

“9/11 Commission Report Implementation Act”

The 911 Implementation Act runs 280 pages over nine titles. Following is an outline that explains the most important provisions of each title.

I. Reform of the Intelligence Community

This title implements the Commission’s recommendations for reorganizing our national security institutions to more effectively oppose terrorism and other threats.

National Intelligence Authority: Establishes a National Intelligence Authority (NIA), the primary mission of which is to achieve unity of effort in the U.S. intelligence community (IC) and organize the IC around joint missions rather than collection disciplines. The NIA is established as a free-standing agency.

National Intelligence Director: Creates a National Intelligence Director (NID), who serves as head of the NIA, acts as principal adviser to the President for national intelligence matters, and directs, manages, and oversees the National Intelligence Program (NIP).

National Intelligence Program: Defines the National Intelligence Program as including all programs, projects, and activities currently in the National Foreign Intelligence Program, and other intelligence programs that are national in scope, but excluding programs, projects, or activities pertaining solely to the requirements of a single department or agency.

NID Authorities and Responsibilities: The NID manages and oversees the execution of the NIP, including developing and submitting a unified budget, executing the budget, and directing the reprogramming and reallocation of funds and the transfer of personnel among and between agencies. The NID has access to all intelligence related to national security; participates in the development of the Tactical Intelligence and Related Areas (TIARA) budget and the budget for entities in the IC that are not included in the NIP; and reviews the Joint Military Intelligence Program (JMIP) with the Secretary of Defense to delineate those programs that should be included in the NIP budget. The NID recommends to the President the appointment of the directors of components of the main intelligence agencies and entities, and recommends their termination if warranted.

Unclassified Budget: Requires the NID to submit an unclassified budget request with the total amount requested and the prior year’s appropriation for each agency included in the request. Requires Congress to produce appropriations legislation for the NIP in an unclassified form that includes the total amount appropriated for each agency.

Deputy NIDs: Establishes four Deputies to the NID, appointed by the President and confirmed by the Senate, and describes their roles and responsibilities. The Principal Deputy assists the Director with his responsibilities in running the NIA and directing the

NIP. The Deputy Director for Foreign Intelligence serves concurrently as the Director of the CIA. The Deputy Director for Defense Intelligence serves concurrently as the Undersecretary of Defense for Intelligence. The Deputy for Homeland Intelligence is either the Undersecretary for Information Analysis and Infrastructure Protection at the Department of Homeland Security or the Executive Assistant Director for Intelligence at the FBI, as determined by the NID.

National Counterterrorism Center: Establishes a National Counterterrorism Center (NCTC) the primary mission of which is to oversee all counterterrorism operations of the U.S. government. The Director of NCTC is the President's principal adviser on counterterrorism intelligence and joint operations. The Director of NCTC will establish a Directorate of Intelligence with primary responsibility for analysis of terrorism and terrorist organizations from all sources and for net assessments and warnings about terrorist threats. The Director of NCTC will also establish and maintain a Directorate of Operations with primary responsibility for providing guidance and plans, including strategic plans, for joint counterterrorism operations; assign responsibilities for counterterrorism to other departments; monitor implementation of operations; and report to the NID and the President on compliance. In the case of operations assigned to units of the Armed Forces, the NCTC is required to obtain the concurrence of the Secretary of Defense. In the event of an interagency conflict regarding an operation planned or task assigned by the NCTC to a department or agency, the National Security Council (NSC) will resolve the conflict.

Agency Support and Staffing for the NCTC: The analytical staff of the NCTC is comprised primarily of experts from all agencies in the intelligence community plus other executive agencies. The NID will use his personnel authorities to transfer staff to the NCTC and to ensure that agencies provide adequate incentives to employees who serve at the NCTC, National Intelligence Centers, and other positions in support of the NID's community management functions.

National Intelligence Centers: Authorizes the NID to establish National Intelligence Centers (NICs) to address intelligence priorities set by the National Security Council. NICs will be established at the direction of the President, as prescribed by law, or upon the initiative of the NID, who determines the structure and size of each center. The NID assigns lead responsibility for each NIC to an IC department or agency that will provide administrative support. Within its area of responsibility, each NIC will: provide all-source analysis of intelligence and propose intelligence collection requirements, pursuant to priorities established by the NSC; serve as the principal repository for all-source analysis; and provide advice and guidance to the President, the NSC, the NID, and the heads of other departments and agencies. The Directors of the NICs are appointed by the NID, and serve as the principal adviser to the NID on intelligence matters under the NIC's purview.

