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VOICING THE NEED FOR REFORM: THE FAMILIES OF 9/11

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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VOICING THE NEED FOR REFORM: THE FAMILIES OF 9/11

TUESDAY, AUGUST 17, 2004

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:07 a.m., in room SH–216, Hart Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Lieberman, Levin, Specter, Coleman, Durbin, Carper, and Dayton.

Also present: Senators Warner, Mikulski, Clinton, and Nelson.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order. Good morning. I want to welcome our witnesses here today. Out of their tragedies, they are doing so much to help our country, and I hope that each of you who has suffered such a horrible loss can take comfort in the fact that you have been able, out of your loss, to do great good for our Nation. We thank you for being here with us today.

This morning, the Committee on Governmental Affairs continues its series of hearings on the recommendations of the 9/11 Commission for restructuring our intelligence organizations.

Our witnesses today come from families who lost loved ones in the attacks of September 11. They remind us of why we are here. The victims were fathers and mothers, sons and daughters, husbands and wives. Those of us who did not lose loved ones that terrible day can never fully comprehend their loss, but all Americans, indeed all civilized people throughout the world, experienced an overwhelming mixture of grief, shock and anger, feelings that persist to this day.

As this Committee wrestles with the issues, as we wade through the alphabet soup of the 15 agencies that comprise our intelligence community, and debate questions of budgets, personnel, authority and accountability, we must never forget that we are not doing this as an exercise in bureaucratic reshuffling. We are undertaking this important task because 3,000 innocent people were murdered by terrorists on American soil.

The September 11 attack was not just an attack against our Nation, it was an attack against the entire world. The victims came from 37 States and Puerto Rico, and from 17 other countries.

Six Maine families suffered the most profound of losses that day. Among the victims was a retired couple from Lubec, the eastern-

most town in the United States, who boarded Flight 11 to celebrate a son's wedding in California. Joining them on that flight was a businesswoman whose parents lived in Parsonsfield.

Two natives of Lewiston, Maine were on Flight 175. One, a lawyer and former Army paratrooper, was on his way to Thailand. The other, a former Marine, was on a business trip. A Navy commander, born and raised in Gray, Maine, was at work in his office at the Pentagon. And a young University of Maine graduate was in just his third week on the job on the 101st floor of the North Tower.

The senselessness, the cruelty, of the attacks that ended these and so many other happy, productive and promising lives, only magnifies the tragedy.

Since September 11 many family advocates have applied themselves with great energy and devotion to discovering just what went wrong. All who heard the testimony from family representatives before the 9/11 Commission this spring had to be impressed with the depth of their knowledge on terrorism prevention and response.

Their knowledge is extensive, not because they are government policymakers, but because they are driven to find answers to their personal tragedies. This is a position that none of them chose to be in, but where they are determined to make a difference. And they have. You have made a difference.

Today we will hear from three individuals who have devoted their time and their resources to making sure that we do all we can to prevent another September 11. Mary Fetchet is the Founding Director and President of Voices of September 11th. Stephen Push is a leader of Families of 9/11. And Kristen Breitweiser is the Founder and Co-Chairperson of the September 11th Advocates.

We very much appreciate your testifying today to help us, as this committee undertakes the critically important task of revitalizing our intelligence community. Thank you for all that you have done since that terrible day.

Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thanks very much, Madam Chairman, for your introductory words, and thanks to our witnesses, and welcome to Mary Fetchet, Stephen Push, and Kristen Breitweiser.

You and so many other families of the victims of September 11 have become familiar faces, friends, coworkers in the quest to understand how September 11 could have happened and what America must do to make sure, to the best of our ability, that it never happens again.

We are, as we gather here today, moving toward our shared goal of passing the needed reforms that might have prevented September 11, and which we believe will help detect and prevent future attacks.

I think the three of you have become skilled enough in the legislative process to know that we are not there yet, and that is where your continued advocacy, your presence this morning and of the mornings and afternoons and evenings to come, is going to be critical to achieve the goals that we have together. The fact is that the

bill that many of us introduced to create the 9/11 Commission would never have passed if you three, and those who are your colleagues and friends in tragedy, had not come to Washington and spoke the truth of your loss, and questioned those in power in this town who did not want the 9/11 Commission to happen.

As a result directly of your advocacy, in my opinion, the Commission was created, and that set the pattern that brings us to where we are today, as you, the families of the victims of September 11, continued to pressure and petition your government to do what was right in ways that were much less visible than your advocacy for the 9/11 Commission.

I can testify to this, that you were there when the Commission had difficulty gaining access to the information it needed; when the Commission needed its budget increased; when some in Congress threatened to block the Commission's request for a 2-month extension. On each of those occasions you were there, and the result was a lot better than it otherwise would have been. I would say to you, Madam Chairman, although I think you know, that these citizens, these survivors, have become skillful advocates for a critical national cause.

If a Congressman or Senator refused to meet with Kristen Breitweiser and her compatriots, known collectively and famously as "the Jersey girls," three of them would wait inside the office, while the fourth stakes out the side door. They figured out those side doors of the Members of Congress.

Stephen Push opened lines of communications using his experience in public relations with editors and reporters around the country. When a Congressman or a Senator was opposing the 9/11 Commission, Stephen made sure that the member's hometown papers and voters knew about it.

Mary Fetchet opened her home in New Canaan, Connecticut to family members of other September 11 victims who needed to share their grief and seek assistance and strength, using her training as a clinical social worker.

I guess I should have mentioned, Kristen, that you are a lawyer, but maybe that would have been self-evident. [Laughter.]

And then in Mary's spare time, she also lobbied for the 9/11 Commission all the way up to the President of the United States himself.

I want to say to the three of you that I continue to be awed and inspired by the drive that you have shown to turn your personal tragedies into public safety for our Nation.

Now the Commission has finished its work, the story of September 11 has been laid at more comprehensively than before, before the American people, along with bold recommendations for reform. Congress is taking it seriously, and I am proud that this Committee, under Chairman Collins, has set the pace in holding these August hearings, and has set some tough goals for action in September out of this Committee.

I must say that some people think we are moving too fast, which is unusual for Congress. Somebody, I saw in a statement the other day, said doing it right is more important than doing it fast, but the important thing that you all have come to know is that there is more than one alternative to doing it right and wrong. The alter-

native is not to do it slow and wrong. The alternative is to do it fast and right. With your help, that is exactly what we are going to do.

Yesterday in our Committee, the Chairman and Vice Chair of the Intelligence Committee, Senator Roberts and Senator Rockefeller, came forward and suggested to us that they were supportive of a strong National Intelligence Director. We are going to hear the details of their proposal soon, but I thought that was encouraging.

On the other hand, there are voices that were heard yesterday, particularly in the Armed Services Committee that held a hearing, that were resistant to change.

I want to say to the families generally, through the three of you, that we need you now more than ever. We have come this far together. We need to stay together to get the job of genuine and comprehensive intelligence reform done. I think you know, but if you do not, let me say it. You are a mighty force. You are a citizen army. Ultimately, you are a great moral force. And no mindless defense of the status quo can withstand the pressure that you are capable of bringing.

This is going to be a battle. It is a battle for very substantial change, and people will resist change, even if it means protecting our country from another September 11. But your presence here gives me confidence that when all is said and done, we are going to have the real intelligence reform that America needs to keep the American people safe, and we are going to have it soon.

Thank you.

Chairman COLLINS. Thank you.

I want to acknowledge that we have been joined by two Senators who do not serve on this Committee, but who both lost a number of constituents on September 11, and who have both followed the Committee's work very closely. I know that both Senator Mikulski and Senator Clinton made a great effort to join us here today because they wanted to firsthand hear your compelling statements. So we welcome them to our Committee today, and we are very happy to have you join us.

I would now like to introduce the three witnesses. Mary Fetchet lost her 24-year-old son, Brad, in the World Trade Center. She is a Founding Director of Voices of September 11th, which serves as a clearinghouse for information for the September 11 families around the world. Her advocacy began immediately after the attacks by calling for respectful recovery efforts and family notification, and for the creation of an appropriate memorial at the site. As a Founding Member of the Family Steering Committee, she has not only advocated strongly for the establishment of the 9/11 Commission, but has also helped many other families. She is, as Senator Lieberman mentioned, a clinical social worker, and her organization is in the process of expanding its mission to providing counseling and social services to victims' families. She lives with her family in Connecticut.

Stephen Push's wife, Lisa Raines, was a passenger on Flight 77 which struck the Pentagon. He is a co-founder and board director of Families of September 11th, an organization that supports public policies that improve the prevention of and response to terrorism. Families of September 11th also works with private charities to

reach out to family members of the victims of September 11 that may need counseling or other help. Mr. Push and his organization helped secure passage of the legislation that created the Commission, and he has served as the liaison between the families and the members and staff of the Commission. Before September 11 he was head of corporate communications at a biotech company in the DC area, and he now lives in Northern Virginia with his wife Deborah, who is also here today.

Kristen Breitweiser lost her husband, Ron, in the World Trade Center. She is the founder and co-chair of the September 11th Advocates, a group that has vigorously lobbied Congress and the White House for the independent Commission. Like Ms. Fetchet, Ms. Breitweiser is also a Founding Member of the 9/11 Family Steering Committee. As Senator Lieberman noted, she is a lawyer. We do not hold that against her. [Laughter.]

She used to practice at a firm specializing in family law, and she and her 5-year-old daughter live in New Jersey.

Again, I want to thank each of you so much, not only for being with us today and helping us sustain the momentum, which as Senator Lieberman mentioned, is so critical. We are at an impotant stage right now to complete the work that you started when you pushed for the creation of the Commission. We look forward to hearing your testimony.

Mary Fetchet, we will start with you.

TESTIMONY OF MARY FETCHET,[1] FOUNDING DIRECTOR AND PRESIDENT, VOICES OF SEPTEMBER 11TH, AND MEMBER, 9/11 FAMILY STEERING COMMITTEE

Ms. FETCHET. Hon. Chairman Collins, Senator Lieberman, and other distinguished Members of the Governmental Affairs Committee, I am honored to be here today to testify on behalf of the 9/11 families.

My name is Mary Fetchet. I am a member of the 9/11 Family Steering Committee, and Founding Director and President of Voices of September 11th, a 9/11 family advocacy group. More importantly, I am the mother of Brad Fetchet, who tragically lost his life at the age of 24 in the terrorist attacks on the World Trade Center on September 11.

We appreciate your urgency in holding these hearings to address the critical task of implementing the recommendations made by the 9/11 Commission. We are equally indebted to the 9/11 Commissioners and their staff, who worked tirelessly in a bipartisan manner over the last year to examine the events that led to the attacks and to develop recommendations to prevent future tragedies. The Commission may not have answered all our questions, but its report does offer a much-needed overall strategy to develop a comprehensive foundation for creating a safer America.

The challenge now before all of us is whether we have the national will to combat a political bureaucracy, general inertia, and the influence of special interest groups in order to enact a comprehensive set of recommendations to improve our national secu-

[1] The prepared statement of Ms. Fetchet appears in the Appendix on page 45.

rity. The work will not be easy. It is, however, essential if we are to protect our families and our country.

The last 3 years has been a painful education for me. It began on September 11, 2001, when my husband contacted me at work to let me know Brad had called him shortly after the first plane hit Tower 1. Brad was on the 89th Floor of Tower 2, and he wanted to reassure us that he was OK. He was shaken because he had seen someone fall from the 91st floor, "all the way down." But Brad told my husband he expected to remain at work for the remainder of the day. The Port Authority, after all, had used the PA system to assure everyone in Tower 2 that they were safe, and directed them to remain in the building. Brad remained with his coworkers in their office as they were told. Other individuals, who attempted to evacuate Tower 2 at that time, were ordered back up to their offices. Shortly after my husband's call, I witnessed the plane hit Tower 2 on television. The image is forever etched in my mind, as it was at that moment that I knew our country was under attack, and that my son Brad was trapped in a high-rise building that he would not be able to escape.

I never had the opportunity to speak with Brad. We later learned from a message he left his girlfriend at 9:20 a.m. that he was attempting to evacuate after his building was hit by the second plane. Obviously, Brad and his coworkers never made it out. He, and nearly 600 other individuals in Tower 2, who should have survived if they had been directed to evacuate, died senselessly because of unsound directions. As a mother, it did not make sense to me that they were directed to remain in a 110-story building after the high-rise building next door had been hit by a plane, had a gaping hole in its side and was engulfed in flames.

Since that day I have come to recognize the inadequacies in our overall preparedness, as well as the grave responsibilities and the inexcusable inertia of our political system. As with many who worked on the 9/11 Family Steering Committee, I came to Washington as a political novice, unfamiliar with politics or the political system, without a party affiliation.

