Implementing the 9/11 Commission Recommendations: 
An Analysis

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The incoming Democratic leadership of Congress has promised to fully implement the recommendations of the 9/11 Commission as one of their first acts at the start of the 110th Congress. But what does this mean in practice? What has been left undone in the two years since the release of the 9/11 Commission Report? And how much of this outstanding agenda is amenable to Congressional action? The only way to answer that question is to look at each of the 41 recommendations in turn, and assess what can be done by Congress on each to meet this objective.

This memorandum tackles that challenge, listing each recommendation chronologically as they appear in the 9/11 Commission Report, discussing progress to date on the implementation of the recommendation, and suggesting what Congress can do today to further the objectives of each recommendation.

The context for counterterrorism, homeland security, and intelligence has changed in several important ways in the two years since the release of the report. The global terrorist threat has morphed in the past two years, its locus shifting from the Middle East to Europe, from arid desert camps to online chat rooms. Natural disasters such as the Indian Ocean tsunami and Hurricane Katrina highlighted global and national deficiencies in response capabilities. And the Iraq War continues to overshadow other foreign policy objectives for the United States, often complicating efforts to enhance international cooperation on counterterrorism and counter-proliferation.

In spite of these changes, the core tenets of the 9/11 Commission’s recommendations remain relevant today. We still need stronger engagement on counterterrorism priorities around the world. We still need to improve and upgrade our homeland security and intelligence capabilities in a number of domains, and change the cultures of government institutions to facilitate more robust information-sharing and collaboration. We still need to adjust and define the ways in which the federal government works together with state and local governments and with the private sector in support of homeland security objectives. And Congress still needs to get its own house in order, along the lines that the 9/11 Commission strongly suggested.

In that spirit, this memorandum analyzes the Report’s 41 recommendations one-by-one, in the hope that they will receive careful and deliberate consideration in the early days of the 110th Congress.

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Recommendation #1: The U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep terrorists insecure and on the run, using all elements of national power. We should reach out, listen to, and work with other countries that can help.

Congressional Implications: This recommendation is not directly amenable to a legislative fix. However, Congress can and should hold hearings in the 110th Congress about the executive branch’s strategy for the denial of terrorist sanctuaries, with a particular focus on nations such as Somalia that may be emerging as new terrorist sanctuaries.

Recommendation #2: If Musharraf stands for enlightened moderation in a fight for his life and for the life of his country, the United States should be willing to make hard choices too, and make the difficult long-term commitment to the future of Pakistan. Sustaining the current scale of aid to Pakistan, the United States should support Pakistan’s government in its struggle against extremists with a comprehensive effort that extends from military aid to support for better education, so long as Pakistan’s leaders remain willing to make difficult choices of their own.

Congressional Implications: If the 109th Congress fails to pass an omnibus appropriations bill before the end of the lame duck session in December 2006, then the new Congress will potentially have an opportunity to address this recommendation via the Foreign Operations Appropriations bill for FY 2007. In particular, the new Democratic leadership could increase funding for existing programs that support educational opportunities in Pakistan, in particular for women. In addition, the Senate Foreign Affairs and House International Relations committees in Congress can and should hold hearings examining the US-Pakistan relationship early in the 110th Congress.

Recommendation #3: The President and the Congress deserve praise for their efforts in Afghanistan so far. Now the United States and the international community should make a long-term commitment to a secure and stable Afghanistan, in order to give the government a reasonable opportunity to improve the life of the Afghan people. Afghanistan must not again become a sanctuary for international crime and terrorism. The United States and the international community should help the Afghan government extend its authority over the country, with a strategy and nation-by-nation commitments to achieve their objectives.

Congressional Implications: The situation in Afghanistan has worsened in many respects since the issuance of the 9/11 Commission Report in July 2004; much of the country remains under the control of local warlords, and the Taliban has regained strength in the last year. Poppy cultivation has skyrocketed in the last four years, making Afghanistan the world’s leading supplier of opium and fomenting criminality across the entire Afghan society. Given these realities, it is imperative that the 110th

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2 http://thomas.loc.gov/cgi-bin/bdquery/z?d109:h.r.05522:
3 http://www.nytimes.com/2006/09/03/world/asia/03afghan.html
Congress moves quickly to strengthen oversight over America’s presence in Afghanistan through hearings and consultations. In addition, if the omnibus appropriations act does not pass Congress in the 109th Congress, the new Democratic-led Congress should look at ways to bolster funding for existing programs that focus on strengthening civil society and provide alternatives to drug cultivation.

**Recommendation #4:** The problems in the U.S.-Saudi relationship must be confronted, openly. The United States and Saudi Arabia must determine if they can build a relationship that political leaders on both sides are prepared to publicly defend – a relationship about more than oil. It should include a shared commitment to political and economic reform, as Saudis make common cause with the outside world. It should include a shared interest in greater tolerance and cultural respect, translating into a commitment to fight the violent extremists who foment hatred.

**Congressional Implications:** This recommendation is not easily addressed by legislative action, but the new leadership in Congress can play a role in reforming the U.S.-Saudi relationship along the lines suggested by the 9/11 Commission. For example, the Democratic leadership in the House and the Senate should sponsor a congressional delegation to Riyadh during one of the first recesses in the 110th Congress, to meet with senior Saudi leaders and citizens, and open up an honest dialogue on the challenges and common interests in the relationship. In this dialogue, the Democrats should be open and honest about the need for Saudi Arabia to reform its relationships with other Muslim countries, e.g. its funding of schools in places like Southeast Asia and Central Asia that continue to teach extremist ideology.4

**Recommendation #5:** The U.S. government must define what the message is, what it stands for. We should offer an example of moral leadership in the world, committed to treat people humanely, abide by the rule of law, and be generous and caring to our neighbors. America and Muslim friends can agree on respect for human dignity and opportunity. To Muslim parents, terrorists like Bin Ladin have nothing to offer their children but visions of violence and death. America and its friends have a crucial advantage – we can offer these parents a vision that might give their children a better future. If we heed the view of thoughtful leaders in the Arab and Muslim world, a moderate consensus can be found.

