOR OF NATIONAL INTELLIGENCE

“The current position of Director of Central Intelligence should be replaced by a National Intelligence Director 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.” (p. 411)

Grade: CONGRESS: FULFILLED ♦ EXECUTIVE: SOME PROGRESS

What has happened: The Intelligence Reform and Terrorism Prevention Act of 2004 (PL 108-458) established the position of DNI, placing 15 agencies under his leadership. The Act gives the DNI access to all national intelligence; authorities to develop and execute the intelligence budget, transfer and reprogram funds, and appoint and transfer personnel; and responsibilities in tasking, setting standards, and ensuring information sharing across the intelligence community. John Negroponte was confirmed as DNI on April 22, 2005. The Office of the DNI is now in charge of preparing the President’s Daily Briefing, and the DNI has replaced the DCI as the President’s chief intelligence adviser. In order to improve intelligence, the DNI has set improving analysis, building a sense of community, and gaining control of the budget as his priorities. The Office of the DNI reports that it has implemented new procedures for ensuring that an Intelligence Community-wide range of analytical views on priority issues, including dissents, is reflected in the analytic product. The Office is expected to issue a National Intelligence Strategy in the near future.

Why this is still important: The Commission recommended a DNI not to create a new “czar” or a new layer of bureaucracy, but to catalyze transformation and manage and forge unity of effort in a more efficient and effective Intelligence Community.

What needs to be done: The framework for the DNI and his authorities is now in place. But that is not enough. To ensure success, the DNI needs to exercise all his authorities, especially budget and personnel authorities, to drive reform. Information sharing must be a high priority reform. Success will require bold DNI leadership, direct presidential support, active congressional oversight, and public vigilance.

NATIONAL COUNTERTERRORISM CENTER

“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.” (p. 403)

Grade: CONGRESS: FULFILLED ♦ EXECUTIVE: SOME PROGRESS

What has happened: The Intelligence Reform and Terrorism Prevention Act of 2004 (PL 108-458) established the NCTC within the Office of the DNI, and required the NCTC to begin operations by June 17. Vice Admiral John Scott Redd was confirmed by the senate as Director of NCTC on July 28, 2005. The NCTC brings intelligence and policy agencies in the federal government together daily to share, analyze and evaluate threat information and terrorist intelligence. Joint strategic operational planning for counterterrorism, as called for in the statute, is beginning. So far, NCTC has only about one-half of its necessary analytic capability and one-third of its necessary personnel.

Why this is still important: The NCTC’s purpose is to bring all the participants to the table for information sharing and planning and direction to respond to the al Qaeda enemy. Its purpose is to unify the intelligence effort and operational response to terrorism.

What needs to be done: Strong and effective leadership from both the DNI and the Director of the NCTC are essential to ensure that the Center has sufficient resources and personnel to fulfill its intelligence and planning role.

CREATE FBI NATIONAL SECURITY WORKFORCE

“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 deep expertise in intelligence and national security.” (pp.425-6)

Grade: INSUFFICIENT PROGRESS (Analytic capability: Minimal Progress ♦ Information systems: Unsatisfactory)

What has happened: The Intelligence Reform and Terrorist Prevention Act (PL 108-458) enacted the Commission’s recommendations on the FBI. The trend line on FBI reform has been in the right direction, but far too slow. It is widely recognized that there are still numerous problems impeding the Bureau’s ability to carry out its new counterterrorism function effectively. There are still significant deficiencies in the FBI’s analytic capabilities; information sharing with other agencies and with local law enforcement is still inadequate; leadership of counterterrorism and intelligence has changed repeatedly; to date, initiatives to improve information technology capabilities have failed. Problems in management turnover and shortfalls in human capital development (recruitment, hiring, training and career development) continue. The FBI’s culture continues to resist Director Mueller’s changes.

Why this is still important: The FBI’s shift to a preventive counterterrorism posture must become institutionalized if it is to survive beyond Director Mueller’s tenure. A strong and effective domestic intelligence function is not an option for the United States – it is an obligation. Our nation’s security depends on it.