Every election day I voted for individuals irrespective of political party who I thought would best represent our country. However, my political involvement ended as I cast my ballot, assuming like most that my elected officials would act in my best interest, ensure my family's safety and counter any terrorist attacks. I believed that my government was a comprehensive organization, whose officials and agencies, in the best interest of national security, would share intelligence, collaborate and coordinate their counterterrorism efforts. Sadly, I was wrong.

I, like others, have also tried to make sense of my son's death and those of the nearly 3,000 other innocent victims by collecting and scrutinizing newspaper reports on 9/11 issues. Two important themes quickly became apparent. One system did not fail our country, virtually all systems failed. They failed to follow existing procedures and failed to have protocols or effective lines of communication in place, leading to widespread breakdowns in our preparedness, defense and emergency response. The other painful realization was that our government is often paralyzed by partisanship and complacent to a fault.

Our sad and frightening pre-September 11 history includes pervasive failures and shortcomings within and amongst government agencies due to breakdowns in communication on all levels, lack of direction and overall strategic plan, and a disconnect between policy, priorities and allocation of funds.

More specifically, failures occurred due to:

Intelligence agencies not sharing information within and amongst their organizations despite their common responsibility to protect our country;

Not leveraging or updating technology already in place, which would have helped identify and stop these terrorists from entering our country or passing through domestic airport security point checks, ultimately preventing them from turning passenger planes into weapons;

Inadequate or failed procedures and communication systems that prevented emergency response teams from effectively working with each other, connecting to workers in the World Trade Center, and communicating with outside agencies, such as airports and buildings that had already been identified as targets;

Failure of the North American Air Defense Command and the FAA to have a protocol in place to rapidly identify and respond to hijacked planes;

Failure of the FBI to process and act on Colleen Rowley's report and the Phoenix memo, which would have identified terrorists and the potential for planes to be used as weapons;

Failure of the legislature to act on earlier recommendations to address the threat of terrorism, such as those proposed by the Hart-Rudman Commission, and those related to airline security by the Gore Commission;

Allowing special interest groups to undermine and block preventative safety measures that could have prevented the September 11 attacks in an effort to save money, and

Failure of our government and its intelligence agencies to have an overall strategy, to establish and coordinate policies, priorities and procedures based on the escalating threat of terrorism.

Colonel Randall Larsen and Ruth A. David of the Anser Institute for Homeland Security, summed up the situation facing pre-September 11 America in an article published in *Strategic Review* in the spring of 2001, obviously, before September 11: "What is needed now is leadership from the administration," they wrote. "There is widespread concern that threats to our homeland are both real and growing. . . . However, one of the most troubling questions yet to be answered is whether substantial changes such as those recommended by Hart-Rudman or Collins-Harowitz, can be made unless America experiences a tragic wake-up call." Ultimately, Larsen and David asked: "Will the administration and Congress have the vision and courage to act before we experience another Pearl Harbor or something far worse that could change the course of history?"

We all recognize that we have experienced another Pearl Harbor, now known as September 11. The administration and Congress did not have the vision or the courage to act on previous information. Now 3 years after this tragic event and the death of nearly 3,000 innocent victims, it is apparent that the status quo is unacceptable,

and reform is necessary. The questions we now face are twofold: Are we prepared? And if not, are we ready to move decisively to embrace a comprehensive overall such as the ones presented by the 9/11 Commission?

As a Nation, we remain amazingly ill prepared to prevent an attack or at least minimize its impact. This is especially frightening since we are under a greater threat than ever.

Consider for a moment that we live under a heightened national terrorist alert, and yet 3 years later systems have not been put in place to educate our families, our schools, our communities, on how to prepare for another attack. Several initiatives have been put in place since September 11, yet many of the core problems within and amongst government agencies have not been addressed.

Communications systems are still inadequate; community and city-wide preparedness plans have not been effectively established or communicated; government agencies and legislative groups do not effectively share or leverage intelligence and general information or even readily accept it from the public as I know firsthand; an effective, government-wide control center for all intelligence has yet to be established; and crucial Congressional oversight and budgetary control of this effort is not in place; no one is in charge.

Some in Washington have warned that it may take 3 to 5 years to enact all the measures needed. That is not acceptable to the 9/11 families or the American people. Our enemies are preparing to strike us now, and the longer we wait to move decisively, the greater advantages and opportunities they have to harm us.

Former Defense Secretary William Cohen put the impact of unchecked aggression into perspective 6 years ago in speaking to New York's Council on Foreign Relations: "No government can permit others to attack its citizens with impunity if it hopes to retain the loyalty and confidence of those it is charged to protect." Americans have lost faith in our government and its ability to protect us. You have to act now to restore it.

I recognize the challenge with moving a Federal bureaucracy, however well meaning, in a new direction. Like any system, change and restructuring are difficult. Special interest groups, turf battles and simple fear of the unknown can all work against reform. Yet when American lives are at stake, indifference or inertia is unacceptable. I am confident you recognize what is at stake and are up to the challenge. We must embrace a complete and interlinking set of recommendations proposed by the 9/11 Commission. This plan should include the creation of a National Counterterrorism Center, and the appointment of a National Intelligence Director (NID) who reports directly to the White House.

The NID should: Oversee all national intelligence and counterterrorism activities; develop an overall strategy to promote national and regional preparedness; coordinate policies, priorities and protocols amongst the 15 intelligence agencies; authorize and allocate the budget and resources to execute this strategy; ensure qualified individuals are appointed to key posts and have the ability to hire, fire, and more importantly, promote, individuals who are proactive in the fight against the war on terrorism.

The aim is simple: A coordinated and comprehensive approach in gathering information and operating our intelligence agencies. I

recognize that this Committee is charged with solely examining intelligence issues, but we must not allow ourselves to become shortsighted or piecemeal in our approach to America's safety. We must examine and embrace all of the Commission's 41 recommendations, for they are interconnected.

As Governor Kean has mentioned, the success of the reorganization is also dependent upon changes made in foreign policy, public diplomacy, border and transportation security. Effective implementation is reliant on legislation, executive order, and a willingness to maintain a consistent strategy in each of these areas. Is there risk in transition? Absolutely. Governor Kean, Chairman of the 9/11 Commission, acknowledged as much in his report. He warned, however, that there is even more risk in doing nothing. We cannot afford to continue with the status quo. We must act now.

Ultimately I want to do what I was not able to do on September 11. I want to protect my children and keep them safe. I cannot bring my son Brad back, but I can, in his memory, push for a safer America. When critical reforms are implemented to make our country safer, I will know that neither Brad's life, nor the lives of nearly 3,000 others who perished on September 11, were lost in vain.

As a result of research into the horrific circumstances of my son's death, I came to realize that our country was unprepared for the threat of terrorism despite forewarning. I now recognize that I cannot just be an observer, but have an obligation and a responsibility as an American citizen to be educated and aware of the larger issues that impact the safety of my family and friends. I encourage all Americans to read the 9/11 Commission report, and to contact their elected officials to urge them to act expeditiously in a nonpartisan fashion to enact reform.

Again, I want to thank you for this opportunity to express my views. My hope is that these hearings will lead to critical reforms. We now look to you, our elected officials, for leadership, courage and fortitude to embrace the recommendations. The safety of our families, our communities, and our country rest in your hands.

Thank you.

Chairman COLLINS. Thank you for such an eloquent statement. Mr. Push.

TESTIMONY OF STEPHEN PUSH,[1] CO-FOUNDER AND BOARD MEMBER, FAMILIES OF 9/11

Mr. PUSH. Good morning, Senators Collins and Lieberman, and Members of the Committee. Thank you for inviting us, representatives of the 9/11 families, to provide testimony on this important issue.

With all due respect to the Members of this Committee, your colleagues in Congress, and the Members of the Executive Branch, I would like to state what I believe is at stake in this debate. What is at stake is nothing less than the legitimacy of the U.S. Government.

The primary function of government is to defend its people. If the government cannot prevent terrorists from entering the country

[1] The prepared statement of Mr. Push appears in the Appendix on page 52.

and murdering innocent civilians by the thousands, its other functions have little value.

The 9/11 Commission has confirmed what many of us who lost loved ones in the attacks have long believed since shortly after September 11: The U.S. intelligence community failed to capitalize on numerous opportunities to discover and disrupt the 9/11 plot. This failure disclosed long-standing systemic problems that render the intelligence community ill-prepared to deal with the threat of terrorist attacks by Islamist extremists.

In fact, the term "intelligence community" is an oxymoron. One of the so-called community's greatness weaknesses has been its inability to coordinate its operations and share its intelligence with those who could use the intelligence to provide the Nation's leaders with useful, timely information.

I have no doubt that, in the wake of September 11, this weakness has been ameliorated, in part by internal reforms, and in part by heightened diligence on the part of intelligence officers shocked by the devastation of the attacks. But I also have no doubt that these reforms have not gone far enough. And as the memory of September 11 fades in the minds of those not directly affected, the systemic problems will reassert themselves and our intelligence agencies will slip back into the old habits that left the Nation so vulnerable 3 years ago.

I concur with the Commission's conclusion that fundamental organizational reforms must be undertaken in the government to create an intelligence community worthy of the name, worthy of the trust and treasure that the American people have invested in it, and worthy of the blood and sweat of the intelligence officers who labor, and sometimes risk their lives, serving the Nation.

In my testimony I would like to focus on three issues that I believe you, as Senators and Members of this Committee, must address as you consider the Commission's recommendations regarding organizational reform of the intelligence community.

First, you must provide the new National Intelligence Director with sufficient authority. We do not need a toothless intelligence czar, who can only cajole the intelligence agencies from the sidelines.

The NID must be able to marshal all of the intelligence community's resources for collection and analysis. The NID must also be able to ensure that intelligence and assessments are shared with all of those who need them. To accomplish these goals the NID must have control over budgets and personnel.

I recognize the concerns raised by the intelligence needs of the military. We must provide our war-fighters with the intelligence they need to accomplish their missions without exposing them to avoidable risks. But this concern is not a sufficient reason to maintain the status quo, in which the Pentagon controls 80 percent of the estimated $40 billion annual intelligence budget.

While I do not want you to fix what is not broken in military intelligence, you must face the fact that the status quo has failed us. The current allocation of authority over intelligence budgets failed to prevent the murder of nearly 3,000 people in one day on American soil. If the status quo continue, and if terrorists obtain weap-

ons of mass destruction, future attacks may take tens of thousands or even hundreds of thousands of lives.

I urge you to draft legislation that recognizes the need to coordinate intelligence for both military and homeland security purposes. I believe this goal can be achieved with the organizational structure recommended by the Commission, or something very similar to it.

The position of the Deputy NID for Defense Intelligence can ensure that the military continues to receive the tactical intelligence it needs on demand, while enabling greater integration with the CIA, the FBI and the Department of Homeland Security. This integration will benefit both the military and homeland security, and is essential for the development of comprehensive intelligence assessments for the President and others.

Some have complained that the Deputy NID for Defense Intelligence would have two bosses. That complaint reveals ignorance about the success of matrix management structures in solving similar organizational problems. Such structures have been used to great advantage for decades in corporations and other organizations.

This model can be successfully applied to the intelligence community as well. But the ultimate authority must rest with the NID.

What clearly does not work in the intelligence community or anywhere else is having 15 agencies ostensibly working towards a common goal without someone in charge full time.

The second issue I would like to address today is the vulnerability our Nation has during presidential transition periods. While this may not be an issue that you will address in legislation, it is an issue you face when you confirm presidential nominees. I urge you to expedite the approval process of all nominees to intelligence and homeland security positions. When there is a change of administration, we do not need acting or lame duck people in these positions. We need these positions filled quickly with someone that the President has selected and trusts.

I also believe that the President, through the selection of nominees, and the Senate, through the confirmation process, should avoid partisanship. When it comes to homeland security, there should be no Democrats or Republicans, only Americans.

The third and final issue I would like to address is a need for prompt action. Since the Commission released its report last month, we have heard some officials urge us to take our time in reforming the intelligence community. I realize that fundamental reforms must be undertaken with deliberation, but the problems of the intelligence community have been painfully obvious to the public since September 11. In fact, previous commissions and other knowledgeable commentators have tried to alert Congress and the public to many of these problems for more than a decade. And the 9/11 Commission, composed of 10 eminent individuals, backed by an outstanding staff of 80, has spent 20 months studying these problems.

Meanwhile, al Qaeda and its offspring continue to hatch plots against Americans. Time is not on our side.

Of course, please exercise due diligence in drafting the legislation, but please do so quickly. Otherwise, we may have yet another

terrorism commission analyzing opportunities that the government missed today to thwart another terrorist attack.

Thank you again for this opportunity to address you.

Chairman COLLINS. Thank you for an excellent statement.

I want to acknowledge that we have been joined by the distinguished Chairman of the Senate Armed Services Committee, Senator Warner, who also lost a number of constituents that terrible day. I remember Senator Warner organizing a van to go out to the Pentagon to assist the rescue workers, and he has shown great commitment to this cause, so we are very pleased to have him here today as well.