**Congressional Implications:** This recommendation can be addressed by a number of means. First, the new Congress can and should hold hearings looking at the executive branch’s public diplomacy efforts, which have struggled mightily in the last few years to establish a trusted dialogue with citizens of Muslim countries, especially in comparison with the successes of public diplomacy during the Cold War.5 Second, Democratic members of Congress should serve as agents of public diplomacy by traveling to key Muslim countries during recesses, meeting with local people, and listening to their concerns as part of an honest and open dialogue. Third, the new Congress should be constantly attuned to opportunities to improve America’s image in the Muslim world,

4 http://www.washingtonpost.com/wp-dyn/content/article/2006/05/19/AR2006051901769.html
5 http://www.slate.com/id/2127102/
along the lines of the quick response to the earthquake in Pakistan in 2005, which significantly improved our image in that country. Fourth, and most importantly, the Democratic leadership in Congress should hold the executive branch accountable for exhibiting moral leadership in their actions. This means holding people at all levels of the chain of command responsible for deplorable acts such as the degrading treatment of prisoners at Abu Ghraib and the illegal rendition and subsequent torture of innocent individuals. These acts have done grievous harm America’s image in the world, in a way that directly hurts our security, in a way that public diplomacy efforts simply can’t gloss over. We still do need to improve the message – but first, we need to improve the content. Congress can play a role in ensuring that the content changes in a way that is amenable to America’s long-term security.

**Recommendation #6:** Where Muslim governments, even those who are friends, do not respect these principles, the United States must stand for a better future. One of the lessons of the long Cold War was that short-term gains in cooperating with the most repressive and brutal governments were too often outweighed by long-term setbacks for America’s stature and interests.

**Congressional Implications:** In general, this recommendation is not amenable to action by Congress. However, the principle expressed within it can serve to guide appropriations for Foreign Operations, leading members of Congress to allocate foreign aid to countries of this ilk away from official government projects to non-governmental and civil society projects. To be certain, there are some risks associated with this approach – non-government entities might face the risk of increased persecution if they receive foreign aid – but ultimately this is a better alternative than providing aid that buttresses repressive governments.

**Recommendation #7:** Just as we did in the Cold War, we need to defend our ideals abroad vigorously. America does stand up for its values. The United States defended, and still defends, Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq. If the United States does not act aggressively to define itself in the Islamic world, the extremists will gladly do the job for us.

- Recognizing that Arab and Muslim audience rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.

- The United States should rebuild the scholarship, exchange and library programs that reach out to young people and offer them knowledge and hope. Where such assistance is provided, it should be identified as coming from the citizens of the United States.

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Congressional Implications: On the first bullet above, Congress should hold hearings to examine existing TV and radio broadcast initiatives, should increase funding for those that have proven to be effective, and should cut off funding for those that have not worked. Congress should also look beyond TV and radio to new media, e.g. blogs, social networking sites, and find ways to support the forces of democracy and reform via these media (perhaps covertly in some instances).

On the second bullet above, the Democratic-led Congress should double funding for scholarship, exchange and library programs for the Muslim world in the FY 2008 federal budget (and potentially provide additional funding in the FY 2007 budget as well if its final passage slips to the 110th Congress). These programs should be a cornerstone of our efforts in the war on terror, and to date have not received resources commensurate with their potential value as a means to improve America’s image in the world.

Recommendation #8: The U.S. government should offer to join with other nations in generously supporting a new International Youth Opportunity Fund. Funds will be spent directly for building and operating primary and secondary schools in those Muslim states that commit to sensibly investing their own money in public education.

Congressional Implications: The executive branch and the Republican-led Congress in the 109th Congress have not done nearly enough to address this recommendation. The Secretary of State was given the authority to establish an International Youth Opportunity Fund via an international organization such as UNESCO in the Intelligence Reform and Terrorism Prevention Act, but this authority has not been used to date. The new Democratic-led Congress should commit to spending $400 million/year for ten years on the International Youth Opportunity Fund beginning in FY 2008, and should lead efforts to cajole other nations and the private sector to make commitments in line with their wealth that increase the total size of the fund to $1.2 to $1.5 billion/year.

Recommendation #9: A comprehensive U.S. strategy to counter terrorism should include economic policies that encourage development, more open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children’s future.

Congressional Implications: On this recommendation, the first imperative of the new Democratic-led Congress will be to ‘do no harm,’ and not embrace protectionism that hurts the economies of critical partner nations in war on terror. If the new Congress decides to not renew fast-track negotiating authority when it expires in mid-2007, it should at the very least preserve a narrow version of ‘fast track’ for bilateral trade agreements with countries in the Middle East, South Asia, and Southeast Asia. And the new Congress should encourage the start of a new round of multilateral trade negotiations at the WTO, working from a clean slate after the failures of the Doha

7 http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp108tHQ1z&refer=&r_n=hr796.108&db_id=108&item=&sel=TOC_540616&
Round, with the objective of moving towards an international trade system that encourages work and promotes sustainability in both developed and developing nations.

In addition, the new Democratic Congress should increase funding for national and multilateral programs that are focused on improving the economic conditions of the poor in developing countries, such as microfinance programs and the well-intentioned but under-funded Millennium Challenge Corporation.⁸

**Recommendation #10**: The United States should engage other nations in developing a comprehensive coalition strategy against Islamist terrorism. There are several multilateral institutions in which such issues should be addressed. But the most important policies should be discussed and coordinated in a flexible contact group of leading coalition governments. This is a good place, for example, to develop joint strategies for targeting terrorist travel, or for hammering out a common strategy for the places where terrorists may be finding sanctuary.

**Congressional Implications**: This recommendation primarily falls under the purview of the executive branch, but Congress can provide oversight to ensure that it is making progress on coordinating counter-terror efforts on an international basis. And through the appropriations process, it can provide funding for full U.S. participation in key international counter-terror mechanisms, e.g. creating stronger links between U.S. systems and Interpol's Lost/Stolen Travel Documents Database.⁹

**Recommendation #11**: The United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists. New principles might draw upon Article 3 of the Geneva Conventions on the law of armed conflict. That article was specifically designed for those cases in which the usual laws of war did not apply. Its minimum standards are generally accepted throughout the world as customary international law.

**Congressional Implications**: The Congress should remedy some of the worst excesses of the Military Commissions Act that was passed into law in October 2006, in a way that insures that detainee rules are consistent with the Uniform Code of Military Justice and the Geneva Conventions.¹⁰ The Senate bill S. 4081 introduced by Senators Leahy and Specter in December 2006 would restore habeas corpus rights to military detainees and go a long way to remedying the defects of the Military Commissions Act.¹¹

**Recommendation #12**: Our report shows that al Qaeda has tried to acquire or make weapons of mass destruction for at least ten years. There is no doubt that the United States would be a prime target. Preventing the proliferation of these weapons warrants a maximum effort – by strengthening counterproliferation efforts, expanding the Proliferation Security Initiative, and supporting the Cooperative Threat Reduction program.