What needs to be done: A sense of urgency within the Bureau is essential. The FBI must complete reforms now underway: the creation of a robust and qualified national security workforce to carry out the domestic counterterrorism mission. The FBI’s culture must change to meet its new challenges and counterterrorism role. Director Mueller’s timeframe for effecting reform at the FBI is not indefinite. The terrorists will not wait. Reforms must be accelerated, or they will fail. Unless there is improvement in a reasonable period of time, Congress will have to look at alternatives.

NEW MISSIONS FOR CIA DIRECTOR

“The CIA Director should emphasize (a) rebuilding the CIA’s analytic capabilities; (b) transforming the clandestine service by building its human intelligence capabilities; (c) developing a stronger language program, with high standards and sufficient financial incentives; (d) renewing emphasis on recruiting diversity among operations officers so they can blend more easily in foreign cities; (e) ensuring a seamless relationship between human source collection and signals collection at the operational level; and (f) stressing a better balance between unilateral and liaison operations.” (p. 415)

Grade: SOME PROGRESS

What has happened: Many of these reforms were already underway at the CIA even before the Intelligence Reform and Terrorism Prevention Act of 2004 (PL 108-458) wrote them into law as responsibilities of the CIA Director. These measures will take years to bear fruit. The DNI has established the National Clandestine Service and named the CIA Director as the National HUMINT Manager to coordinate the human intelligence collection efforts of CIA, FBI and the Pentagon. Low morale and high turnover in senior ranks at the CIA are areas of concern.

Why this is still important: Rebuilding the CIA’s analytic and operational capabilities is a key factor in fighting the war on terror. It is essential that the CIA’s human intelligence operations have strong and effective leadership.

What needs to be done: Strong, determined leadership committed to accelerating the pace of the reforms already underway is critical if the nation is to have the intelligence system it requires. Congress and CIA leadership should

regularly evaluate the effectiveness of the National Clandestine Service structure, to determine if it improves coordination of human intelligence collection operations and produces better intelligence results. Congress and CIA leadership should also address morale and personnel issues at the CIA to ensure it remains an effective arm of national power.

INCENTIVES FOR INFORMATION SHARING

“Information procedures should provide incentives for sharing, to restore a better balance between security and shared knowledge.” (p. 417)

Grade: MINIMAL PROGRESS

What has happened: According to the Intelligence Reform and Terrorism Prevention Act of 2004 (PL 108-458), the President shall require the heads of federal departments and agencies to promote a culture of information sharing by both reducing disincentives and providing affirmative incentives for sharing information. The DNI also has responsibility for establishing policies and procedures to ensure the maximum availability of, and access to, intelligence information within the intelligence community. A program manager has been designated by the President as responsible for information sharing across the federal government. This office is still a start-up. So far, changes in incentives, in favor of information sharing, are minimal.

Why this is still important: The 9/11 story included numerous examples of how a mentality of limiting information sharing to those with a “need to know” in fact kept information from getting to the right people at the right time. Cultures will not change without policies in place that actively encourage such change.

What needs to be done: The President and the DNI need to make change in the culture of information sharing a priority through clear and visible support. They need to develop positive incentives for information sharing to balance the many disincentives on the books. Information sharing must be improved not only across the federal government but with state and local authorities.

PRESIDENT SHOULD LEAD NATIONAL SECURITY INSTITUTIONS INTO THE INFORMATION REVOLUTION

“The president should lead the government-wide effort to bring the major national security institutions into the information revolution. He should coordinate the resolution of the legal, policy, and technical issues across agencies to create a ‘trusted information network.’” (p. 418)

Grade: MINIMAL PROGRESS

What has happened: The Intelligence Reform and Terrorism Prevention Act of 2004 (PL 108-458) required that the President create an information sharing environment to provide and facilitate the means for sharing information through the use of policy guidelines and technologies. Within the intelligence community, the DNI has all necessary support and authorities from the President to ensure maximum availability of and access to intelligence information. Outside the intelligence community, a program manager has been designated by the President as responsible for information sharing across the federal government, yet there are few signs of the actual implementation of a “trusted information network.” The program manager does not yet have the personnel and resources necessary to assert authority across the federal government.