Additional Intelligence Reforms: Requires that the Director of the Central Intelligence Agency (CIA) improve the CIA's analytic capability and transform the clandestine

service by rebuilding its human intelligence capabilities. Directs the Director of the Federal Bureau of Investigation (FBI) to continue efforts to improve the FBI's intelligence capabilities and develop and maintain a specialized national security workforce. Provides that, in general, the Secretary of Defense shall have lead responsibility for directing and executing paramilitary operations and that the CIA shall work with Department of Defense to jointly plan paramilitary operations. However, the CIA retains its broader responsibility for the direction and execution of clandestine and covert operations.

II. Information Sharing

This title implements the Commission's recommendations for improving sharing of information between agencies. It requires the President to establish an urgently needed information sharing network, to break down the stovepipes that currently impede the flow of information. The network, modeled on a proposal by a task force of the Markle Foundation that was endorsed by the 9/11 Commission, is to consist of policies and information technology designed to facilitate and promote the sharing of terrorism information throughout the federal government, with state and local agencies and, where appropriate, with the private sector. The President will be required to issue guidelines governing the collection, sharing and use of information that both promote information exchange and protect privacy and civil liberties. The President also will be required to submit to Congress an implementation plan that defines technological requirements, establishes time lines, delineates agency roles, and estimates budget requirements. In addition, this title establishes an Advisory Council on Information Sharing, made up of federal, state, and local officials, as well as private sector representatives, to advise the President and federal agency heads on implementation of the information sharing network and to coordinate work and resolve disputes in the development of the network.

III. Congressional Reform

The 9/11 Commission's final report stated that intelligence oversight should be vested in either a joint House-Senate committee (modeled on the former Joint Committee on Atomic Energy) or in combined authorization/appropriations intelligence panels in each chamber.

With respect to homeland security, the final report criticized the fact that jurisdiction over the Department of Homeland Security (DHS) is scattered among many committees in each chamber. The report called upon Congress to consolidate oversight of DHS in a single committee in each chamber.

The legislation does not dictate the details of the new committee arrangements, but rather directs Congress to select from the Commission's proposed changes and to enact necessary rules changes concerning intelligence and homeland security oversight before it adjourns this year, to take effect at the outset of the next Congress. The

Senate leadership in August designated a 22-member bipartisan task force to determine how to best implement the Commission's recommendations.

IV. Presidential Transition

The Commission recommended speeding up the installation of each new President's national security team. To implement this recommendation, this title directs the outgoing Administration to provide the President-elect, as soon as possible after the general election, a detailed, highly classified summary of current threats to national security; major military and covert operations; and pending decisions on possible uses of military force. It also establishes procedures for expediting security clearances and Senate consideration of top national security appointees. In addition, it directs the President to consolidate security clearance responsibilities in a single federal agency, and to work with the National Intelligence Director to establish uniform standards for granting security clearances so that such clearances are accepted by all federal agencies within the intelligence community.

V. Diplomacy, Foreign Aid, Military Role, and International Law

This title implements the Commission's recommendations relating to the international sphere, with a focus on preventing the spread of terrorism. It substantially increases U.S. foreign assistance to Afghanistan and renews the U.S. commitment to Pakistan. It also calls on the President to establish a visible and formal high-level dialogue with Saudi Arabia to foster cooperation in fighting terrorism. The bill authorizes the Secretary of State to establish an international "contact group" to develop a common multilateral strategy for waging the war on terrorism and requires the President to submit a strategy for addressing and, where possible, eliminating terrorist sanctuaries.

The bill includes several provisions on the "struggle of ideas," as highlighted by the Commission. One calls for the Administration to develop a strategy for winning the struggle, and another substantially increases funding for U.S. broadcasts to the Islamic world while urging the Administration to do a better job engaging indigenous media. Other sections increase funding for scholarship, exchange and library programs and authorize creation of an International Youth Opportunity Fund to provide educational assistance, including funds to build and operate primary and secondary schools, to Muslim states committed to investing in public education.