Congressional Implications: The Congress should move quickly to examine the existing state of the Cooperative Threat Reduction (CTR) program, and determine which activities under its auspices are under-funded and deserving of additional resources. The new Democratic Congress should use these findings and move rapidly to pass legislation based on the Lugar-Obama Bill, S. 2566, introduced in 2005. The Democratic Congress should also provide the required level of additional funding as part of a supplemental appropriations bill in the second or third quarter of FY 2007. This is not an issue which can afford the delay created by the normal appropriations cycle.

The House and Senate Armed Services committees should hold hearings on the Proliferation Security Initiative (PSI) in early 2007, looking at its progress to date and determining if and how it needs additional resources or capabilities.

These hearings on the CTR and the PSI should also examine the relationship of these activities with the activities of the Domestic Nuclear Detection Office at DHS, in a way that drives the U.S. government closer to a global strategy for counter-proliferation, instead of stove-piped domestic and international strategies.

Recommendation #13: Vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts. The government has recognized that information about terrorist money helps us to understand their networks, search them out, and disrupt their operations. Intelligence and law enforcement have targeted the relatively small number of financial facilitators – individuals al Qaeda relied on for their ability to raise and deliver money – at the core of al Qaeda’s revenue stream. These efforts have worked. The death or capture of several important facilitators has decreased the amount of money available to al Qaeda and has increased its costs and difficulty in raising and moving that money. Captures have additionally provided a windfall of intelligence that can be used to continue the cycle of disruption.

Congressional Implications: Executive branch efforts to deliver on this recommendation have generally been effective, as the 9/11 Commission Public Discourse Project recognized with their A-grade for terrorist financing in December 2005. The Democratic Congress should provide consistent oversight on these efforts, and ensure that they remain effective. And it should not consider rolling back existing counter-terror financing programs such as the SWIFT program, which was disclosed in June 2006 by The New York Times and by most accounts has served as an effective tool in counter-terror financing efforts.

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12 http://lugar.senate.gov/pressapp/record.cfm?id=248096; http://thomas.loc.gov/cgi-bin/bdquery/z?d109+s.02566:
13 http://usinfo.state.gov/products/pubs/proliferation/
Recommendation #14: Targeting travel is at least as powerful a weapon against terrorists as targeting their money. The United States should combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility.

Congressional Implications: The National Counterterrorism Center published the National Strategy to Combat Terrorist Travel (NSCTT) in May 2006, in direct response to this 9/11 Commission recommendation and a subsequent Congressional mandate in the Intelligence Reform and Terrorism Prevention Act of 2004. There are 25 specific recommendations in this Strategy, many of which require additional work to be implemented. The new Congress should look at each of these 25 recommendations and consider authorizing and/or funding activities as part of near-term 9/11 Commission recommendation legislation.

For example, Rec. #3 in the NSCTT says “Working with Canada, examine the feasibility of developing and implementing compatible procedures and systems to screen individuals traveling between the United States and Canada.” Congress could support this recommendation by authorizing and funding a pilot project, led on the U.S. side by the Screening Coordination and Operations office of DHS, to develop the system architecture and test the feasibility of coordinated U.S.-Canada screening activities.

In another example, Rec. #5 of the NSCTT says “Encourage foreign governments to adopt or strengthen current practices for issuing passports and recording incidents of lost and stolen passports, to facilitate effective information exchanges bilaterally and with INTERPOL, and to ensure the effective use of such records in screening travelers at the border while reducing incidents of false positives.” Congress should accordingly and authorize and funding U.S. linkage with the INTERPOL lost and stolen passport system in the same way that the Swiss government has developed real-time links into the system for 20,000 of its federal agents.

In a final example, Rec. #18 of the NSCTT says “Establish international registered traveler programs, on a multilateral basis, with partner nations to increase advance information on a greater number of travelers and allow for increased scrutiny of higher risk travelers attempting entry into the United States.” Accordingly, Congress should fund pilot projects with 2-4 partner countries in FY 2008 for an International Registered Traveler program, in a way that is aligned with the domestic Register Traveler program.

These are only 3 examples out of the 25 recommendations; many of the other 22 require similar legislative attention. The Democratic-led Congress should look closely at the NSCTT and use it as a roadmap for addressing this recommendation, with a strong focus on practical implementation and attention to the alignment of disparate activities, to create a system-of-systems for constraining and disrupting terrorist mobility.

17 http://www.interpol.int/Public/News/2006/RonaldNoble20060908.asp
Recommendation #15: The U.S. border security system should be integrated into a larger network of screening points that includes our transportation system and access to vital facilities, such as nuclear reactors. The President should direct the Department of Homeland Security to lead the effort to design a comprehensive screening system, addressing common problems and setting common standards with systemwide goals in mind. Extending those standards among other governments could dramatically strengthen America and the world’s collective ability to intercept individuals who pose catastrophic threats.

Congressional Implications: The executive branch has moved slowly over the last two years to address this recommendation. It authored HSPD-11 in August 2004\(^{18}\), and proposed the creation of a Screening Coordination and Operations office (SCO) within the Department of Homeland Security in February 2005 in response to this recommendation. But DHS did not begin to staff the SCO until July 2006, nine months after Congress had provided $4 million in initial funding for the office.\(^{19}\)

Congress should address this recommendation in the first place by supporting the Screening Coordination and Operations office, and providing it funding at the level that the executive branch requests for it in FY 2008. On the domestic front, Congress should encourage the SCO to work closely with the Domestic Nuclear Detection Office, and link its ‘comprehensive screening system’ together with the latter’s Global Nuclear Detection Architecture.\(^{20}\) On the international front, Congress should authorize and fund an International Screening Standards Initiative under the auspices of the SCO, and in partnership with the Science and Technology Directorate of DHS and the National Institutes for Standards and Technology (NIST), which reaches out to foreign governments and international organizations such as the International Civil Aviation Organization (ICAO), with the mission of extending America’s screening standards, as the recommendation above states.