Why this is still important: Only with White House leadership can legal and policy obstacles be overcome to bring our national security institutions into the information revolution.

What needs to be done: The President needs to make information sharing a priority. Designating officials to be in charge is not enough; they need resources and active presidential backing to change the information systems that

enable information sharing, the policies and procedures that compel sharing, and the systems of performance evaluation so that personnel are appraised on how they carry out information sharing.

HOMELAND AIRSPACE DEFENSE

“The Department of Defense and its oversight committees should regularly assess the adequacy of Northern Command’s strategies and planning to defend the United States against military threats to the homeland.” (p.428)

Grade: SOME PROGRESS

What has happened: Situational awareness has improved. FAA and NORAD share the same radar feeds and have established strong liaison relationships through the exchange of personnel. FAA’s Domestic Events Network provides a 24/7 open unclassified line that facilitates immediate situational awareness for all agencies, in particular DOD, on any aircraft deviation. The National Capital Region Coordination Center, comprised of representatives of the military and civilian agencies, coordinates action in the event of a threat from unidentified aircraft to the Washington, D.C. region. Committees, including House Armed Services and Government Reform, have held oversight hearings of strategies and plans for national air defense.

Why this is still important: Clear delineations of responsibility and authority for national defense are essential, in the few minutes available when aircraft deviate from standard flight paths into restricted airspace.

What needs to be done: No single agency leads the interagency response to airspace violations. No overarching plan exists to secure airspace outside of the National Capital region. Agency database records documenting violations are not routinely shared; agencies do not have a common definition of airspace violation. More needs to be done to standardize definitions and procedures, and unify leadership and response to airspace violations.

Civil Liberties and Executive Power

BALANCE BETWEEN SECURITY AND CIVIL LIBERTIES

“Because of concerns regarding the shifting balance of power to the government, we think that a full and informed debate on the PATRIOT Act would be healthy....The burden of proof for retaining a particular government 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, there must be adequate guidelines and oversight to properly confine its use.”(p.394-5)

Grade: SOME PROGRESS

What has happened: Congress has held numerous hearings, with at least 16 in the House and Senate Judiciary Committees devoted exclusively to review of provisions of the PATRIOT Act, and several more in other committees of jurisdiction. Numerous voices across the political spectrum have been heard in the debate. The House and the Senate have completed action on separate bills; a conference report before the end of the year is expected.

Why this is still important: Out of a full and informed debate, a better policy will emerge. Guidelines and oversight are essential for the protection of our freedoms.

What needs to be done: The reauthorization of the PATRIOT Act should include additional transparency on the exercise of the law’s provisions, to enable robust and continuing oversight, both within the Executive branch and by the Congress.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

“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 recommend and the commitment the government makes to defend our civil liberties.” (p.395)

Grade: **MINIMAL PROGRESS**

What has happened: Section 1061 of Public Law 108-458 (the Intelligence Reform and Terrorism Prevention Act) created a Privacy and Civil Liberties Oversight Board. On June 10, 2005 the President appointed Lanny Davis, Ted Olson and Francis X. Taylor as members of the Board, and nominated Carol Dinkins and Alan Charles Raul as Chair and Vice Chair respectively. The Chair and Vice Chair require Senate confirmation; their names were sent up to the Senate on September 28, 2005. The Administration requested \$750,000 for the Board for Fiscal Year 06; the House-passed appropriations bill increases its FY 06 funding to \$1.5 million. The Board has yet to be constituted. To date no meetings have been held; no staff have been named; no work plan has been outlined; no work has begun; no office has been established. Ten months after the establishment of the Board by statute, it shows few signs of life.