Ms. Breitweiser.

TESTIMONY OF KRISTEN BREITWEISER,[1] FOUNDER AND CO-CHAIRPERSON, SEPTEMBER 11TH ADVOCATES, AND MEMBER, 9/11 FAMILY STEERING COMMITTEE

Ms. BREITWEISER. Good morning, Senator Collins, Senator Lieberman, and other Members of Congress. I want to thank you for inviting me here today.

Prior to September 11, we had no significant commitment or political will to dedicate the necessary resources to counter terrorism. Almost 3 years post September 11, perhaps that environment has changed. Testifying before all of you here today, I want to believe that it has changed, and that the time has now come to reform our Intelligence Community.

We, as a Nation, should have made a historic reorganization of our domestic security structure a priority on September 12, 2001, or at the very least, studied it more seriously. Yet nothing has been done or even seriously considered in this regard until now. Without doubt, the appointment of a NID in the next few weeks or months will not thwart the next attack, but perhaps if a NID was appointed 3 years ago, we might have been in a safer position than we are today.

Realize that on the day of the next attack, Congress and the Executive Branch agencies will no longer have to deal with the 9/11 families, you will have to deal with the entire American public who had read the 9/11 Commission's final report. They will ask, "How could this have happened?" I only hope that there will be real changes underway so that at the very least your collective consciences will not haunt you.

It has been said by some that they would have moved heaven and earth to prevent September 11. Respectfully, almost 3 years after September 11, we do not need heaven and earth to move. We just need our Executive and Legislative Branches to move so that we are in the best possible position on the day of the next attack.

September 11 has been called an intelligence failure. Prior to September 11 we have legal impediments, intelligence agencies that were not necessarily cooperative, integrated or coordinated in their efforts, outdated computer systems, no clear accountable and strategic management structures, and very little strategic analysis performed on terrorist organizations like al Qaeda. Part of the rea-

[1] The prepared statement of Ms. Breitweiser appears in the Appendix on page 55.

son for these failure was due in part because our intelligence community lacked a true captain of its ship.

While DCI Tenet was, in theory, in charge of the entire intelligence community, the record from Septemer 11 indicates that he failed in that capacity. One reason he might have failed was because he lacked budgetary authority to make all 15 intelligence agencies that he oversaw work efficiently, cooperatively and successfully. Or, perhaps the real reason was that the expectation that one man could effectively perform the job responsibilities of a true DCI were far too high and impossible to meet.

Yet, after reading the 9/11 Commission's Final Report, it appears that our intelligence agencies did perform quite well on some levels, because the record proves that our intelligence agencies did have enough information to stop the attack. For whatever reason, judgments were made at crucial times that negated field agents and analysts from properly doing their jobs. Sadly, the examples of these instances are far too many to be fully enumerated in this limited testimony. Suffice it to say that they are all clearly laid out in the Commission's Final Report, its accompanying footnotes, and the Joint Inquiry of Congress' Final Report.

Going forward, we must ensure that when intelligence community judgments are made and people are killed, at a bare minimum, someone in our intelligence community is held accountable. The NID would be that person.

With a NID and a NCTC established, the next time we have a terrorist organization planning against us, we will recognize the existence of that threat sooner and develop a proactive covert action program to counter that threat before it grows to a reality. We will not suffer from instances of poor judgment that hampered our agents' abilities to stop the September 11 hijackers. And if we find a series of poor judgments being made, we will not only hold the deputy of that department responsible, but we will hopefully have a NID to who has ultimate responsibility for the actions and behavior of the Intelligence Community.

Our intelligence community consumes $40 billion of taxpayer dollars. The American public should expect some sort of accounting from this organization. No one doubts the commitment and work of the field agents and rank and file workers in our intelligence agencies, but they need clear leadership. A NID would provide this leadership. A NID would make a difference.

Prior to September 11, inadequacies in airline security were recognized, yet there was no action taken by the FAA or the airlines to remedy these system-wide shortcomings. Examples of such inadequacies range from poorly trained and paid airport security personnel, failure to maintain an effective/integrated no-fly list, and a failure to establish effective airline security protocols.

Three years post September 11, the need for a NID is more urgent than ever. The impact of a NID on the airline security apparatus is undeniable. Airline security is not fixed. Chain of command and authority issues are not resolved. A NID would be able to force all constants and variables involved in the airline security equation to work together cooperatively. He would be able to assign accountability and responsibility so that problems are identified, addressed and remedied. He would be able to effectively prioritize

problems because he would have the benefit of knowing our overall national intelligence strategy. He could apply that overall strategy to affect the day-to-day operations of the airlines industry.

In sum, a NID would be able to take the airlines, just one component of the national security apparatus, and better equip them to meet the demands of the ever-evolving national security environment. He would not be influenced by financial interests or persuaded by lobbyists. He would look at the airline security system through a pure and singular focus to make the airlines as safe as they can be. None of our public transportation systems will ever be 100 percent safer, but they can most definitely be made safer. A NID would set goals, assign tasks to meet those goals, demand accountability, and allocate funds accordingly. A NID would make a difference.

The largest problem presented to our military was in some way, and continues to be, the failure of our intelligence community to gather actionable intelligence for our military to justifiably act upon. Prior the September 11, whether it was missile strikes, deploying our special forces to infiltrate organizations, or sending reconnaissance aerial vehicles to gather information, all of these options ultimately failed because they lacked the actionable intelligence to spark their action.

Prior to September 11, much debate took place about whether to fly the Predator over Afghanistan, who would pay for the flights, who would be responsible if the aerial vehicle got show down, who would be responsible if the vehicle marked and killed people, etc. In short, no one, neither DCI Tenet or DOD, wanted to take operational responsibility or fiscal responsibility for flying this vital reconnaissance vehicle.

This was the topic of discussion during the first principals meeting of the Bush Administration held at the end of the summer of threat. September 11 was a mere 6 days away, 3,000 civilian people were rightfully carrying on with their lives, completely unaware of their sealed fate. And our leaders, those charged with protecting us, were fighting over whether to fly the Predator halfway around the world to try and gain surveillance video of al Qaeda. As their heated debate continue, their argument over money and responsibilities, al Qaeda was already here in the United States, lying in wait, fully embedded and prepared to kill 3,000 innocent people. If that does not illustrate how off the mark our military and intelligence community was in the months leading up to September 11, I do not know what does. A NID might have made a difference.

Regarding the need to remove many of the 15 intelligence agencies outside the Department of Defense, perhaps one thing needs to be made clear. In the fight against terrorist organizations, "boots on the ground," engaging our military, is Step Two in that process. We must not forget about Step One, our intelligence community. In truth, if all players in Step One, our intelligence community, do their job, we never have to get to Step Two, our military. Our military should not be our primary tool, it should be our secondary tool, our backup plan. That is why we must strengthen our abilities and capabilities in Step One.

Step One involves our intelligence community having the most direct unfiltered information and effectively acting upon that infor-

mation. To get the best most direct information our intelligence agencies need the authority and budgetary control over the tools that provide them with such information. Leaving management and budgetary authority over these tools in the hands of DOD had proven ineffective. September 11 speaks to that ineffectiveness.

In a perfect dynamic, if tools are used correctly, intelligence information flows freely and directly, and our intelligence community acts effectively, Step Two, boots on the ground, might never be needed. The problem to this very day is that nobody is coordinating our intelligence resources, being held accountable for improving and reorganizing our overall intelligence apparatus, and demanding responsibility from all of those elements in our intelligence community, so that we do not have to arrive at Step Two. Again, perhaps a NID could make a difference.

Both prior to, and post September 11, the use of diplomacy to deal with terrorist groups like al Qaeda was not a model of success. The problem regarding counterterrorism and diplomacy was a problem involving evidence and action.

Prior to September 11, we had a clear and present danger presented by al Qaeda that was clearly not fully appreciated. Our intelligence community failed to pick up and act upon the real threat that was presented by al Qaeda. Politics and policy might have played a role in this. Post September 11 we did not have such a clear and present danger of WMD in Iraq and our intelligence community apparently overstated that danger. Politics and policy might have played a role in this result as well. Nevertheless, in both scenarios, two constants remain: One, people are being killed, and two, we have an intelligence community failing to do its job. This has to change.

We, as a Nation, must find the middle ground. First, we must have an intelligence community that we can rely upon. We must equip them with the skills, tools and resources to do their job, and we must set up a structure that will hold them accountable when they fail to do that job. We must insulate their work product from both politics and policy. Only then can our leaders earnestly rely upon their work product and advice in making their own policy level decisions. From that pure unfiltered work product, our leaders can decide whether, when, and how to take action. A NID could make a difference.

A NID would be able to integrate our border control into our national security strategy and give our border control agents commensurate resources. A NID would ensure that terrorist travel intelligence became a valued part of our counterterrorism strategy. A NID would recognize that disrupting terrorist mobility globally is at least as important as disrupting terrorist financing. He would demand that our student tracking system be operable and effective. He would oversee follow up and designate resources for the use of biometrics in our border security system. He would make sure that programs like TIPOFF are able to work effectively and share their information collectively.

Three years since September 11 our border security still suffers from inefficiencies, poor funding, inadequate intelligence sharing, and the poor integration of an overall strategy. A NID would make a difference.

While the two recommendations, the NID and the NCTC, that are the focus of this hearing are important, we must not lose focus on the equal importance of the remaining 39 recommendations. Quoting Commissioner John Lehman, "the Commission's report is not a Chinese menu."

We must no longer take a single-track approach to our Nation's security. It is not simply striking out and fighting the terrorists overseas. We need to contemplate other complimentary methods in this ongoing war. By holding public hearings on these supplemental methods, the American public will be able to consider these additional methods. methods that include providing education and economic opportunities, eviscerating terrorist funding, decreasing our dependence on foreign oil, and reallocating funds to pay for vital programs.

Sitting here before you today, I want to divulge my self-interest and the turf I want to protect. My self-interest is to make sure that no other person has to walk in my shoes. I want to do everything I can to ensure that no other family has to feel the unparalleled pain that I felt on the morning of September 11 as I watched my husband get murdered on live, worldwide television. The turf I want to protect is the turf that my 5-year-old daughter and I walk and drive across. It is our great Nation. I answer only to the memory of my husband, Ron, and my own good conscience.

The 9/11 Families are not concerned about reelection and pleasing our constituents. We are not worried about losing budgetary controls. We are not misguided by interagency turf wars. We have one singular purpose, and that purpose is to make our families, your families, and the Nation safer than it is right now.

We ask the Congress, the White House, and all other Congressional and Executive Branch agencies to be Americans first, not partisan politicians with self-interests, not appointed officials with turf to protect, not unimaginative figures unwilling to embrace change out of fear of losing the status quo, because it is no longer sufficient to support national security on an ad hoc basis. Your support of national security must be all inclusive and wholehearted, regardless of how it may hurt you personally or politically. In short, working cooperatively to make this Nation safe is like the 9/11 Commission's recommendations. Your commitment must be wholesale, measured in thought, and endorsed by sound action. You cannot pick and choose which initiatives should succeed on the basis of your own self-interest. You must have the courage to be an American first.

We stand before you as people who have lost our loved ones. We felt our pain on September 11, and we are now adapting to life without our loved ones. We have taken our unspeakable pain and made some good out of it by fighting for the creation of the 9/11 Commission. We are now urging you to act upon the Commission's recommendations.

There are many other families whose loved ones are today risking and giving their lives to defend this great Nation, both at home and overseas. We are so grateful to them, and we share their pain. We appreciate and are grateful to their self-sacrifice in being Americans first, and making this Nation safer.

In the ensuing months, hopefully not years, as this language begins to be drafted, and thereafter battled out behind the scenes, I simply, humbly, and with great respect, ask all of you to remember during those negotiations and the heated conversations, how many of us have already learned to be Americans first. I truly hope that you can do the same.

Chairman COLLINS. Thank you for your moving testimony. In my opening statement I said that you remind us of why we are here, and why this task matters so much, and your eloquent testimony helps us accomplish the goal that we have been assigned, and that is to pass reforms that will help to make our country safer, and I am very grateful for your role in that.

I am going to go out of the usual order because two of our members, Senator Warner and Senator Levin, are going to be leading hearings in the Armed Services Committee in just 10 minutes or so, so I am going to recognize them first for any comments that they might have or any questions.

Senator Warner.

OPENING STATEMENT OF SENATOR WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Thank you, Madam Chairman, and I commend you and your Committee for the work that you have done.

I have been privileged to be here for a number of years, and I have seen many groups formed to advocate their causes, but none have ever equalled your groups collectively in terms of your strong feelings, and yet your realistic appraisal of the problem and how it can best be addressed. You have come before the committees of the Congress, remarkably well prepared, and you delivered your messages as well as any witness that ever sat at that table. So I commend you.