Recommendation #16: The Department of Homeland Security, properly supported by Congress, should complete, as quickly as possible, a biometric entry-exit screening system, including a single system for speeding qualified travelers. It should be integrated with the system that provides benefits to foreigners seeking to stay in the United States. Linking biometric passports to good data systems and decisionmaking is a fundamental goal. No one can hide his or her debt by acquiring a credit card with a slightly different name. Yet today, a terrorist can defeat the link to electronic records by tossing away an old passport and slightly altering the name in the new one.

Congressional Implications: Congress currently funds the US-VISIT program at a level of $362 million in FY 2007.\(^{21}\) This level of funding is appropriate for the

\(^{19}\) [Press Release](http://www.dhs.gov/xnews/releases/press_release_0969.shtm)
\(^{21}\) [Washington Technology](http://www.washingtontechnology.com/news/1_1/homeland/29397-1.html)
development of a biometric entry-exit system. The new Democratic Congress should apply vigorous oversight to the program, with a particular focus on the progress of the exit portion of the system, which has lagged behind the entry portion.\textsuperscript{22}

The recommendation mentions linkages between US-VISIT and the “system that provides benefits to foreigners seeking to stay in the United States,” which is currently operated by U.S. Citizenship and Immigration Services (USCIS). In its oversight of USCIS and US-VISIT, Congress should encourage these linkages, and require that US-VISIT and USCIS modernization and transformation efforts be implemented using consistent and interoperable architectures.

Finally, the Congress can implement the last part of this recommendation by supporting government investments in commercial fraud detection technologies across the scope of existing screening and credentialing systems in the federal government.

**Recommendation #17:** The U.S. government cannot meet its own obligations to the American people to prevent the entry of terrorists without a major effort to collaborate with other governments. We should do more to exchange terrorist information with trusted allies, and raise U.S. and global border security standards for travel and border crossing over the medium and long-term through extensive international cooperation.

**Congressional Implications:** There has been some progress on this recommendation over the last two years. The foiled UK aviation plot in August 2006 demonstrated the depths of US-UK cooperation, and many countries have begun issuing biometric passports that are compliant with ICAO standards for Machine Readable Travel Documents.\textsuperscript{23} However, as the 9/11 Commission Public Discourse Project noted in December 2005, the United States’ efforts to improve its own passports have lagged, and little progress has been made on watch-list sharing.\textsuperscript{24}

Consistent with this recommendation, Congress should monitor the State Department’s rollout of its new e-Passports, ensuring that the program moves forward according to the currently defined schedule.\textsuperscript{25} And Congress should authorize and fund an interface that facilitates near-real-time information-sharing between the existing U.S. terrorist watch-list system (e.g. the Terrorist Screening Database and the Terrorist Identities Determinant Environment), INTERPOL’s watch-listing system, and the systems of key allies such as Canada, the United Kingdom, and Australia. To be certain, the United States will not want to share all of its watch-listing data on an international basis, but it is possible to develop rules for this interface that provide appropriate tiering of information and access control.

\textsuperscript{22} http://www.washingtontechnology.com/news/21_22/federal/29686-1.html
\textsuperscript{24} http://www.9-11pdp.org/press/2005-12-05_report.pdf
\textsuperscript{25} http://travel.state.gov/passport/eppt/eppt_2498.html
Recommendation #18: Secure identification should begin in the United States. The federal government should set standards for the issuance of birth certificates and sources of identification, such as drivers licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.

Congressional Implications: Sec. 7212 of the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004 set new minimum drivers’ licenses standards in response to this recommendation.26 The REAL ID Act, which was attached to a supplemental appropriations bill (H.R. 1268) in March 2005, overruled this legislation before it could really be enacted, stripping out language on privacy and negotiated rulemaking.27 The implementation of the REAL ID Act has moved slowly to date, due to the slow pace of federal rulemaking, the paucity of federal funding, and lingering concerns about provisions of the Act.

There are two distinct options for Congress to consider in addressing this recommendation. The first option would be to accelerate the implementation of the REAL ID Act, by prodding DHS to move forward more quickly with the rulemaking process and providing funds to states (in the form of one-time matching grants for capital investments) that facilitate their ability to meet these otherwise-unfunded mandates.

A second option for Congress would be to revisit the REAL ID Act, perhaps reverting to the language in Sec. 7212 of the IRTPA. If this path is taken, it should be done in a way that is attentive to implementation timelines, i.e. ensuring that DHS is not forced to start over in the rule-making process.

Recommendation #19: Hard choices must be made in allocating limited resources. The U.S. government should identify and evaluate the transportation assets that need to be protected, set risk-based priorities for defending them, select the most practical and cost-effective ways of doing so, and then develop a plan, budget, and funding to implement the effort. The plan should assign roles and missions to the relevant authorities (federal, state, regional, and local) and to private stakeholders. In measuring effectiveness, perfection is unattainable. But terrorists should perceive that potential targets are defended. They may be deterred by a significant chance of failure.

Congressional Implications: DHS was required to develop a National Strategy for Transportation Security in response to this recommendation and a mandate in Sec. 4001 of the IRTPA.28 A strategy was produced in the first half of 2005, but it was never publicly released and was berated by numerous members of Congress for its poor

28 http://thomas.loc.gov/cgi-bin/query/?&dbname=cp108&sid=cp108i2q6&refer=&r_n=hr796.108&item=&sel=TOC_251059&
quality and the fact that it was classified. The Democratic-led Congress could include language in new legislation that would require DHS to revisit this mandate, and produce a new unclassified National Strategy for Transportation Security that meets the intent of this recommendation and serves as a meaningful roadmap for public and private stakeholder action, in the same way that the National Strategy for Maritime Security has effectively served stakeholders in the maritime domain since its release in September 2005.

Such a comprehensive strategy would likely lead to the conclusion that the federal government has under-funded rail and transit security over the last five years, especially in contrast to aviation security and port security. While it is true that there are limits to what can be done to provide security in these transportation modes, as Sec. Chertoff and others have argued, it is equally true that the level of effort to date has not been commensurate with the threat, as demonstrated by the Madrid and London attacks. The Democratic staff of the House Homeland Security Committee released a report in June 2006 which serves as a solid roadmap for defining requirements for rail and transit legislation. Congress should authorize and significantly increase funding for rail and transit security either in FY 2007 supplemental appropriations or the regular FY 2008 cycle, focused on the use of the following items: canine detection teams, video surveillance, and rail and transit officer training, and improved perimeter security for railyards.