Why this is still important: The Privacy and Civil Liberties Board is the only office within the executive branch to look across the government at the actions we are taking to protect ourselves, to ensure that liberty concerns are appropriately considered. Because there is substantial change in the way the government collects and shares intelligence, there needs to be an institutional voice within the executive branch for privacy and civil liberties.

What needs to be done: The Senate needs to act expeditiously on the nominees for Chair and Vice Chair of the Board; the Congress needs to provide sufficient funding. The Board needs to begin its work soonest.

SET PRIVACY GUIDELINES FOR GOVERNMENT SHARING OF PERSONAL INFORMATION

“As the President determines the guidelines for information sharing among government agencies and by those agencies with the private sector, he should safeguard the privacy of individuals about whom information is shared.” (p.394)

Grade: **MINIMAL PROGRESS**

What has happened: Public Law 108-458 created the Privacy and Civil Liberties Oversight Board, as well as a Civil Liberties Protection Officer in the Office of the Director of National Intelligence.

Why this is still important: The shift of power and authority to the government calls for an enhanced system of checks and balances to protect the liberties that are vital to our way of life.

What needs to be done: The Privacy and Civil Liberties Oversight Board must begin its work; the Senate should act expeditiously on the President’s nominees for Chair and Vice Chair; the Congress should provide sufficient funding; and the Board should name a staff director. The Director of National Intelligence should name a Civil Liberties Protection Officer, who needs to begin work promptly.

Congressional & Administrative Reform

INTELLIGENCE OVERSIGHT REFORM

“Congressional oversight for intelligence-and counterterrorism-is now dysfunctional. Congress should address this problem. We have considered various alternatives: A joint committee on the old model of the Joint Committee on Atomic Energy is one. A single committee in each house of Congress, combining authorizing and appropriating authorities, is another.

- *The new committee or committees should conduct continuing studies of the activities of the intelligence agencies and report...to all members of the House and Senate.*
- *[T]he total level of funding for intelligence [should] be made public...the national intelligence program [should] be appropriated to the National Intelligence Director, not to the secretary of defense.*
- *[T]he intelligence committee should have a subcommittee specifically dedicated to oversight....*
- *[G]rant subpoena authority to the committee or committees. The majority party's representation on this committee should never exceed the minority's representation by more than one.*
- *Four of the members appointed to this committee or committees should be a member who also serves on each of the following additional committees: Armed Services, Judiciary, Foreign Affairs, and the Defense Appropriations subcommittee.*
- *Members should serve indefinitely on the intelligence committees, without set terms....*
- *The committees should be smaller...so that each member feels a greater sense of responsibility, and accountability, for the quality of the committee's work.” (p. 420-421)*

Grade: **MINIMAL PROGRESS**

What has happened: The Senate Select Committee on Intelligence (SSCI) eliminated term limits, pared its membership roster, cut the majority/minority divide to one, and created an oversight subcommittee. The House Permanent Select Committee on Intelligence (HPSCI) created an oversight subcommittee.

The primary problem remains: the oversight committees have insufficient authority over the funding of the agencies in the intelligence community. First, the agencies’ purse strings are controlled by the defense appropriations subcommittees, for whom intelligence is not a primary concern. Second, the power of the Armed Services committees constrains the legislative authority of the intelligence committees.

The SSCI and HPSCI are the premier repositories of intelligence expertise in the Congress. Both committees are conducting vigorous oversight, often well and certainly as best they can, within the limitations noted.

Why this is still important: By its very nature, much of the work of intelligence must be conducted in secret. The American people rely on committees of the Congress to ensure that the critical agencies responsible for their safety are getting the job done. This is especially important in the wake of major intelligence reform—only strong Congressional oversight can ensure that this historic legislation is properly implemented.

