(Pub. L. 108–458, title VII, § 7201(d), Dec. 17, 2004, 118 Stat. 3811.)

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Enhanced Border Security and Visa Entry Reform Act of 2002 which comprises this chapter.

FINDINGS

Pub. L. 108–458, title VII, § 7201(a), Dec. 17, 2004, 118 Stat. 3808, provided that: ''Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

''(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

''(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

''(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

''(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

''(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in government databases could have identified some of the hijackers.

''(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

''(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

''(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.''

§ 1777. Establishment of Human Smuggling and Trafficking Center

(a) Establishment

There is established a Human Smuggling and Trafficking Center (referred to in this section as the ''Center'').

(b) Operation

The Secretary of State, the Secretary of Homeland Security, and the Attorney General shall operate the Center in accordance with the Memorandum of Understanding entitled, ''Human Smuggling and Trafficking Center (HSTC), Charter''.

(c) Functions

In addition to such other responsibilities as the President may assign, the Center shall—

(1) serve as the focal point for interagency efforts to integrate and disseminate intelligence and information related to terrorist travel;

(2) serve as a clearinghouse with respect to all relevant information from all Federal Government agencies in support of the United States strategy to prevent separate, but related, issues of clandestine terrorist travel and facilitation of migrant smuggling and trafficking of persons;

(3) ensure cooperation among all relevant policy, law enforcement, diplomatic, and intelligence agencies of the Federal Government to improve effectiveness and to convert all information available to the Federal Government relating to clandestine terrorist travel and facilitation, migrant smuggling, and trafficking of persons into tactical, operational, and strategic intelligence that can be used to combat such illegal activities; and

(4) prepare and submit to Congress, on an annual basis, a strategic assessment regarding vulnerabilities in the United States and foreign travel system that may be exploited by international terrorists, human smugglers and traffickers, and their facilitators.

(d) Director

The Secretary of Homeland Security shall nominate an official of the Government of the United States to serve as the Director of the Center, in accordance with the requirements of the memorandum of understanding entitled the ''Human Smuggling and Trafficking Center (HSTC) Charter''.

(e) Staffing of the Center

(1) In general

The Secretary of Homeland Security, in cooperation with heads of other relevant agencies and departments, shall ensure that the Center is staffed with not fewer than 40 full-time equivalent positions, including, as appropriate, detailees from the following:

(A) Agencies and offices within the Department of Homeland Security, including the following:

(i) The Office of Intelligence and Analysis.

(ii) The Transportation Security Administration.

(iii) United States Citizenship and Immigration Services.

(iv) United States Customs and Border Protection.

(v) The United States Coast Guard.

(vi) United States Immigration and Customs Enforcement.

(B) Other departments, agencies, or entities, including the following:

(i) The Central Intelligence Agency.

(ii) The Department of Defense.

(iii) The Department of the Treasury.

(iv) The National Counterterrorism Center.

(v) The National Security Agency.

(vi) The Department of Justice.

(vii) The Department of State.

(viii) Any other relevant agency or department.

(2) Expertise of detailees

The Secretary of Homeland Security, in cooperation with the head of each agency, de-

partment, or other entity referred to in paragraph (1), shall ensure that the detailees provided to the Center under such paragraph include an adequate number of personnel who are—

(A) intelligence analysts or special agents with demonstrated experience related to human smuggling, trafficking in persons, or terrorist travel; and

(B) personnel with experience in the areas of—

(i) consular affairs;

(ii) counterterrorism;

(iii) criminal law enforcement;

(iv) intelligence analysis;

(v) prevention and detection of document fraud;

(vi) border inspection;

(vii) immigration enforcement; or

(viii) human trafficking and combating severe forms of trafficking in persons.

(3) Enhanced personnel management

(A) Incentives for service in certain positions

(i) In general

The Secretary of Homeland Security, and the heads of other relevant agencies, shall prescribe regulations or promulgate personnel policies to provide incentives for service on the staff of the Center, particularly for serving terms of at least two years duration.

(ii) Forms of incentives

Incentives under clause (i) may include financial incentives, bonuses, and such other awards and incentives as the Secretary and the heads of other relevant agencies,[1] consider appropriate.