This recommendation is also relevant to the various grant programs for port security, transit security, rail security, bus security, and trucking security funded by the Department of Homeland Security. DHS has stated that they are basing their decisions within these programs on the basis of risk and vulnerability, and the respective allocations over the last two years seem to bear out this fact. However, the homeland security committees should conduct oversight hearings on the processes and methodologies followed in these grant decisions, and the Department's follow-on efforts to track spending, with the objective of strengthening the value that these programs deliver in their respective sectors.

**Recommendation #20**: Improved use of “no-fly” and “automatic selectee” lists should not be delayed while the argument about a successor to CAPPS continues. This screening function should be performed by the TSA, and it should utilize the larger set of watchlists maintained by the federal government. Air carriers should be required to supply the information needed to test and implement this new system.

**Congressional Implications**: The federal government has made progress with watchlist integration over the last two years, implementing a streamlined system with the NCTC’s Terrorist Identities Determinant Environment (TIDE) database and the

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33 [http://www.ojp.usdoj.gov/odp/grants_programs.htm](http://www.ojp.usdoj.gov/odp/grants_programs.htm)
Terrorist Screening Center’s Terrorist Screening Database (TSDB) at its core, linked into original sources upstream and subscribers downstream. At the same time, DHS has struggled to implement Secure Flight, its designated successor to CAPPS, primarily because of unresolved policy issues related to privacy and the management of personal data, and secondarily due to problems with the management of the program, as highlighted in several GAO reports in 2006.

The new Democratic Congress will have an important role in supporting the effective implementation of Secure Flight. This could require an approach that is flexible in terms of the program’s compliance with federal privacy laws, e.g. allowing TSA to have access to traveler data in ways that are not consistent with existing federal privacy laws but are subject to strong controls and audits. This is an issue that needs Congressional attention in the 110th Congress, with the objective of delivering the security objectives intended by the 9/11 Commission while at the same time protecting traveler privacy.

**Recommendation #21:** The TSA and the Congress must give priority attention to improving the ability of screening checkpoints to detect explosives on passengers. As a start, each individual selected for special screening should be screened for explosives. Further, the TSA should conduct a human factors study, a method often used in the private sector, to understand problems in screener performance and set attainable objectives for individual screeners and for the checkpoints where screening takes place.

**Congressional Implications:** The Transportation Security Administration has continued to make investments in the next-generation of technology for passenger checkpoints since the release of the 9/11 Commission Report, funding research and acquiring new technologies such as walk-through explosives trace detection portals and backscatter scanning systems. And in December 2005, TSA announced that it was adding behavior detection techniques to its arsenal of screening tools.

However, the foiled terrorist plot in the United Kingdom in August 2006 revealed a gap in TSA’s R&D strategy for screening checkpoints: liquid explosives. Since then, DHS has embarked on a crash course to develop new technologies to detect liquid explosives, but the belated nature of this initiative creates concerns about other potential vulnerabilities in the screening system.

In response to this recommendation, the 110th Congress should require TSA, working together with the DHS Red Cell, to submit a classified study to the committees of jurisdiction that describes and prioritizes future vulnerabilities in the passenger aviation system and then defines research priorities that address critical vulnerabilities. Congress should allocate FY 2008 funding for aviation security R&D based on the findings of this report, at a level that is equal to or slightly greater than FY 2007 levels.

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Recommendation #22: 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.

Congressional Implications: The federal government has addressed this recommendation primarily through the work of the Information Sharing Environment (ISE) Program Office within the Office of the Director of National Intelligence. After a series of delays over the past two years, the ISE Program Office finally released their Information Sharing Environment Implementation Plan in November 2006\(^{38}\) and ISE Privacy Guidelines in December 2006\(^{39}\).

The next step is the implementation of these guidelines and plans, and Congress should devote attention in overseeing this effort at the agency level in the 110\(^{th}\) Congress.

The private sector dimension of this recommendation also requires special attention. Private sector companies have often found it difficult to share information with the federal government over the past few years. Delta Airlines and JetBlue Airlines faced serious consumer backlash when the public learned that they were sharing personal information with TSA in the development of the CAPPS-II program.\(^{40}\) And companies in critical infrastructure sectors have been reluctant to share information with the federal government fearing the exposure of commercially-sensitive data and new corporate liabilities. DHS has addressed this latter issue in 2006 with the creation of the Critical Infrastructure Protection Advisory Council, which has served as a forum for information-sharing in key sectors since its creation.\(^{41}\) But there still is a need for a more comprehensive framework for public-private sector information-sharing, and Congress could take action to develop such a framework along the lines of the “Trusted Information Network” concept of the Markle Task Force.\(^{42}\)

Recommendation #23: The burden of proof for retaining a 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, there must be adequate guidelines and oversight to properly confine its use.

Congressional Implications: This recommendation refers primarily to provisions in the USA Patriot Act, which was renewed in March 2006 (H.R. 3199) following a lengthy debate regarding a number of its controversial provisions.\(^{43}\) This debate was heightened by the revelations of the NSA’s Terrorist Surveillance Program in December 2005 in The New York Times, a program with little judicial and Congressional oversight by which

\(^{38}\) http://www.ise.gov/docs/ISE-impplan-200611.pdf
\(^{39}\) http://www.ise.gov/docs/PrivacyGuideline.pdf
\(^{40}\) http://www.wired.com/news/privacy/0,1848,60456,00.html
\(^{41}\) http://www.dhs.gov/cipac/
\(^{42}\) http://www.markle.org/downloadable_assets/nstf_report2_full_report.pdf
\(^{43}\) http://thomas.loc.gov/cgi-bin/bdquery/z?d109:H.R.3199:
the NSA listened to communications involving terrorist suspects that originated or ended in the United States, contrary to the NSA’s long-standing role as solely a foreign intelligence agency.44

The 110th Congress can address this recommendation primarily through the tools of oversight, holding the executive branch accountable for controversial programs and making them prove their value, not just via anecdotes but producing quantitative analysis of their relative costs and benefits. Congress would then be in a position to make well-informed decisions about whether to formally authorize the Terrorist Surveillance Program and which provisions of the Patriot Act deserved to be renewed when they next expire.