I really believe that Congress can do some things, and will do some things, important things. The President is considering several options that can be implemented by executive order. Much has been done since September 11, from the Patriot Act to the Terrorist Threat Integration Center. So it is an ongoing process, but each step must be done with great care, such that we achieve a positive incremental improvement in deterring terrorism and protecting ourselves against attack.

I pledge to you, as I have to my committee in the Senate, I am not concerned about turf. I have been here many years. I know exactly what our committees can do and should do, and I am certain they will do the right thing, together with the Senate as a whole, once we put together our report.

But bear in mind this Nation is at war. The intelligence system that we have in place now must serve those brave young men and women in the far-flung battlefields of the world, from Iraq to Afghanistan, and elsewhere, and they must serve them right at this very minute while we are here.

So, as we begin to discuss changes to our intelligence structure and consider new authorities, we have to do it very carefully so that we do not lose a single beat in the efficiency of the system that is now serving this country. So bear with us. I think our President has shown great leadership, and Congress will likewise show lead-

ership. And we can achieve some things in this remaining Congress, but it is an ongoing process, and I thank you once again.

I thank the Chairman

Chairman COLLINS. Thank you.

Senator WARNER. I invite you to our committee hearings in the Caucus Room, for those of you who wish to, when this Committee concludes its work.

Chairman COLLINS. Thank you. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Madam Chairman, thanks to you and Senator Lieberman for not just today's hearing, which is incredibly powerful, but for the other important hearings that you have had and that you will have. Your leadership is essential.

Our witnesses today have given us a powerful push towards resolution of this matter, towards reforms. I think all of us are guided by one goal, and that is to make our country safer so that your loved ones will not have died in vain and that some measure, positive measure of good, can come out of their loss. That is not much solace, but I am afraid it is the best that we can do and what we must do, but I only want to assure you that every one of us, I believe, even though there will be differences as to what the right way to go at these reforms is and what the best reforms are will be moved by your standard. We had better be or else we are letting you down, and letting our families, and our children and our grandchildren down. That standard is what will make our Nation stronger.

There will be differences, however, among people as to what will make our Nation stronger. You will not probably find, at least an easy consensus on that matter, but there is a consensus on that goal, and you have reinforced that goal among us. We thank you for that. I think you would want us to have an honest debate and deliberation providing that polar star is what will make our Nation stronger. Thank you for reinforcing that.

One of the matters that is most troubling to me has been the lack of accountability. We have to build in accountability in a system, and I think the appointment of a NID, a National Intelligence Director, can lead to that, but I must restate my deeply held belief that there was a failure of accountability in the existing system for people who failed to do their assigned tasks, and that is an ongoing failure. We are still waiting for word from the CIA, and the FBI as to what about the failure to carry out assigned tasks. Where has been the accountability there? So I am going to keep my focus on that, among all the other needs here, but I want to again just add my thanks to you and all of the other families for sharing with us the pain that you have suffered so that hopefully we can be stronger and avoid that pain for other families.

Chairman COLLINS. Thank you.

Ms. FETCHET. Senator Levin, could I just comment on what has been said so far? I am very concerned that it seems like there is this mentality where there is more focus internationally. I think that we have to rethink that. I think we are at war in our own country today and that it needs to be a priority. There has been report after report, commission after commission, over the last dec-

ade, many with the same recommendations. We cannot afford to continue to debate. We have to move on this.

It does not mean that things have to be disassembled. I think they have to be complemented and maybe readjusted—not to move the boxes around, as some people have said, but to have real structure and a real strategy in place so that domestically we are protected. These people live in our country. There is not monitoring in place, and I think there is really an imbalance between the CIA and the FBI, which really, in a sense, led to some of the challenges that they faced.

We have to be focused on domestic security, and we are at war in our own country. Our families are not protected. Your family is not protected today. So I welcome the debate, but I think, at some point, we have to make some hard decisions, and we have to move on them. We cannot continue to debate and do nothing, and that is what has happened over the last decade.

I heard Ms. Harman mentioning that we have a plan in place from 1947. We have other issues. It is a different world today than it was in 1947, and we have to set those priorities. They have to be constantly evaluated and re-evaluated. That system is not in place. I mean, what are our priorities? They are always changing. And so I think, because our priorities should be changing, our approach should be changing. And maybe the government that is in place worked in 1947, but we have different issues today.

Chairman COLLINS. Thank you.

Senator LEVIN. I agree with that, very much different.

Chairman COLLINS. I want to point out that we have been joined by Senator Bill Nelson of Florida. He has attended I think every one of our hearings. He has been extremely interested. I know that he will be going to Armed Services, as will Senator Clinton, and Senator Dayton, who was here earlier. They will be coming back and forth, and I just wanted to explain that to our witnesses today.

All of you have made the point that every one of the recommendations of the 9/11 Commission is important. One of you quoted Secretary Lehman as saying, "This isn't a Chinese menu. They all work together." But based on all you have learned in the past 2 years, which recommendations do you believe will make the most difference? I am not saying that we should ignore those that may be secondary, but which ones, based on all of your study, all that you have learned, do you believe would make the most difference?

We will start with you, Ms. Fetchet.

Ms. FETCHET. Well, I think the National Intelligence Director and the Center really go hand-in-hand. There were breakdowns. I mean, it is well-known that there were breakdowns in communication between, really even within some of these agencies. I think to have somebody in control, not just a figurehead, but somebody that is working hand-in-hand with the White House, so their policies, their procedures, and their focus are in line because, again, I go back to talking about priorities. The priorities change, and the priorities have to be constantly reassessed, and so to do that that person has to be able to evaluate, through these 15 agencies, what the real priorities are of the day, and then they have to allocate funds that are focused on that.

One thing that came up when we were researching this is that some of the intelligence agencies had budgets and had resources, but they were not in line with what the priorities should have been. So the FBI may have been focused on drug smuggling and prostitution rings, when the real focus should have been the threat of terrorism. So I think having somebody in control that can set the tone, identify the priorities moving forward, would certainly be, I think, the most important thing.

Chairman COLLINS. Mr. Push.

Mr. PUSH. Well, I would like to call attention, particularly to the recommendations that the Commission made concerning diplomacy and foreign policy. We need to change our relationship with Saudi Arabia. It cannot just be about oil and selling arms. We need better public diplomacy to win over the vast majority of moderate Muslim people to our way of seeing things or at least to create a dialogue with them to get us communicating with them and to deprive al Qaeda of the recruits that it currently has access to.

I hope you do appoint a strong NID, and I hope that individual is able to make the country safer. But we can have the best intelligence in the world. We can have heavy security around every building in the country, but we are never going to be able to stop people from coming here and killing Americans if we do not win the war of ideas in the Muslim world. And so those, very often in the press, those particular recommendations get short shrift and are not concentrated on, but I think they are very important.

Chairman COLLINS. Thank you. Ms. Breitweiser.

Ms. BREITWEISER. I concur with both Mary and Steve. Candidly, I think the most important recommendation is the one that is most likely to get done sooner rather than later. If I had to pick one, I would say border security. My understanding is that our border security apparatus is in shambles. It is in very bad shape, and that is something that really could be fixed with the proper allocation of funds. It is inexcusable that we have a budget that we have, and yet border security has finite solutions to problems that they are currently facing and we are allocating the funds properly towards that direction. Certainly, a NID would be able to make sure that those funds were allocated to where they needed to go, but I would have to say the border security recommendation by the Commission.

Chairman COLLINS. Thank you.

Some groups have expressed concerns about the privacy and civil liberties aspects of some of the recommendations of the Commission. They point, for example, to the proposal to give the NID authority over both domestic and foreign intelligence, an area where we have always had a sharp divide, but a divide that we now know has led to a lack of communication that should have occurred prior to September 11.

They also point to the recommendations for biometric screening and also the recommendations to have a standard driver's license so that each State would not have a different form of a driver's license. Some fear that is the equivalent of a national identity card. Do you have any concerns about our ability to strike the right balance between security and civil liberties?

We will start with you, Ms. Breitweiser.

Ms. BREITWEISER. You know, clearly, I think that there has to be a balance. We have to strike that balance. I think we particularly have had some problems striking that balance with regard to the Patriot Act, and I think that we live in a Democratic society, and I think that more than anything we need to make sure that we do not lose the spirit of a democratic society.

Nevertheless, I think what it comes down to is trust. If the American people have confidence in our government and in our leaders, particularly a NID, if we have the apparatus set up in such a way that we have confidence that it will not be abused, that it is necessary to have something like an international identity card to carry out biometrics, then I think that the American people will support that.

But I have to tell you they need to be educated on that, and that is something that is a perfect topic for a public hearing. Let the American people be educated and then let them make an informed decision by calling all of their elected officials up and giving their opinion. That is how democracy works. And I think you can strike that balance. I just think that you need to make an effort to do that, and one way you do that is by holding hearings on that topic.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks very much, Madam Chairman. Let me join you in welcoming Senator Mikulski and Senator Clinton, and thanking them for taking the time to be here. They have been very strong supporters of the 9/11 Commission in its initial fight over whether it would exist and now in implementing its reforms, and I thank them for taking the time to be here.

I would have to declare, by way of full disclosure, that when it comes to the three of you, I am not unbiased, but I thought your statements were very effective, very powerful. You obviously bring your own experience of September 11 and the loss you suffered, but you also made a study of this tragedy. And with all respect to anybody else who would claim to be a so-called expert, I would put you up against anyone. I think you know this subject very well, and as a result there are two critical roles, just to develop a little bit what I said in my opening statement, that I think you can play in the weeks ahead as we move to get this done.

The first is that you do bring your own human experience here. Mary, you lost a son. Steve, you lost your wife. Kristen, you lost your husband. And if this process, as it naturally will at some point, does yield to turf protection or partisanship, you have a unique, sadly, ability to focus us on what all of you said in one way or another. We have to be Americans here. We have to focus on protecting the safety of the American people so that no one else is in your position next time.

Second, you are experts, and you have studied this. You have reached some conclusions. And from what I have heard from the three of you, you feel very strongly about adopting the recommendations of the 9/11 Commission, and you are as well-prepared to stand toe-to-toe with people and argue for their recommendations as anyone. So I think you have a critical role to play, and I thank you for your extraordinary testimony this morning.

I want to go back to when the report came out and you read it. I am interested to know which of the factual findings struck you as most significant or most surprising before you got to the reform recommendations section.

Mary or Kristen, you want to start, please.

Ms. BREITWEISER. We all have done so much research in the past couple of years, so that really, after reading all of the staff statements, there was very little in the final version of the report that surprised us.

I would have to say, for me, personally, it would be in the footnotes on page 502, particularly footnote 44, and I think that is a prime example of why we need someone like a NID. Because I think when you look at the record from September 11 and you read the Joint Inquiry of Congress's report, and you read this report, clearly, we need to make sure that we have a CIA that is answering to a boss because the record is just replete with examples of the CIA making judgment calls.

Senator LIEBERMAN. What does that footnote, just generally, say?

Ms. BREITWEISER. My favorite footnote.

Senator LIEBERMAN. I do not need you to read it.

Ms. BREITWEISER. It is page 502, footnote 44. It discusses the watch listing issue, and it is a CIA desk officer. You have to read the footnotes, too.

Chairman COLLINS. The print is too small. [Laughter.]

Senator LIEBERMAN. Yes, that is what my law professors used to tell me.

Ms. BREITWEISER. All the good stuff is in the footnotes.

I think it does bring up the important point that our CIA needs to be answering to someone, and I know there is talk behind the scenes that we do not need a NID. We will leave a DCI and just give them budgetary authority. I think the record from September 11 clearly indicates that the CIA needs to answer to someone, and that someone could be a NID.

Senator LIEBERMAN. Amen. Incidently, I appreciate that you mentioned the Predator story because part of the argument made for not altering the Pentagon's control over its intel budget is that nobody has said that the Pentagon fell short or contributed to September 11, but the very fact that there was that argument going on, right up to 6 days before September 11, shows why there needs to be somebody at the top.

Ms. BREITWEISER. I totally agree with you, and I think more than the argument which, in my opinion, was a petty argument that carried on for far too long, had we had a NID to say, "Cut it out," like a mother saying, "Cut it out"——

Senator LIEBERMAN. Right.

Ms. BREITWEISER. And to add to that the fact that we were looking halfway around the world. These people were here.

Senator LIEBERMAN. Right.

Ms. BREITWEISER. There were sleeper cells, and what is sad is that you had DCI Tenet at that meeting. He knew about Zacarias Moussaoui. He had that information in his head. It should have been brought up at that meeting, and that is where the attention should have been placed, not flying a very important piece of machinery halfway around the world.

Senator LIEBERMAN. Steve.

Mr. PUSH. Similarly to what Kristen said, very little in the report surprised me because I had been following the issue so closely, but I really appreciated that we finally had an authoritative assessment of all of these facts.