The legislation calls for the United States to develop a common coalition approach to humanely treating detainees consistent with the provisions of the Geneva Convention and prohibits torture and cruel, inhuman, or degrading treatment or punishment. Other provisions require the Administration to report on its efforts to promote economic reform in the Islamic world and authorize funds to promote the rule of law in the Middle East. The bill also requires the President to submit a report on

strengthening non-proliferation programs, including the Proliferation Security and the Cooperative Threat Reduction Program. A section on terrorist financing expresses the Sense of Congress that efforts to disrupt terrorist financing should emphasize targeting terrorist financial facilitators.

VI. Terrorist Travel and Effective Screening

This title implements the Commission's recommendations to target terrorist travel through better intelligence, better screening, and more secure identification documents.

Counterterrorist Travel Intelligence: Expands efforts to collect, disseminate, and use intelligence regarding terrorist travel strategies, tactics, and methods, with the goal of detecting and disrupting terrorist travel across United States borders.

Integrated Screening System: Requires the Department of Homeland Security to develop and implement an integrated screening system, encompassing a network of screening points that includes the nation's border security system, transportation system, and critical infrastructure. The Secretary may promulgate standards for screening procedures to implement the system to the extent that the Secretary has existing authority to do so, and requires the Secretary to notify Congress if additional authority is needed to implement the plan.

Biometric Entry and Exit Data System: Requires DHS to develop a plan to accelerate the implementation of an automated biometric entry and exit data system required by existing authorities (named US-Visit by the current Administration) and to implement a single, consolidated program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

Travel Documents: Generally requires biometric passports, or other identification deemed to be equally secure, for all travel into the United States.

Identification Standards: Requires DHS to establish minimum standards for birth certificates, drivers' licenses, and personal identification cards; documents not conforming to those standards could not be accepted by federal agencies for official purposes. Requires the Commissioner of Social Security to take actions to enhance the security of social security cards. The provisions are designed to decrease fraud associated with such documents so that terrorists are unable to hide their identity in order to avoid detection and are hindered in obtaining identification that can facilitate activities in the United States.

VII. Transportation Security

This title requires the Transportation Security Agency (TSA) to take specific steps to improve transportation security. First, it directs TSA to produce a national transportation strategy, to be updated biannually, that evaluates the threats, vulnerabilities, and risks faced by all modes of transportation; prioritizes and sets deadlines for addressing security needs; sets priorities for research and development of improved technologies; and provides a budget and recommendations for funding

sources to meet the strategy's objectives.

Second, TSA is required to implement a system for comparing names of air passengers against the consolidated terrorist watchlists so that known or suspected terrorists and their associates are either prevented from boarding or subjected to additional screening before boarding a plane.

Finally, this title requires TSA to screen all air passengers and their carry-on bags for explosives; to accelerate research and development and deployment of technology to detect explosives on individuals; to study and improve screener performance; and to take measures to improve the security of cargo traveling on passenger aircraft.

VIII. National Preparedness

This title requires that homeland security preparedness grants be distributed solely on the basis of criteria related to threat and risk. It also gives the Secretary of Homeland Security broad discretion to distribute such funds after taking into account threat and risk information, and creates an advisory panel to help generate benchmarks for assessing community needs for terrorism preparedness funds.

The title also facilitates first responder communications by assigning certain radio spectrum to public safety agencies for their use (using language contained in a pending House bill, as alluded to in the 9/11 Final Report); directs DHS to promote a voluntary preparedness standard for the private sector; and requires DHS to report on its efforts to inventory and protect critical infrastructure.

IX. Protection of Civil Liberties

This title establishes a Presidentially-appointed, Senate confirmed, Privacy and Civil Liberties Oversight Board to advise the President and federal agencies on protecting privacy and civil liberties when the agencies or the White House are proposing, developing or implementing laws, regulations, and policies related to efforts to protect the nation against terrorism. Its mandate will include review and oversight of information-sharing guidelines and more traditional law enforcement/intelligence actions. The Board will have both advisory and oversight responsibilities and will have authority to conduct investigations of government actions. The title also directs specific agencies involved in homeland security and the war on terror to have Privacy and Civil Liberties Officers to help advise the agency heads and other agency officials on protecting privacy and civil liberties as the agencies propose, develop or implement laws, regulations, and policies. These officers also will have the authority to investigate and engage in oversight of agency activities to ensure the agency is adequately considering privacy and civil liberties in its actions. Both the Board and the agency officers will be required to report on their activities to Congress.