**Recommendation #24:** 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.

**Congressional Implications:** Sec. 1061 of the Intelligence Reform and Terrorism Prevention Act established a Privacy and Civil Liberties Oversight Board (PCLOB) within the Executive Office of the President in response to this recommendation.45 The White House moved slowly to create the PCLOB, which did not hold its first internal meeting until March 14, 2006 and its first public meeting until December 5, 2006.46 The Board’s partisan composition (with four Republican members and one Democratic member), its secrecy, and its lack of power have been criticized in recent months.47

Congress should put forward legislation in the 110th Congress that aligns the PCLOB with the original intent of the 9/11 Commission. Congress should remove the PCLOB from the Executive Office of the President and make it an independent entity reporting to Congress. Second, Congress should mandate that the PCLOB have an even partisan balance (3 Democratic appointees, 3 Republican appointees). Third, Congress should give the PCLOB subpoena power within its area of oversight and full authority to release semi-annual reports without the interference of other parts of the executive branch.

**Recommendation #25:** Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Now, in 2004, Washington, D.C. and New York City are certainly at the top of any such list. We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel.

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47 [http://seattlepi.nwsource.com/national/1151AP_Terror_Privacy.html](http://seattlepi.nwsource.com/national/1151AP_Terror_Privacy.html)
Congressional Implications: Among the 41 9/11 Commission recommendations, this is the one that is most amenable to a quick legislative “fix.” Homeland security grant allocations have become increasingly risk-based each year since FY 2003, but funding within two of the major grant programs – the State Homeland Security Grant Program and the Law Enforcement Terrorism Prevention Program – are still controlled by Sec. 1014 of the USA Patriot Act,\(^48\) which mandates that the 50 states, DC, and Puerto Rico each receive no less than 0.75% of the total.\(^49\) This ensures that states such as North Dakota, Vermont, and Wyoming, with low risk profiles and populations that are each approx. 0.2% of the total U.S. population, receive much more than they should, while large high-risk states such as California and New York are negatively affected.

Members of Congress from small states defend this arrangement by making the argument that each state bears a certain fixed level of start-up costs for its homeland security efforts. That was certainly true in 2002-2003, but over time that rationale is increasingly less convincing. All states should now be at the point where they are beyond the start-up phase, and can fund fixed staffing requirements from state budgets, and use federal grants solely for discretionary investments.

Congress should address this recommendation by repealing Sec. 1014 of the USA Patriot Act and eliminating statutory mandatory minimums from all grant programs controlled by the Department of Homeland Security.

In addition, Congress should provide vigorous oversight over the Urban Area Security Initiative (UASI) grant program during the 110\(^{th}\) Congress, and ensure that the mistakes of 2006 – most notably the decisions to cut funding for New York City and Washington, DC based on “poor” paperwork and narrow analysis – are not repeated.\(^50\)

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**Recommendation #26:** Emergency response agencies nationwide should adopt the Incident Command System (ICS). When multiple agencies or multiple jurisdictions are involved, they should adopt a unified command. Both are proven frameworks for emergency response. We strongly support the decision that federal homeland security funding will be contingent, as of October 1, 2004, upon the adoption and regular use of the ICS and unified command procedures. In the future, the Department of Homeland Security should consider making funding contingent on aggressive and realistic training in accordance with ICS and unified command procedures.

Congressional Implications: Sec. 7301 of the Intelligence Reform and Terrorism Prevention Act encouraged the use and adoption of the National Incident Management System (NIMS) in response to this recommendation.\(^51\) The Department of Homeland Security had released the NIMS plan in March 2004\(^52\) and begun to implement it.

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Immediately thereafter, in parallel with the development of the National Response Plan, which was issued in December 2004.  

Hurricane Katrina in August 2005 exposed the limitations of NIMS. Reports in the wake of Hurricane Katrina discussed the limited scope of its implementation and the difficulties of integrating it with the National Response Plan. Title V of the FY 2007 DHS appropriations bill (H.R. 5441), contained several provisions that focused on improvements to NIMS, requiring training and exercise programs to be fully aligned with NIMS and encouraging “DHS to work with regional state emergency managers to deploy an operationally ready National Incident Management System (NIMS) compliant incident management system for use by the first responder community that includes redundant 24/7 online capability.”

The 110th Congress should closely monitor DHS’s efforts to promote the National Incident Management System and inculcate its use among the broader responder community, consistent with the language in H.R. 5441. In addition, Congress should continue to fund NIMS at levels equal to or greater than the FY 2007 funding level of $30 million.

**Recommendation #27:** Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes. Furthermore, high-risk urban areas such as New York City and Washington, D.C., should establish signal corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress.

**Congressional Implications:** Sec. 7501 of the Intelligence Reform and Terrorism Prevention Act expressed the sense of Congress that should pass legislation to transfer spectrum vacated as a result of the switch to digital television for public safety uses. Such legislation has not passed to date, although bills were put forward in the 109th Congress that would have addressed this issue, e.g. H.R. 1646, the Homeland Emergency Response Operations (“HERO”) Act.

The new Democratic leadership in the 110th Congress should include language similar to this bill as a critical component of 9/11 Commission implementation legislation in early 2007. And it should hold hearings in 2007 to examine the second part of this recommendation – the establishment of ‘signal corps units’ in high-risk urban areas – and designate Urban Area Security Initiative funding for this purpose if experts and city leaders determine that such units would fill a critical gap in these cities’ current communications systems.

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53 http://www.dhs.gov/xlibrary/assets/NRPbaseplan.pdf
54 http://www.astho.org/pubs/KatrinaReportsSummary.pdf
55 http://thomas.loc.gov/cgi-bin/bdquery/z?d109.h.r.05441:
56 Ibid.
Recommendation #28: We endorse the American National Standards Institute’s recommended standard for private sector preparedness. We were encouraged by Secretary Tom Ridge’s praise of the standard, and urge the Department of Homeland Security to promote its adoption. We also encourage the insurance and credit-rating industries to look closely at a company’s compliance with the ANSI standard in assessing its insurability and creditworthiness. We believe that compliance with the standard should define the standard of care owed by a company to its employees and the public for legal purposes. Private-sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money and national security.

Congressional Implications: The standard referenced in this recommendation is NFPA 1600, the “Standard on Disaster/Emergency Management and Business Continuity Programs.” There is little that Congress can do from a legislative standpoint in terms of this recommendation, but it can use the tools of public awareness and moral suasion, and hold hearings to discuss the importance of standards for private sector preparedness, focusing not only on NFPA 1600 but also on the recently-developed ISO/PAS 28000:2005 standards for supply chain security management.