The two things that I found most surprising was the role of Iran in aiding the hijackers, which is, I think, a very important point and speaks to the geopolitical issues that need to be addressed in that part of the world. And the other is the fact that the head of the CIA knew about Moussaoui, but the head of the FBI did not, which I found rather shocking, that not only do we have a lack of communication between agencies, but also a lack of a communication within an agency.

Senator LIEBERMAN. Absolutely.

Mr. PUSH. The so-called stovepiping, as opposed to—the one advantage of the stovepiping is supposed to be providing information up to the top, and it was not even doing that in the FBI.

Senator LIEBERMAN. Thanks. Ms. Fetchet.

Ms. FETCHET. Well, I would agree with both Kristen and Steve. I was sort of reading between the lines because we do have so much information after studying this for 3 years, but I think the lack of communication. Maybe it is because my husband works for IBM, but I just cannot understand, when there is technology out there, how people are not put on watch lists. I mean, if an airline can know what flight you are on, what seat you are in, what time you are leaving, what time you are landing, they should be able to simply put in names and to identify not, as hijackers, but as the possibility of being a terrorist.

And I think that just the systemic inadequacies, a lack of communication, I mean, when you read the report that is consolidated like it is, I think just the lack of communication. And I think the thing that frustrates me is we are all working towards one goal. I mean, if the goal is to protect our country, to represent our citizens, and I see the duplicity, the lack of having systems in place, that seems so logical to me. I just cannot understand that. And I have seen that actually in Congress, since I have been here, to just mention the commission reports that have sat on shelves, but also that one committee might come up with a finding, a recommendation, and then the committee changes, and they start the whole process over again.

Senator LIEBERMAN. Right.

Ms. FETCHET. That there is never any follow-through, and I think that is pretty apparent overall, that the government, in a sense, is antiquated, not having computer technology in the FBI when you are supposed to be following people? That just does not make sense to me.

Senator LIEBERMAN. Your questions, your eyes are open so clearly, and the questions you are raising, recommendations you are making are so sensible. And in one sense, what is on the line here in our response to this, is what one of you said, which is the legitimacy of our government to carry out its first responsibility, which is to protect the security of our people or our citizens.

Ms. FETCHET. Senator Lieberman, could I just—Senator Collins brought up the civil liberties issues. One thing I would say, as we

were working on this—and that came out with the Patriot Act—I think it was very misleading to the general public that that was going to fix what happened on September 11. And as you look at the report, you can see it was not that they did not have information—they did not share information, they did not compile information.

So I think that there was a sense, by the general public, that this was going to address that issue, but that was not the issue on September 11. And I think that we have to think in terms of what is out there already—licensing, traffic violations, visas, expired visas—all of these things that they could compile in one database, and it would raise a red flag. I mean, there is information out there that is not in a database yet.

Senator LIEBERMAN. You are absolutely right.

My time is up. I will just say this. The testimony you have offered and the responses you just gave to the question I asked remind me of something else. Our Committee has been focused on what Chairman Kean and Vice Chairman Hamilton said were their top two priorities: The National Intelligence Director and National Counterterrorism Centers. But they made a lot of other very important recommendations. And you have highlighted them in different ways: The integrated screening system for people coming in and out of the country, a possible need for a standardized license, combining the watch lists the impact of diplomacy, the whole border security system. I was struck that you, Steve, pointed out in one of your top three issues the need to accelerate the transition from administration to administration.

They first hit the World Trade Center in 1993, the first year of the Clinton Administration. They then hit the towers again in 2001, the first year of the Bush Administration. Maybe coincidental, maybe not. Thank you.

Thanks, Madam Chairman.

Chairman COLLINS. Senator Coleman.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Madam Chairman.

I again want to thank the witnesses for sharing their personal stories. This is really extraordinary. Yesterday, we had before this Committee three former heads of the CIA, and we all said we learned a lot, and we did. But here we have average citizens who have been deeply personally impacted who know this stuff, who really know this stuff. I find it pretty overwhelming. And in your tragedy, you have come to understand a system that, in the end, we are going to make some changes. We will make some changes.

Mr. Push, you indicated, and you talked about the primary function of government is to defend its people, and I agree, but you also then raised a cautionary note about the fading of the memory of September 11, and I just want to make this statement. I come from a Midwest State, impacted personally. I have gotten to know one of the families, the Burnett family, whose young son, Tom, was on Flight 93 and one of those folks who charged the cockpit. And I come from Brooklyn, New York, and had a grade school and high school friend on that same flight.

But I have to say my family is still in New York, and they are in New Jersey. They have a much different sense, a much different present sense than I think many of my constituents do because they live in Marlboro, Manalapan, and friends worked in the World Trade Center, and so it is—so I just want to express the importance of keeping the sense, and the memory, and the impact alive. It then helps us kind of move through.

And we face the challenge that Senator Lieberman talked about and that you talked about, to move quickly, but to do the right thing. Because we have had "reform" in this country in the past. We had the Church Commission and the Pike groups, and they reformed us to a point, I think, and then they limited our ability to do the right things, in the name of reform.

And so we do face a challenge here, but I guess my reflection is to listen to citizens who—talking about foreign policy, the Iran situation, this report says Congress needs to follow up on that. I hope we do.

I want to get back to the issue that Chairman Collins raised about civil liberties, and in particular I just want to talk about the Patriot Act, not a long discussion. But here is my question, and I am a former prosecutor. There are those things out there that we just have not taken care of, I mean, basic stuff out there. And that is part of your message. We have all of this stuff. What are we doing with it?

But we are also, Ms. Fetchet, as you talked about, in a war right here. We know there are cells right here. We know there are folks who want to do bad things today. Part of that Patriot Act gives us the ability to do things that I, as a former prosecutor, used to be able to do with organized crime: The nature of wiretaps, and cellphone technology.

I just want to kind of get your sense, about the Patriot Act. Because there is this balance that we always hear about. I do not think pre-September 11 we could have done a Patriot Act. Is there a sense that we need to do more, in terms of our ability to figure out what is going on right here, right in this country today, and to give folks more power to do that? And, again, Ms. Breitweiser, your comment was if you let the public know, they will kind of do the right thing. Just a little further reflection on that issue.

Ms. FETCHET. Well, I think, as Kristen said, if they know what the limitations are—I think we are living in another world, and I think our country really has to have a better sense of who is coming and going. I think INS was a big—well, it was a failure. Visas were processed that were not completed. I do not think that they had the resources that they needed. It seems like the people that are really going through the process in the right way are delayed. It is the ones that are coming in illegally that have more rights almost than we do as an American citizen.

So I think to educate the public, to know what the limitations are with regard to the Patriot Act, but I do think we should begin by having a database and not reinventing the wheel. There is technology out there that can get you up to 80 percent, and then modify the other 20 percent, rather than creating a whole new system. Three years later, I do not think we have a system in place.

So I think that the real focus, my feeling is, should be on getting the information that we have up and running, and complement it by more information with some limitations.

Senator COLEMAN. I raise it because my concern is for folks who are already here. They are here. Some may be coming, but they are right here, and they have been here a while, and we saw that on September 11. How we get to that and how we protect that.

No one has mentioned the Department of Homeland Security. Reflections on what they are doing? Obviously, by not mentioning it, I sense the deep concern that what has gone on has not been sufficient, but just reflections on Homeland Security? Reflections on terror alerts? Can you respond to what you see going on there?

Ms. BREITWEISER. If I could just go back to what you were talking about, the Patriot Act, and then I would love to answer that question on DHS.

You also mentioned in the beginning that you are from the middle of the country, and I think that even when people live in the middle of the country, if they drink water, eat food, go to malls or have planes flying over their home, they need to care about these issues. It is not just the people that live in the tristate areas or the big megalopolises, it is everyone, because you either will do one of those things or you will have a loved one that will do one of those things. I just wanted to say that.

Senator COLEMAN. And I share that, absolutely.

Ms. BREITWEISER. Listen, I try to make that point all the time so people in the middle of the country who feel safely ensconced realize if you are eating food, drinking water or have planes flying over your head, you need to care about this.

Having said that, with regard to the Patriot Act, I think that there needs to be an analysis. There needs to be proof that the Patriot Act to date would have made a difference on September 11, because our understanding from our research is that we already had enough information on these individuals. I think, like Mary said, I just want to reiterate, we have enormous sources of information that we are not even using right now. To set up the Patriot Act, which is giving access to things that we do not even need, because right now with all the information we have, we are not fully using it in an efficient manner. It just seems like what are we going to do with all this information? It is like a fire hose of information. As we have been told, on September 11 they could not make sense of any of it. Why are we enhancing the fire hose?

I think you need to keep that in mind. I would like to see an analysis as to where exactly, specifically, with the information regarding the 19 hijackers on September 11 that the Patriot Act would have made a difference, because my understanding is that really it would not have made much of a difference.

Your comment about the Department of Homeland Security. I think that certainly there is an awful lot of confusion with regard to the threat levels. I think that particularly, I think it was in June we had an incident, where DOJ, the Director of the FBI and Mr. Ridge, were apparently not all on the same page because someone thought we needed to go under alert, someone thought we did not. That is a problem. There is really no point in having a Department of Homeland Security if they are not going to be talking to DOJ

or the Director of the FBI. I think that it is scary to hear the threat levels rise and fall, and I think we need to know that those levels are rising or falling for the right purposes and the right information, and again, you have to strike a balance.

I think the Commission spells out that the Department of Homeland Security is not necessarily working as well as it could be working. It is a great idea, but especially Sally Reagan Hart could sit and talk to you all about local responders and how they need a lot more attention and a lot more priorities need to be set, and I think Department of Homeland Security could have played a big role in that in the past couple of years.

Senator COLEMAN. Thank you.

Mr. PUSH. With respect to the Department of Homeland Security, I support the Commission's recommendation that another look be taken at how funding is allocated to local areas, that is allocated based on threat rather than as some kind of a grant program. It is true, what Kristen says, that we are all at risk, but clearly, there are cities like New York and Washington that are prime targets, and the fact that New York could get lower per capita funding than more remote areas that are under less a threat is, I think, a mistake.

Ms. BREITWEISER. I just want to make it clear. I agree with Steve. I was just drawing the point that everyone needs to be interested in homeland security, but I think clearly we need someone to prioritize the funding.

Senator COLEMAN. Thank you. Thank you, Madam Chairman.

Chairman COLLINS. Senator Durbin.

OPENING STATEMENT OF SENATOR DURBIN

Senator DURBIN. Thank you, Madam Chairman

Ms. Breitweiser, in your testimony you have a paragraph on the first page which struck me. You say: "We, as a Nation, should have made a historic reorganization of our domestic security structure a priority on September 12, 2001. Or, at the very least studied it more seriously. Yet nothing has been done or even seriously considered in this regard until now. Without doubt, the appointment of a NID in the next few weeks will not thwart the next attack. But, if a NID had been appointed 3 years ago, we might have been in a safer position than we are today."

We are here because of this 9/11 Commission Report, and I am going to go out on a limb and tell you, we would not have this 9/11 Commission Report had it not been for you. Had the families of those who died on September 11 not been steadfast and resolute and demanding, this would have fallen apart a long time ago. There was resistance to creating this Commission. There was resistance to funding this Commission. There was resistance to extending the deadline for this Commission. Now when you hear this chorus of praise for the 9/11 Commission, you know better. There was a time when this was not a popular idea at all. And the reason it happened was because you stuck with it. Had you not done that, we would be off on our vacations in August as usual, but we are at work, as we should be, on a very important and critical national issue.

We like to stand in judgment of the Executive Branch. I guess that is our role as an oversight committee. I would like you to stand in judgment of us. You have been on Capitol Hill now for a long time. You have been nudging and pushing and making your presence known to create this force. There have been press reports that some committee chairmen were hiding behind doors so that they could avoid you. [Laughter.]

But you got the job done as American citizens, as you said, who came here with not just grief but a determination to get something done. What is your report card on Congress in terms of what we have done? I mean let us put it all on the table right here. What would you say needs to be done on Capitol Hill for us to do the right thing, the American thing, and follow through on these Commission reports? What is your greatest fear in that regard, Ms. Breitweiser?

Ms. BREITWEISER. I think your grade at this point is an incomplete, and I think that you are serving the summer recess, summer school. I really do, I think all of the families want to thank everyone for attending the hearings this summer. We are enormously grateful.

But undoubtedly, Congress has a lot of work to do, and I do not think it just has to do with the Executive Branch agencies reorganization. I think Congress needs a reorganization. I think that the set-up of the Joint Inquiry, particularly when they looked into the attacks on September 11, where you had both houses, the Senate Intel and the House Intel together, working cooperatively to produce one product, I think that was a good setup. I know it is recommended in the Commission's report, and I would urge you to seriously contemplate doing something like that, because more than symbolically indicating and illustrating that everyone is working together. I just think on a realistic basis it is something that we could all stand to benefit from, was to combine the Intel Committees that they are working together.