What needs to be done: If the Intelligence Committees are not vested with appropriating authority, each house should create a separate appropriations subcommittee on intelligence. This would give the intelligence community’s designated overseers the carrots and sticks they need to hold those agencies accountable.

The SSCI and the HPSCI should be made permanent standing committees of the Congress. The HPSCI should eliminate term limits, so that committee members can build the expertise needed to conduct rigorous oversight over sensitive intelligence programs.

HOMELAND SECURITY COMMITTEES

“Congress should create a single, principal point of oversight and review for homeland security. Congressional leaders are best able to judge what committee should have jurisdiction over this department and its duties. But we believe that Congress does have the obligation to choose one in the House and one in the Senate, and that this committee should be a permanent standing committee with a nonpartisan staff.” (p. 421)

Grade: **SOME PROGRESS**

What has happened: The House created a permanent Committee on Homeland Security (HSC). The Senate gave the Governmental Affairs Committee responsibility for the Department of Homeland Security (DHS), and renamed it the Homeland Security and Governmental Affairs Committee (HSGAC).

Both Committees have conducted effective oversight over department-wide homeland security policy. Both have worked in a bipartisan fashion.

However, the HSGAC was not given authority over the Transportation Security Administration (TSA), the Coast Guard the immigration functions of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), the DHS Directorate of Border and Transportation Security, or several other major DHS agencies.

Why this is still important: Holes in the HSGAC’s jurisdiction make it difficult for the committee to pass an annual DHS authorization bill—as the HSC did this year. An annual authorization would give Congress a regular legislative vehicle to influence the direction of, and increase accountability within, the Department.

What needs to be done: The homeland security committees should have exclusive jurisdiction over all counterterrorism elements of DHS, and should make it their goal to send a DHS authorization bill to the President.

DECLASSIFY OVERALL INTELLIGENCE BUDGET

“...[T]o combat the secrecy and complexity we have described, the overall amounts of money being appropriated for national intelligence and to its component agencies should no longer be kept secret. Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work.” (p. 416)

Grade: **UNSATISFACTORY**

What has happened: This recommendation was included in the Senate-passed bill, but was not adopted by the House. It was dropped in conference committee.

Why this is still important: It is certainly possible to protect America’s intelligence capabilities and intelligence sources and methods while declassifying the top-line appropriations figures for the intelligence budget. Without some disclosure, the American public and most Members of Congress cannot judge adequately how well funds are being allocated toward our nation’s security. More public information would promote a greater sense of accountability as to how those funds are spent. Some secrecy is necessary for our security; unnecessary concealment of information from the American people is not.

What needs to be done: Congress should pass a separate appropriations act for intelligence, making public the overall amounts being appropriated from national intelligence and being assigned to the various components of the intelligence community.

STANDARDIZE SECURITY CLEARANCES

“A single federal agency should be responsible for providing and maintaining security clearances, ensuring uniform standards – including uniform security questionnaires and financial report requirements, and maintaining a single database.” (p. 376)

Grade: **MINIMAL PROGRESS**

What has happened: The President issued an Executive Order on June 27, 2005, “taking appropriate account of Title III of Public Law 108-458 [the Intelligence Reform Act]” stating that “agency functions relating to determining eligibility for access to classified national security information shall be appropriately uniform, centralized, effective, timely and reciprocal.” The Executive Order’s statement of policy is excellent. It also puts the Office of Management and Budget in charge, and OMB is expected to delegate its authorities to the Office of Personnel Management. However, nothing has yet changed on the ground. Processes for investigation and adjudication of security clearances are unchanged – with multiple authorities across the government, and no uniform standards of reciprocity in the recognition of clearances.

Why this is still important: The balkanized process for investigating, adjudicating and administering security clearances results in (1) great delays in getting good people into government; and (2) significant blockages to the timely sharing of information within the government.

What needs to be done: Urgency is necessary. The Office of Management and Budget needs to make the issue of standardized security clearances a much higher priority. It needs to take charge and “issue guidelines and instructions” and carry out the intent of the Executive Order.