Recommendation #29: We recommend the establishment of a National Counterterrorism Center (NCTC), built on the foundations 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 the authority to evaluate the performance of the people assigned to the Center.

Congressional Implications: The National Counterterrorism Center was established by executive order on August 27, 2004 in response to this recommendation. Sec. 1021 of the Intelligence Reform and Terrorism Prevention Act authorized the NCTC, although in a way that was slightly inconsistent with the earlier executive order. By most accounts its first two years of the NCTC’s existence have been successful. It has brought analysts and operators from numerous agencies into the same building and improved the internal alignment of the nation’s counterterrorism efforts. There is still an open question regarding its relation to the CIA’s Counterterrorist Center (CTC), whose responsibilities overlap those of the NCTC.

The intelligence committees in the House and Senate should conduct vigorous oversight over the NCTC in the 110th Congress, assessing its effectiveness in terms of mission performance, and looking at the organizational conflict between it and the CIA’s CTC.

64 https://www.cia.gov/terrorism/ctc.html
Recommendation #30: 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.

Congressional Implications: Title I of the Intelligence Reform and Terrorism Prevention Act established the DNI, and Amb. John Negroponte was nominated to serve as National Intelligence Director in February 2005. Since that time, the DNI has rapidly assumed its lead role in the intelligence community, and has played an important in integrating systems, standards, and expertise across the IC during that time. However, the DNI lacks budgetary control of certain DOD intelligence activities, contrary to the spirit of this recommendation, and it has been criticized for becoming too large of an organization in its own right, rather than a coordinator of existing intelligence organizations.

The 110th Congress could consider strengthening the DNI’s control and budgetary oversight over DOD intelligence activities, consistent with the 9/11 Commission’s recommended structure for the DNI. And the intelligence committees should provide strong oversight on the DNI, focusing on whether it is staying true to its initial coordinating imperatives or becoming a sprawling bureaucracy in its own right.

Recommendation #31: 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.

Congressional Implications: Secs. 1041, 1042, and 1043 of the Intelligence Reform and Terrorism Prevention Act respond to part (c) of recommendation, requiring the DNI to report to Congress annually on the federal government’s development of relevant linguistic capabilities and authorizing an “Intelligence Community Scholarship Program.”

Based on the public record, it is unclear whether and when the DNI has submitted reports on this first matter to Congress. The 110th Congress should hold the DNI accountable to this requirement. In 2004, the CBO estimated that the “Intelligence Community Scholarship Program” would cost approx. $6 million/year, and Congress should fund it at that level for the foreseeable future. Congress could also look at whether and how to combine existing linguistic and analytic training programs within the

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66 http://www.dni.gov/aboutODNI/history.htm
Intelligence Community, with the objective of decreasing administrative costs and using these savings to increase enrollments.

The other parts of this recommendation are difficult to adequately assess based on information available in the public domain. The House and Senate intelligence committees should examine each of these issues closely in the 110th Congress, with a strong focus on increasing the numbers and skills of human intelligence officers in the field in critical countries.

**Recommendation #32**: Lead responsibility for directing and executing paramilitary operations, whether clandestine or covert, should shift to the Defense Department. There it should be consolidated with the capabilities for training, direction, and execution of such operations already being developed in the Special Operations Command.

**Congressional Implications**: The White House directed DOD and the CIA to study this recommendation in early 2005,69 and the two agencies reported back to the White House in February 2005 and rejected the recommendation, arguing that they should both retain paramilitary capabilities.70 The status quo has persisted over the last two years.

If the 110th Congress intends to implement all of the 9/11 Commission recommendations, then it needs to look at this one, although it should be noted that the 9/11 Commission Report’s supporting explanation seems to contradict the actual recommendation, noting that the status quo is working well and describing the DOD as “methodical” and “cumbersome.” The House and Senate intelligence committees should consult with DOD and the CIA on this issue but should move cautiously in terms of implementing this recommendation.

**Recommendation #33**: Finally, to combat the secrecy and complexity we have described, the overall amounts of money 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.

**Congressional Implications**: This recommendation was not implemented in the wake of the 9/11 Commission Report. In theory, this should be one of the easiest recommendations to tackle, since Congress can implement this unilaterally. The leadership of Congress has the authority to reorganize committees and could create distinct intelligence appropriations subcommittees.

However, there are vested committee interests that have prevented this to date and are continuing to fight this matter. The 9/11 Public Discourse Project reported in December 2005 that this was the result of “the power of the Defense Appropriations

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subcommittees and the Armed Services committees." And in November 2006, the Washington Post reported in November 2006 that the incoming Democratic leadership was shifting away from implementing this recommendation.

At the very least, Congress should implement the first part of this recommendation, and release the top-line budget number for intelligence spending to the public, and do so retroactively over the past 50 years of intelligence spending. This would not compromise national security, and it would improve the ability of the American public to have an honest understanding of the size and role of our intelligence agencies.

**Recommendation #34:** Information procedures should provide better incentives for sharing, to restore a better balance between security and shared knowledge.

**Congressional Implications:** The supporting text for this recommendation discusses the need for a shift from a “need-to-know” culture to a “need-to-share” culture within the intelligence community. Congress can support and facilitate this recommendation in a number of different ways. First, it can fight the Intelligence Community’s penchant for over-classifying information by passing legislation that rolls back the numerous balkanized levels of classification to a simpler three or four-tiered structure. It’s unacceptable that there are 56 different categories for “sensitive-but-unclassified” information. Second, it can facilitate the creation of incentives for information-sharing in the intelligence community workforce, i.e. funding bonus pools that are tied to information-sharing metrics. Third, it can fund and encourage rotation programs among the multiple intelligence agencies, which help to break down the cultural barriers between the different agencies and improve information-sharing and collaboration.

**Recommendation #35:** 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.”

**Congressional Implications:** This recommendation is taken directly from ideas in the reports of the Markle Task Force, which define the requirements at the legal, policy and technical levels for establishing an environment that facilitates and encourages information-sharing.

The 110th Congress could address this recommendation by establishing requirements that agency IT investments must facilitate horizontal information-sharing, consistent with the enterprise architecture being developed today by the DNI. It should also maintain

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74 http://www.markletaskforce.org/
75 http://www.dni.gov/aboutODNI/organization/CIO.htm
vigorouss oversight on projects that are at risk of not being aligned with such a vision, e.g. the FBI Sentinel Program.

**Recommendation #36:** 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.

**Congressional Implications:** Neither of the options in this recommendation has been implemented to date. The House and Senate retain separate intelligence committees, neither of which has appropriating authorities.