We cannot urge you enough to act, and not necessarily act in haste. Act with sound reform, because one of the things that I just do not get is all this talk about reorganization. I think that it is futile to reorganize the intel community if you are going to leave people in positions that failed in the years leading up to September 11 or the days before September 11 or on the day of September 11. If you are going to leave those people in those positions and just reshuffle the boxes, then you are setting this reorganization, if it does happen, up to fail.

Senator DURBIN. Which was a point I tried to make in yesterday's hearing. Are we ready for reform? I mean can we pass a law that is really going to achieve real reform?

In the *New York Observer* piece about your experience with the Jersey Girls going around to the FBI and all the different agencies, the fact that you are an attorney and you have some training and skills, I could tell from the questions that you asked and pressed on, that you were more successful than some, but I could also note some real frustration here. You felt like you were getting the runaround, that people there would not accept responsibility for reality.

Ms. BREITWEISER. I would say that I think I have acted like a lady, in that I have not really been very transparent in some of the behaviors and the tones and the attitudes of certain individuals, who are elected officials, and going forward, I will continue to act like a lady.

Nevertheless, we have an American public who is enraged, outraged after reading this report. I know people that are just commonplace people, moms, they do not work, they are stay-at-home moms. They cannot get past page 50 because they are shaking with anger that it was as bad as it was. I think that is something, the jig is up. Everybody is going to know, and there is going to be no more excuses. And I just urge you, because I will be a lady, but there are going to be other people that are going to want meetings, and they are going to walk out of those meetings, and they are not going to act like gentlemen and ladies. They are going to say exactly what went on.

There are Websites currently being created by people like that who are saying things, that you cannot carry out and support national security on an ad hoc basis. You cannot call for the declassification of over classified material and then not support wholesome border security because it may affect your constituency.

We need this to be a committed effort, and I want to believe it can be done, and I promise I will continue to be a lady.

Senator DURBIN. I hope you all will continue in your effort, and I thank you for it, and that noise, that pressure, that heat, is democracy. That is what it is all about.

Ms. BREITWEISER. I am not saying I will be a lady behind the scenes. [Laughter.]

Senator DURBIN. Thank you. I am sure you will. Thanks, Madam Chairman.

Chairman COLLINS. Thank you. Senator Specter.

OPENING STATEMENT OF SENATOR SPECTER

Senator SPECTER. Thank you very much for your very powerful testimony, and thank you for pursuing your advocate's role. You have a lot of people who are with you in this Committee and the Senate, and in the House and Congress generally.

Madam Chairman, just for the record I want it noted that the reason I was not here yesterday was that I had 85,000 notices for town meetings circulated in Pennsylvania on meetings which could not be postponed. I just wanted that noted in the record.

You have put the case very powerfully, Ms. Fetchet, when you talk about inexcusable inertia, and, Mr. Push, when you have excellent testimony. I think the highlight was your sentence that "What is at stake is nothing less than the legitimacy of the U.S. Government."

You are correct when you note that the U.S. intelligence community failed to capitalize on numerous opportunities to discover and disrupt the September 11 plot. As Ms. Breitweiser said about the same thing, the intelligence agencies did have enough information to stop the attack.

All of that was put on the record in October 2002 when we noted the FBI Phoenix report about the suspicious man who wanted to fly a plane, learn how to fly, but was not interested in takeoffs or

landings, and about the two al Qaeda people known to the CIA in Kuala Lumpur not told to the INS, and about Zacarias Moussaoui, where Colleen Rowley, the FBI agent, had a 13-page, single-spaced memorandum.

In this room, we had a hearing with FBI Director Mueller and found that the FBI did not use the proper standard for probable cause to get a warrant—just sort of incomprehensible. But notwithstanding that, we were not able, when that bill was passed restructuring homeland security, to put all of it under one command. We could not get that job done because of the entrenched opposition of the CIA and the FBI and the Department of Defense and their cultures of concealment and their ability to stop it.

Now, the point was made by Ms. Fetchet that the legislature has failed to act on earlier recommendations to address the threat of terrorism, such as those from the Hart-Rudman Commission, the Gore Commission, and many others.

I chaired the Intelligence Committee back in 1995 and 1996, and in a Senate bill, S. 1718, called for, "enhancement of authority of the Director of Central Intelligence to manage budget, personnel and activities of the intelligence community," going right to the core of what the 9/11 Commission has asked for. Then we had a cross-reference. It went to the Armed Services Committee and they cut it to ribbons.

I ask, Madam Chairman, that this bill be made a part of the record.[1]

Chairman COLLINS. Without objection.

Senator SPECTER. Two weeks ago, I circulated a bill to establish a national director and to put under that director—and I would ask that this be made part of the record, too, Madam Chairman.[2]

Chairman COLLINS. Without objection.

Senator SPECTER. To put the FBI counterintelligence out of the FBI, put them under the national director; the same thing for CIA foreign intelligence. We do have to look at the tactical issue, but I think we can solve that as well.

Senator Roberts, the Chairman of the Intelligence Committee, is about to file a bill, and a few of us are about to introduce for the record the 9/11 Commission bill. So there will be plenty of bills to start the markup and to make decisions that we have been studying for a very long time.

The Scowcroft Commission has an excellent report. We are not short of reports and we are not short of debate and we are in a position to move. And it is my hope that we will start the process and mark up in September and work on a bill before we adjourn for the election. But that is going to be difficult unless we get started very early because in late October people are looking at the election. But your words today are very forceful.

There are two questions I have for you where I am thinking in a different direction from the 9/11 Commission and would like to know your thinking, because you have demonstrated a lot of insight and a lot of work here.

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[1] A copy of S. 1718 from the 104th Congress submitted by Senator Specter appears in the Appendix on page 66.

[2] A copy of S. 2811 submitted by Senator Specter appears in the Appendix on page 143.

One question goes to the idea of a 10-year term. The bill which I have drafted calls for a 10-year term for the director so that we insulate as much as possible the director from political influence. The precedent would be the FBI Director.

The second point where I diverge from the 9/11 Commission is the idea of double-hatting. For example, they want to leave counterintelligence in the FBI, to report to the Director of the FBI, and also to report to the national intelligence director. I have grave doubts that can be done, to have double reporting. My thought is to take it out of the FBI and have them report just to the National Intelligence Director.

I would be interested in all three of your comments on those two points. Ms. Fetchet.

Ms. FETCHET. The first one—refresh my memory because I am focusing on the second one.

Senator SPECTER. The 10-year term for the National Intelligence Director.

Ms. FETCHET. The 10-year term. I think one thing, like Steve brought up, was the issue about transition from one administration to the other. So I think in terms of a longer term, I think that would be very important, and to time it so there is not a gap when there is a change or a possible change in administration.

I think to keep it non-political is going to be very important, and so to sort out how can you best address those issues. I don't know, during a transition, if maybe Congress gets sort of focused when there is a transition on reorganizing, and maybe Congress should, in a sense, be really focused on the transition and making sure that legislation is passed, that deadlines haven't elapsed, and that there is some follow-through from one administration to the other. So I think the transition is a huge thing with regard to the term.

The principal meetings which they used during the Clinton Administration, but there wasn't as much focus on during the Bush Administration, I think, are an important aspect to pull those people together so they are all on the same page. That is how I would respond to your second question.

Senator SPECTER. Mr. Push.

Mr. PUSH. On the first issue on the 10-year term for the director, I agree with your concern about keeping the director's position non-political, and I think we should find ways to do that. However, the National Intelligence Director is going to have to have a very close relationship with the President, a relationship based on trust, and it is hard for me to see how that can happen unless that person serves at the pleasure of the President.

On the other issue, the double-hatting issue, I have long felt that the FBI is not really the right place for a domestic intelligence agency. I know that the Commission decided to keep it in the FBI, recommended keeping it in the FBI, and I know there have been arguments that the FBI already has a well-developed investigative function that could be capitalized on.

We certainly don't want to go and create something anew that already exists, but I see no reason why whatever the FBI has been able to build in that area, in the domestic intelligence area, can't be transferred to another department. For example, the Coast Guard was transferred to the Department of Homeland Security

and I haven't seen the Coast Guard miss a beat on any of its responsibilities.

Senator SPECTER. Ms. Breitweiser.

Ms. BREITWEISER. With regard to the 10-year term, I think it is a no-brainer. I think that really you need to make sure more than anything that a NID, if the position is created, is insulated from politics and policy. More than that, we have to be able to trust this individual. We need to have confidence in them.

Rather than worrying about a 10-year term, I think you should be more worried about who you are going to find. But I think a 10-year term is very important. I think it works very successfully with regard to the FBI, and I think there is a very steep learning curve. There is a lot to learn in this position. It is an incredible job description, and we don't want a revolving door. We want some sort of continuity and we want to give the person the time that they need to really develop long-term strategies, because I think that is what we have really failed to have.

We did not have long-term strategy. If you read the Commission's report, there is much information about George Tenet going from operation to operation. When it was over, that was it; we moved on. We took care of the next threat. We need to make sure that we have a long-term strategy, and the way that you do that is by putting someone there who will have the time to develop that long-term strategy, who will have an acute memory, who will not forget things. I think it is a very wise decision to have a term like that, in my humble opinion.

With regard to the FBI and double-hatting, I am no expert, and I think really what you should probably do is have a meeting with the actual agents, the analysts, personally and see what they think. We could sit and listen to everyone at headquarters and all of the head honchos, and you are not going to get the story that the guys in the field and the women in the field are going to give you.

They are the ones you should listen to because they are the ones who will tell you the truth. They will tell you, look, I am not going to do something like that because I won't raise myself in the FBI; I am going to be set back by that; I have a family and kids to support. You really should listen to the rank-and-file. Their hearts are in this and they have an enormous amount of information that is yet to be tapped. I really would encourage you with regard to that question to ask the people in the lower ranks. They will have a lot to share.

Senator SPECTER. Thank you very much, Ms. Fetchet, Mr. Push, and Ms. Breitweiser. Thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thank you, Madam Chairman.

To each of you, thank you for being here with us today. I can't imagine what you have suffered in the last 2 or 3 years. Thank you for not just dwelling on that sorrow, but for using it to transform it into something positive, I hope, for you, and I am sure for our Nation.

Senator Durbin earlier held up a copy of the 9/11 report and he said we wouldn't have this report were it not for your efforts and the collective efforts of others, thousands of families that you represent here today. He is absolutely right.

A friend of mine who is a pastor of a church in Wilmington, Delaware—I am from Delaware—likes to say it is not how high we jump up in church that counts; it is what we do when our feet hit the ground.

We are having a lot of hearings; I think it is great that we are. I want to commend our Chairman, and certainly Senator Lieberman for pulling us all together not once, not twice, not three times, but four times during an August recess, which is rather extraordinary. I have only been here 3½ years, but it is extraordinary certainly by my standards, and I think by most people's standards.

I am encouraged that we are not just going to jump up in this church today, but when our feet hit the ground and the television cameras go away and we have the tough work of figuring out how to craft legislation that we will actually do it.

Having said that, Senator Lieberman worked real hard on creating the Homeland Security Department. It took a lot of time and a lot of effort, and I don't know that he ever got the kind of commendation and thanks for all of his efforts, but he certainly has mine.

Senator Collins and I have been working for about 3 years on postal reform legislation, and we have a bill that has been approved unanimously by this Committee, with bipartisan support, to say what kind of postal system we are going to have in this country in the 21st Century. Similar legislation in the House passed unanimously out of committee, and it is not altogether clear whether or not something that enjoys unanimous support in the House and the Senate is actually going to be signed into law. It is just tough to get anything done around here.

I guess as I thank you, on the one hand, for the remarkable tenacity and devotion you have brought to this important cause, I would just ask you not to relent or not to let up. In football jargon—and I know it is still baseball season and we are getting some exhibition games going, but in football jargon, we have the ball, we have possession of the ball, we have gone across the 50-yard line and we may be inside the 20, but we are not in the end zone. We need your help and your effort and your energy to continue to push us to get there.

Mr. Push, I appreciate what everyone has said, but I want to come back to something that you said. I don't think I heard it from anyone else, and I am going to ask you just to revisit it and then I am going to ask our other two witnesses to comment on it.

Let me paraphrase what I understood you to say. It is important that we adopt a number of the changes recommended by the 9/11 Commission with respect to our intelligence functions—the way we function, the way we organize, the way we operate, how we hold people accountable. That is important. It is important that we act militarily to go after and flush out sources of danger, folks that pose threats to us.

But I think you also said that as important as the intelligence work is and as important as the military work is, if we forget about the minds of millions of people around the world who have come to hate our country, we have not completed the job. In a way, we will have dealt with the symptoms, but maybe not the root cause.

Would you just revisit briefly what you said? And then I am going to ask both Ms. Fetchet and Ms. Breitweiser. I am going to ask each of you to comment on that aspect of his testimony.