(B) Enhanced promotion for service at the Center

Notwithstanding any other provision of law, the Secretary of Homeland Security, and the heads of other relevant agencies, shall ensure that personnel who are assigned or detailed to service at the Center shall be considered for promotion at rates equivalent to or better than similarly situated personnel of such agencies who are not so assigned or detailed, except that this subparagraph shall not apply in the case of personnel who are subject to the provisions of the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.].

(f) Administrative support and funding

The Secretary of Homeland Security shall provide to the Center the administrative support and funding required for its maintenance, including funding for personnel, leasing of office space, supplies, equipment, technology, training, and travel expenses necessary for the Center to carry out its functions.

(g) Report

(1) Initial report

Not later than 180 days after December 17, 2004, the President shall transmit to Congress a report regarding the implementation of this section, including a description of the staffing and resource needs of the Center.

(2) Follow-up report

Not later than 180 days after August 3, 2007, the President shall transmit to Congress a report regarding the operation of the Center and the activities carried out by the Center, including a description of—

(A) the roles and responsibilities of each agency or department that is participating in the Center;

(B) the mechanisms used to share information among each such agency or department;

(C) the personnel provided to the Center by each such agency or department;

(D) the type of information and reports being disseminated by the Center;

(E) any efforts by the Center to create a centralized Federal Government database to store information related to unlawful travel of foreign nationals, including a description of any such database and of the manner in which information utilized in such a database would be collected, stored, and shared;

(F) how each agency and department shall utilize its resources to ensure that the Center uses intelligence to focus and drive its efforts;

(G) efforts to consolidate networked systems for the Center;

(H) the mechanisms for the sharing of homeland security information from the Center to the Office of Intelligence and Analysis, including how such sharing shall be consistent with section 485(b) of title 6;

(I) the ability of participating personnel in the Center to freely access necessary databases and share information regarding issues related to human smuggling, trafficking in persons, and terrorist travel;

(J) how the assignment of personnel to the Center is incorporated into the civil service career path of such personnel; and

(K) cooperation and coordination efforts, including any memorandums of understanding, among participating agencies and departments regarding issues related to human smuggling, trafficking in persons, and terrorist travel.

(h) Relationship to the NCTC

As part of its mission to combat terrorist travel, the Center shall work to support the efforts of the National Counterterrorism Center.

(i) Coordination with the Office of Intelligence and Analysis

The Office of Intelligence and Analysis, in coordination with the Center, shall submit to relevant State, local, and tribal law enforcement agencies periodic reports regarding terrorist threats related to human smuggling, human trafficking, and terrorist travel.

(Pub. L. 108–458, title VII, § 7202, Dec. 17, 2004, 118 Stat. 3813; Pub. L. 110–53, title VII, § 721(a)–(c), Aug. 3, 2007, 121 Stat. 346–348.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (e)(3)(B), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§ 3901 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see

[1] So in original. The comma probably should not appear.

Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Enhanced Border Security and Visa Entry Reform Act of 2002 which comprises this chapter.

AMENDMENTS

2007—Subsec. (c)(1). Pub. L. 110–53, § 721(a)(1), substituted ''integrate and disseminate intelligence and information related to'' for ''address''.

Subsecs. (d) to (f). Pub. L. 110–53, § 721(a)(3), added subsecs. (d) to (f). Former subsecs. (d) and (e) redesignated (g) and (h), respectively.

Subsec. (g). Pub. L. 110–53, § 721(b), reenacted heading without change and amended text of subsec. (g) generally. Prior to amendment, text read as follows: ''Not later than 180 days after December 17, 2004, the President shall transmit to Congress a report regarding the implementation of this section, including a description of the staffing and resource needs of the Center.''

Pub. L. 110–53, § 721(a)(2), redesignated subsec. (d) as (g).

Subsec. (h). Pub. L. 110–53, § 721(a)(2), redesignated subsec. (e) as (h).

Subsec. (i). Pub. L. 110–53, § 721(c), added subsec. (i).

DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (g) of this section, see section 1 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of Title 3, The President.

§ 1778. Vulnerability and threat assessment

(a) Study

The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) Report to Congress

The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) of this section together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) Authorization of appropriations

There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a) of this section.

(Pub. L. 109–13, div. B, title III, § 301, May 11, 2005, 119 Stat. 316.)

CODIFICATION

Section was enacted as part of the REAL ID Act of 2005, and also as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, and not as part of the Enhanced Border Security and Visa Entry Reform Act of 2002 which comprises this chapter.