The new Democratic leadership of Congress should address the spirit of this recommendation and combat the current “dysfunctionality” of Congressional oversight for intelligence, but it’s debatable whether structural reorganization is a necessary precondition. The incoming leaders of the SSCI and HPSCI deserve an opportunity to make oversight work within the current structure before reconsidering these specific organizational remedies.

**Recommendation #37:** 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 has 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.

**Congressional Implications:** At the beginning of the 109th Congress, both the House and Senate took steps to consolidate their oversight of homeland security issues, in response to these recommendations and arguments that the DHS senior leadership was being pulled in too many directions by Congressional demands.76 The House converted the Homeland Security Committee (HSC) from select to permanent status, and gave it relatively solid jurisdiction over homeland security matters.77 Several other House committees (e.g. T&I, Judiciary, Government Reform) retained some authority on homeland security issues, but the HSC played the pivotal role on major homeland security legislation in the 109th Congress.

The Senate consolidated oversight of homeland security in the (renamed) Homeland Security and Government Affairs Committee (HSGAC) in the 109th Congress,78 but powerful Senate committee chairman retained large areas of jurisdiction, giving the HSGAC a much narrower authority than the HSC in the House. As a result, there were numerous committee spats over jurisdiction in the 109th Congress; the HSGAC sparred with the Commerce and Finance Committee over port security legislation and

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76 [http://www.csis.org/media/csis/events/041210_dhs_tf_whitepaper.pdf](http://www.csis.org/media/csis/events/041210_dhs_tf_whitepaper.pdf)
77 [http://homeland.house.gov/about/](http://homeland.house.gov/about/)
with the Environment and Public Works Committee over chemical plant security legislation.

To fully implement this 9/11 Commission recommendation, the leadership of the Senate should strengthen the HSGAC’s role, giving it primary jurisdiction over the Transportation Security Administration and infrastructure protection issues, and secondary jurisdiction on border security and domestic intelligence issues (with Judiciary) and the Coast Guard (with Commerce).

**Recommendation #38:** Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administrations by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow new officials to assume their new responsibilities as quickly as possible.

**Congressional Implications:** Sec. 7601 of the Intelligence Reform and Terrorism Prevention Act addresses this recommendation, suggesting a process by which incoming and outgoing administrations can facilitate the transfer of power and operational continuity on key national security issues.\(^7^9\) Congress can and should address this recommendation by following up on key provisions of Sec. 7601 in the next two years. For example, Congress should look into whether the FBI is prepared to handle the role of managing an expedited clearance process for key individuals in 2008, as defined in the bill.

**Recommendation #39:** 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.

**Congressional Implications:** Title II of the Intelligence Reform and Terrorism Prevention Act focused on the FBI and strongly encouraged the Bureau to improve its intelligence and national security capabilities.\(^8^0\) In September 2005, the FBI created the National Security Branch as a semi-autonomous entity within the FBI, an attempt to break the FBI’s national security mission apart from its traditional law enforcement culture.\(^8^1\) Doubts persist, however, as to whether this organizational change has produced the desired results, and enabled the Bureau to adapt to its new mission imperatives.\(^8^2\)

Congress can and should make a priority of FBI oversight, focused on how it manages this transition from a law enforcement culture to a proactive intelligence culture. It should use the appropriations process to prioritize key needs within the FBI, for

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\(^{80}\) Ibid.

\(^{81}\) [http://www.fbi.gov/hq/nsb/nsb.htm](http://www.fbi.gov/hq/nsb/nsb.htm)

example, creating requirements for and funding a massive expansion of foreign language training. It should fully fund recruitment programs and ensure that new analysts have the same level and depth of training as new agents.

**Recommendation #40:** 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.

**Congressional Implications:** Northern Command has made a great deal of progress in establishing strategies and doctrines since its formation in October 2002. It now effectively plays the lead role in homeland defense, and within that has capabilities related to emergency response, maritime security, and responding to a pandemic influenza. The Armed Services committees should continue to carry out consistent oversight of Northern Command in the 110th Congress, focusing in particular on clarifying its role in catastrophic response scenarios.

**Recommendation #41:** The Department of Homeland Security and its oversight committees should regularly assess the types of threats the country faces to determine (a) the adequacy of the government’s plans — and the progress against those plans — to protect America’s critical infrastructure and (b) the readiness of the government to respond to the threats that the United States might face.

**Congressional Implications:** Sec. 7306 of the Intelligence Reform and Terrorism Prevention Act encourages DHS to implement HSPD-7 and the sections of the Homeland Security Act of 2002 that concern developing a national plan for critical infrastructure protection. DHS has made progress on this recommendation in the last two years, culminating in the release of the National Infrastructure Protection Plan in June 2006.

In spite of this progress, a lot of work needs to be done, and the 110th Congress can and should provide strong and consistent oversight in response to this recommendation and the related legislative mandates. In particular, Congress should closely monitor DHS’s progress on the development of sector-specific plans, which DHS promised in June it would publicly release by the end of 2006. And it should closely oversee DHS’s work on chemical plant security, and ensure that DHS develops effective regulations while leaving open the option of reintroducing chemical security legislation in 2007.

83 [http://www.northcom.mil/about_us/about_us.htm](http://www.northcom.mil/about_us/about_us.htm)
Conclusion

This close examination of these 41 recommendations reveals that there is a full agenda for homeland security, counterterrorism, and intelligence in the 110th Congress. It is true that only some of the recommendations are amenable to legislative solutions. But the new Democratic leadership of Congress can play a role and make a difference on nearly all of them, using all of the tools at its disposal: oversight, investigation, public communication, and personal outreach.

The implementation of these recommendations is not a cure-all for the challenges that we face in the war on terror. We face dynamic and adapting enemies – a reality that necessitates that our responses likewise evolve over time. And there are many other things that Congress can do where action is warranted that fall outside of the scope of these recommendations; for example, the 110th Congress should make a priority of strengthening the career workforce of the Department of Homeland Security.

In spite of these limitations, the recommendations of the 9/11 Commission remain the most important articulation of homeland security and counterterrorism policy priorities in the past five years, and deserve careful consideration today. If the new Democratic leadership can serve as a thoughtful steward of these recommendations and move them forward in the 110th Congress, then they will have played a valuable role in improving our national security and protection the nation against future threats.

About the Author

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