Mr. PUSH. In response to your question, I said that I felt that we should pay more attention to the specific recommendations that were made with regard to public diplomacy and, as you pointed out, developing allies around the world, but also developing allies within the Muslim world to create opportunities for better dialogue with the vast majority of moderate Muslims, to improve our relationships with countries like Saudi Arabia so that they are not based only on selling arms and buying oil.

There is a reason why al Qaeda has fertile ground to operate in, and unless we change those reasons, our children and our grandchildren are going to be fighting this battle in the future. I think while the NID and some of the other recommendations that are made are the more urgent ones, the ones that need to be acted on quickly, I think the more fundamental ones, the ones that are going to really win the war on terrorism are the ones that are going to change the hearts and minds of people who create young men who want to come and crash planes into buildings in our country.

Senator CARPER. Mr. Fetchet.

Ms. FETCHET. I would agree with Steve. I think our foreign policy is really the core of the threat of terrorism, and I think that we have to reach out to other countries. We have to develop an understanding of their culture, their religions, and their beliefs. Many times, maybe we have to back off and we can't dictate what women's rights should be or how they should run their country.

I think that we had such an outpouring after September 11. I have a husband that travels internationally and I am very concerned about him traveling. He has developed individual relationships with people in many of these countries, but for the most part people don't respect Americans. They think that we are arrogant. They think that we are trying to dictate the world, and I have a concern about that.

I think that we have to develop some respect for people of other cultures and we have to understand those cultures to know really what our relationships should be. So I think we can continue to build walls around our country, and certainly we have to make our country secure. But to really address the core of terrorism, we have to develop better relationships and respect for people from other countries.

Senator CARPER. Thank you. Ms. Breitweiser.

Ms. BREITWEISER. I think Mary and Steve said everything. I would just like to add that it is upsetting to hear from one of the Senators from before that we can't do both; we can't protect the boots on the ground and fix our intel community.

I think when you read the report, they say harden the homeland, continue the situation we are in now with regard to striking out.

And, in addition, we need to get at the root of the problem. Just on a basic level, I am a big believer in education and I think that it has to be done wisely. You cannot, as Mary said, go into a Nation and trample them and drop propaganda everywhere and say this is what you should believe.

We need to really work on our reputation, and the bottom line is these people hate us and they want to kill us. We cannot handle that situation in a one-track way. We need a multi-track approach and I think the Commission does a good job in setting that out.

Nevertheless, it is going to take a prioritization and we are going to have to find funding for that. Rather than discussing whether or not we should—I said to one of the Senators last week that I know you all mean business when you start setting out the funding. When you start discussing the budget and where it is coming from and how it is going to be paid, that is when, in my opinion, I realize that we are getting down to business.

I think, though, that really we need to fight this new enemy in a multi-pronged approach, and I think we should not just be focusing on Muslim radicals. We have other groups that are not metasticizing and sort of following along in other areas of the world. I think we need to be patently aware of those groups, too. It is not just about Muslim radicals. It is about a whole host of people that we have offended through years of behavior that we really need to take a multi-track approach at, and one of those ways is by reestablishing our respect in the world. To do that, you need to respect others. It is a two-way street.

Senator CARPER. Thank you very much.

Chairman COLLINS. Thank you. Senator Mikulski, welcome.

OPENING STATEMENT OF SENATOR MIKULSKI, A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator MIKULSKI. Thank you very much, Chairman Collins. I want to thank you and Senator Lieberman for inviting me today to participate. We appreciate your collegiality and your graciousness.

As a member of the Intelligence Committee, I want to pledge to you as the team that will be putting together the bill our utmost support and collegiality to make sure our war is against terrorism and not about turf. So we want to thank you for that.

We want to thank the 9/11 families who are here today, and all of those other families that you represent that would like to be here today. We thank you for being their voice.

We remember and honor the memories of the loved ones of the 3,000 people who lost their lives on that horrific day. I am here as a member of the Senate Intelligence Committee committed to reform, but I am also here as the Senator from Maryland. We lost 60 people that day.

I am honored to be here to interrupt my Senate recess. I am happy to be here today to hear you. I am happy to be here tomorrow when I listen to testimony at the Intelligence Committee. I am ready to cancel the whole summer recess so that we can move on reform. How about moving on the homeland security appropriations bill that is just floating like a feather in the Senate ethers

right now? So we are ready to move and I am ready to come back if we need to. That is the kind of urgency we need to feel.

Why do I feel so strongly? We know about your loss and about the loss in New York, New Jersey, and Connecticut, but we in the capital region lost people that day, too. Sixty Marylanders died mostly at the Pentagon. They came from all over Maryland, but 24 of the 60 came from one county, Prince George's County. Most of them were African American. Many of them were women, like Odessa Morris, who had just celebrated her 25th wedding anniversary. Max Bielke, working in financial services, was the last soldier to leave Vietnam. Leslie Wittington and Charles Falkenburg were academics who, with their two children, were on their way to a sabbatical. Adam White, a career worker at Cantor Fitzgerald. Darin Pontel, just out of the Naval Academy, with his brand new bars, working at the Pentagon. One of my own Senate staff lost someone who was a police officer at the World Trade Center. So we feel very strongly about that, we in the capital region.

So this is why we are committed to listening to you. We want to thank you for what you have done because in your own unflinching and unflagging way you helped create this 9/11 Commission. We thank you because the Commission could do in the sunshine what we in the original intelligence inquiry had to do in a classified way. So the Commission could build on our work and be able to function. We think the Commission did a fantastic job with integrity, independence, and intellectual rigor.

So where are we now? I believe we need to focus on the three Rs—reform, resources and being relentless to accomplish both. Let's practice the three Rs.

They talked about the surprises. I will never forget being in that committee, when I realized that of the 19 terrorists, 4 were stopped by local enforcement, 1 in my own State. When they put the guy's name in the computer, there was nothing that came out. We know more about deadbeat dads and their child support than those who are trying to come into the country to kill us.

When they gave us the Phoenix memo, I put my head down on the table and wept about a missed opportunity. But it is not time for tears; it is time for action. This Commission calls for 41 recommendations; 16 the President could do right now; 9 the President could do with funding, and we could pass our appropriations by October 1. I am on the Appropriations Committee. I know that where there is a will, there is a wallet. Sixteen recommendations call for congressional action. This is why I feel so strongly about this.

Now, after all of your days and months of speaking truth to power, I want to talk about truth and about power. When all is said and done, more often gets said than done. So my main question to you is, would you support some type of mechanism to stand sentry over the Executive and Legislative Branches, scorecarding us through benchmarks on how we implement the reforms of this Commission?

Have you considered this? What would be your thoughts? What would be your recommendations, so that we speak not only truth to power, but we have to understand the truth about power, which is no one likes to give it up?

Ms. BREITWEISER. I would say first I would encourage you to visit our website and that report card is underway. I would also note that a number of news programs, both cable and local, do a little thing at some point in the show where they say number of days 9/11 Commission report released, number of things acted upon, zero.

It started out on just a couple of channels and now it is making its way onto a number of channels. It is my favorite part of the viewing process. Everyone shakes their heads. The newscasters are hysterical. They say number of days the report released, number of recommendations implemented.

Senator MIKULSKI. Kristen, that is voluntary, and three cheers for that. But I am talking about this Congress passing a legislative framework with appropriate funds that would extend a form of the 9/11 Commission for monitoring the implementation of the reforms. It would be organized, it would be systematic, it would be mandatory, and it would be in the sunshine.

Ms. BREITWEISER. I think it is an excellent idea. My only concern is that it has to stand away from Congress. You cannot have elected officials. You need to have independent people. It has got to be bipartisan. I think undoubtedly that is an idea that is an excellent idea.

Unfortunately, I have spoken to some of the commissioners, because I know the topic was broached by someone recently. I don't know if they are necessarily interested in doing something like that. You would have to speak to them directly, but I think we see the benefit of this Commission.

I think one of the commissioners testified last week or the week before and said you should have seen these people when our staff went in and started doing interviews; you should have seen when we entered the room. I mean, they were worried. Agencies that for years have intimidated or sort of let people know, don't muck around with us, were scared.

There is a value in that because we know that we can stay on top of things now. I think one of the greatest things this Commission did is that it has shed sunlight onto intelligence agencies that for years stayed in the dark, in a shroud of secrecy. I think the 9/11 Commission speaks to the damage that keeping these things in the dark results in. I think it is a great idea. I would recommend looking into it.

Mr. PUSH. I would agree. Again, as Kristen stated, it needs to be, like the independent Commission, independent, bipartisan. The cost of doing something like that is so small compared to the amount of money we are talking about investing in intelligence and border security and homeland security, to have someone independent looking at that and making sure that the public knows how we are being served.

That was one of the lessons for me from September 11. The fact is I didn't know a lot about this before September 11. There were other commissions out there that had reported and it had gotten very little press coverage, and I was quite ignorant about things I should have known. I think that would be a great public service to provide an independent commission like that.

Ms. FETCHET. I would agree with what Steve and Kristen said, but I think I would defer to the commissioners if it should be something that is legislated and funded by the government. I know Governor Kean has talked about raising public funds, and in that sense I think he would feel that the Commission was more removed from the government.

Senator MIKULSKI. You mean private funds?

Ms. FETCHET. Private funds, yes. I am sorry. I know that he was pursuing private funds to fund the oversight, but when I think about the last 3 years, I think we, in a sense, have become an oversight committee. I know I have received some information that I have forwarded from an office in the House to an office in the Senate, and vice versa.

So I think, as Steve said, we weren't aware of the previous commissions. The public, like I was before September 11, is typically not involved in the process, and I think that has been something that has been a life lesson to me. But I hope other Americans do as well, participate in the democratic process. You can't assume anymore that things are being done in your best interest.

I think to have a relationship with your Senator and Congressman to talk to them about what your concerns are—that educates them and their office on how they should pursue things, what stand they should take, what your concerns are. I think it is a two-way process, and that we can't assume that you can make decisions without information from your constituents.

So I would be in favor, to answer your question, of oversight because I think that is where you fell short on these other commissions, that they were just done and they sat on a shelf. There was no oversight, and so other things came up that became a priority that shouldn't have been. I think in this case, this report is public and it is educating the American public about changes that have to be made.

Senator MIKULSKI. Thank you. I know my time is up.

Chairman COLLINS. Thank you. Senator Clinton, welcome.

OPENING STATEMENT OF SENATOR CLINTON, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator CLINTON. Thank you so much. I particularly want to thank the Chairman of the Committee, who has done extraordinary work along with her Ranking Member. Both of you deserve a great deal of gratitude not only from those of us in the Senate, but everyone else who cares about these issues. Of course, I want to thank our witnesses.

There are other family members and advocates in the audience today, Madam Chairman, and perhaps if it would be appropriate, could we have them just raise their hands or some way of being acknowledged, because so many of them have gone the extra mile time and time again on behalf of these issues and I know we are all very grateful to them?

[Several members of the audience raised their hands.]

Senator CLINTON. I think that the testimony illustrates clearly the need for us to act in a comprehensive way on all of the recommendations because they are interrelated. It is difficult to imagine that we will have a successful reform without looking at public

diplomacy, border security, a counterterrorism center, all of it together. So I appreciate the comprehensive look that this Committee is providing.

But I think it is also fair to say that our biggest obstacle will be the Defense Department. I, like some of my colleagues, will be leaving shortly to go to an Armed Services Committee that is currently hearing from Secretary Rumsfeld, General Meyers, and John McLaughlin, the Acting Director of the CIA.

As we heard from Senator Specter, as numerous commissions and reports have pointed out, the effort to try to create some overall intelligence apparatus runs afoul of both the legitimate concerns of the Defense Department about tactical battlefield intelligence and the desire to basically continue to control 80 to 85 percent of the budget and call the shots as they wish.

Yesterday, it was clear in the Armed Services Committee hearing that was held with three former members of the Defense Department, CIA and other distinguished positions that time and time again, the CIA Director, whoever it was, has basically run into a brick wall. You can declare war on al Qaeda, as George Tenet did, and nobody can know about it, and you can have previous efforts to try to consolidate the intelligence functions and to create some accountability and it doesn't get done.

Now, I will be leaving to go to this hearing and I want to ask each of you if you have any questions for Secretary Rumsfeld, General Meyers, or John McLaughlin, because I will ask them when it is my turn. I think that really goes to the heart of whether we are going to be successful or not because any Secretary of Defense is extraordinarily powerful and is due a lot of deference because of his position. But it has been time and time again the place where good ideas about consolidating the intelligence functions and creating a better mechanism for sharing that information basically go to die.

So I would like to ask each of you if you have questions you would like me to pose to any one of these three gentlemen. Does anyone want to start? Kristen.

Ms. BREITWEISER. It is my limited understanding that one of the reasons why this idea of a NID has not happened in the last 15 or 20 years is because of DOD and various Secretaries of Defense.

I think undoubtedly no one wants to harm or in any way put in jeopardy the boots on the ground, but I think it is unacceptable for us to not expect a department like the Department of Defense to be able to adequately, and above adequately take care of the boots on the ground while at the same time reorganizing their department, their intelligence agencies, and work with all of the other agencies involved to get this structure set up and going.

To say that they can't do two things at once is unacceptable because al Qaeda is doing about a hundred things at once. And in addition to al Qaeda, there are other groups doing things. We no longer can accept that excuse from DOD because, going forward, we don't know if there will ever be a time that we will not have boots on the ground. So if we are not going to do it now, then when are we going to do it?

I would reiterate what I said. You need to fix the intel community because if the intel community does its job right, we don't necessarily need to get to the boots on the ground. I don't understand

the failure. We had the embassy bombings, the Cole bombing. We had September 11. I don't understand how that doesn't warrant someone saying, look, this is a broken system, it is not working effectively, we need to do this and we need to do it now.

I am very sympathetic to individuals that are going to have to lose a lot of their budget. Nevertheless, someone has got to take a good, hard look at how DOD is handling these budgets, and it is going to have to change because there is always going to be a war. We are always going to have people on the battlefield. That is the nature of the world we live in today. Like I said, al Qaeda is not taking a rest and we need to accommodate that fact.

Senator CLINTON. Thank you. Mr. Push.

Mr. PUSH. Senator Clinton, I would ask Secretary Rumsfeld to imagine for the sake of argument that there is a national intelligence director along the lines proposed by the 9/11 Commission. Under that assumption, what assurances would he need to ensure that the military received the tactical intelligence that they needed to continue to be effective and protect the war-fighters?

Senator CLINTON. Thank you.

Ms. FETCHET. I would agree with what Kristen and Steve said. But, in addition, I would like to know—there really wasn't a reaction on September 11 and I would like to know what were the protocols on September 11 with regard to the military and NORAD, and compare that to the changes that they have made hopefully today, because it is our understanding that NORAD was in a Cold War mentality and that despite knowing the threat of terrorism, their main priority was illegal drugs.

So it is hard for me to understand how somebody that is responsible to monitor our air space did not react on September 11, flew 40 miles away from NEADS itself, flew about 60 miles away, some of these planes, from Camp David and weren't intercepted. So I would like to know what the protocols are. Without a shoot-down order, what are the protocols?

I am concerned after attending that hearing yesterday that I do feel that people are digging in their heels and that they aren't open, particularly DOD, to change or giving up either funding or power. I think we need an accounting for where this money is being directed, and I would like to understand what their priorities are and have an understanding on what their focuses are and where this funding is going because I don't think that they have ever had to account for their funding.

Senator CLINTON. Thank you very much.

Chairman COLLINS. Thank you.

Senator LIEBERMAN. Madam Chairman, may I just echo what you said earlier? Senator Nelson has really been remarkable in this series of hearings. As is well known, he doesn't live next door, so he has come up here from Florida as a real expression of his support for the Commission report and his interest in learning from the witnesses, and I am very grateful to him for that. He has done something else in the three previous hearings that Senators don't normally do very well. He just sat and listened, and I have sure learned.

Thank you, Senator Nelson.

OPENING STATEMENT OF SENATOR NELSON, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator NELSON. And I will be returning this afternoon to our most recent version of Ground Zero, which is Punta Gorda, Florida, where I was over the weekend, where we have another disaster, but nothing of the magnitude that you all had suffered through. That is why I am here.

Like Senator Mikulski, there were Floridians that were affected. I can name a few: Petty Officer First Class Johnny Doctor, from Jacksonville, and he was in the Pentagon; Stephen Philip Morris of Omond Beach, and he was in the World Trade Center; Timothy Grazioso, from Gulf Stream, also in the World Trade Center; and C.C. Lyles, from Fort Myers, not far from where the hurricane entered the coast. She was a flight attendant on Flight 93 that ended up in Pennsylvania.

I am going back to the same hearing where I have been listening to the Secretary of Defense, and I will backstop Senator Clinton on some of those questions. But one thing I wanted to get some further commentary from you on as a result of your comments with Senator Mikulski is yesterday in the Commerce Committee when we had the Chairman and Vice Chairman of the 9/11 Commission, they were remarking ruefully that in a week the Commission evaporates because the funding runs out.

They were talking about how they are going out and doing all this private financing, and several of us were lamenting that fact. Thank goodness that you all pressed to get the 9/11 Commission, and then you have pressed to have them heard and now they are going to disappear, except for private funding.

Madam Chairman, I went up to Chairman John McCain and proffered the idea that since most of their staff is going to disappear after next week, at least the essential staff want to continue to assist the Chairman and Vice Chairman and other members with the private financing.

One thing that we could do immediately is, through some Federal rule, allow that staff to continue its Federal benefits. Many of them are already Federal employees and have been for the last year. Health insurance clearly is one incentive, and maybe some of the best staff in order to protect their families need that protection and might not continue on. That is at least something that we could do. So Chairman McCain seemed to be quite interested in that. We are working together.

I offer it to you for your and Senator Lieberman's suggestions.

Chairman COLLINS. The Senator may be interested to know that Senator Lieberman and I have hired four of the Commission staffers to work with us until we complete the legislation. We are also working very closely with the top two staffers, but we have actually brought on to our staff in non-partisan positions four of the very senior staffers. So we are doing our part and they have been extremely helpful as we have been going forward.

Senator NELSON. Will that staff be working for you?

Chairman COLLINS. Working for the Committee.

Senator NELSON. Well, I think that is illustrative that where there is a will, there is a way. Now, I am talking about so that the important staff can continue with Governor Kean and Congress-

man Hamilton to give them the support that they need, as they are going to continue to press the case along with the families. I would like you to put on your thinking cap and see if we can't come up with a solution, and Senator McCain seems to be very willing to do this.

Chairman COLLINS. Thank you for that suggestion.

Senator NELSON. I want to raise two other issues, and it is more for us than for you all because, Madam Chairman, one of the strongest suggestions to come out of the 9/11 Commission report is that we have to get our house in order here with the congressional oversight.

A good example occurred yesterday in the Commerce Committee. The number two person at the Department of Homeland Security was there and was defending the review that has taken 4 months of whether or not butane lighters ought to be allowed on aircraft. They are now, and this was right after Governor Kean had testified about the fellow Reid who got on the flight that was coming across the ocean, and had he had a butane lighter—the flip thing—instead of a series of matches, he would have been able to successfully detonate that shoe bomb. Yet, today we allow butane lighters.

We have been pressing the Deputy Secretary of Homeland Security for 7 months, and so the question was raised and it was raised in a bipartisan fashion. So when it was my turn, I said, Mr. Secretary, you have heard Governor Kean say that one of the biggest things we have to do is have vigorous congressional oversight; you have heard the comments of this committee in a bipartisan fashion. Now, listen to the congressional oversight and start paying attention, and listen to the congressional direction: Get rid of the butane lighters.

I said this in a friendly way, but I also said it in a rather firm way, and I think it is beginning to get across. It is like us sitting in the Armed Services Committee with Secretary Rumsfeld and others—and I am not saying this in a partisan way, but so often we get the feeling that they don't care a wit about what our oversight is. You know the non-answers that we get up there in S407, in the secure room.

So we have to start asserting our constitutional role as a separate branch of government that is necessary for checks and balances for this government to function like it should. Otherwise, you run into the problems that we see.

The final thing that I would mention is something else that came out of Armed Services yesterday. We paid a lot of attention to structure and analysis and collection and reorganization, and so forth. But somewhere along the line, we have to start paying attention to how personalities affect the analysis and the dissemination of intelligence information; in other words, leadership.

I don't have any magic bullet for this, but I am surely raising the issue. If we are going to get clear, unvarnished, timely and accurate intelligence, which is the only way for us to protect ourselves from the terrorists, then clearly that issue of personalities has got to be discussed and handled.

So that is my comment to your hearings, and thank you for letting me sit in on all these hearings over the course of the last 2 or 3 weeks.

Chairman COLLINS. Thank you for your contributions.

Let me close this hearing today by thanking not only our witnesses who were so eloquent and well-informed in their presentations to this Committee and who gave such powerful statements to us, but also all the family members who are here today.

I was intending to at the end of the hearing do exactly what Senator Clinton has already done by recognizing you and thanking you for being here. You are the reason that we are here today, and that is why Senator Lieberman and I felt so strongly that, in addition to hearing from government officials and the official experts, we wanted to hear from the family members.

Your personal tragedies motivate us, your expertise and your knowledge inform us, and your efforts give momentum to the cause that we have all embraced. Please be assured that all of the Members of this Committee are working hard in a bipartisan way. Senator Coleman has been here at every one of our hearings. We are all working together to produce a bill as quickly as we can.

I know for many of you it feels like it should have been done yesterday. Believe me, this is an extraordinarily rapid path that we are on. We have held a number of hearings. We need to hold more, but we are committed to reporting a bill, and I hope that we can get unanimous support, or close to that, for a bipartisan bill that we will report next month.

The Senate leaders have committed to us to expediting that, and our goal is to get it signed into law as soon as possible because as soon as we get started on these fundamentally important reforms, the safer our Nation will be.

As we continue to make progress toward this goal, I want to tell you that your testimony and your tragedies will always be part of me; that what you have told us today will help us accomplish the goal that we all embrace. So I thank you so much for being here today. You really are making a difference. Out of your unspeakable tragedies, I believe a great good will come for our Nation, and I thank you for that.

Senator Lieberman.

Senator LIEBERMAN. Thank you, Madam Chairman, for that statement and for your leadership.

I want to say to the three of you how moved I was by your testimony. I will say as your friend, and in one case as your Senator, I am proud of you. It was very powerful. Too often, progress is not easy here. You have all said that in different ways. It is a lot harder than it should be, but at no point did you or the others in the family member groups accept no for an answer. That is why the Commission was adopted, that is why the report is here, and that is why, with your help, we are going to adopt the recommendations of the report.

There is going to be resistance. This Commission has recommended bold change. It is critically necessary, but that is no guarantee that it is going to get adopted because people don't like change. People don't like to lose power, but it has to happen for the greater good.

I can't thank you enough. Let's stick together, and we are going to get this done. We are not only going to thereby make the American people safer, but we are actually going to prove that the Amer-

ican governmental system can still work, and that is a big accomplishment.

God bless you. Thank you. See you soon.

Chairman COLLINS. Thank you.

This hearing is now adjourned.

[Whereupon, at 11:45 a.m., the Committee was adjourned.]

APPENDIX

Testimony of Mary Fetchet
U.S. Senate Governmental Affairs Committee
Washington, D.C.
August 17, 2004

Honorable Chairman Collins, Senator Lieberman and other distinguished members of the Governmental Affairs Committee, I am honored to be here today to testify on behalf of the 9/11 families.

My name is Mary Fetchet, I am a member of the 9/11 Family Steering Committee and Founding Director and President of Voices of September 11th, a 9/11 family advocacy group. More importantly, I am the mother of Brad Fetchet, who tragically lost his life at the age of 24 in the terrorist attacks on the World Trade Center on September 11th.

We appreciate your urgency in holding these hearings to address the critical task of implementing the recommendations made by the 9/11 Commission. We are equally indebted to the 9/11 Commissioners and their staff, who worked tirelessly in a bipartisan manner over the last year to examine the events that led to the attacks and to develop recommendations to prevent future tragedies. The Commission may not have answered all our questions, but its report does offer a much-needed overall strategy to develop a comprehensive foundation for creating a safer America.

The challenge now before all of us is whether we have the national will to combat a political bureaucracy, general inertia and the influence of special interest groups in order to enact a comprehensive set of recommendations to improve our national security. This work will not be easy. It is, however, essential if we are to protect our families and our country.

The last three years have been a painful education for me. It began on September 11th 2001 when my husband contacted me at work to let me know Brad had called him shortly after the first plane hit Tower One. Brad was on the 89th floor of Tower 2 and he wanted to reassure us that he was okay. He was shaken because he had seen someone falling to the ground from the 91st Floor "all the way down". But Brad told my husband he expected to remain at work for the remainder of the day. The Port Authority, after all, had used

the PA system to assure everyone in Tower 2 that they were safe and directed them to remain in the building. Brad remained with his co-workers in their office as they were told, other individuals who attempted to evacuate Tower 2 at that time were ordered back up to their offices. Shortly after my husband's call I witnessed the plane hit Tower 2 on television. The image is forever etched in my mind for it was at that moment that I knew our country was under attack and that Brad was trapped in a high rise building which he wouldn't be able to escape.

I never had the opportunity to speak with Brad. We later learned from a message he left his girlfriend at 9:20 a.m. that he was attempting to evacuate after his building was hit by the second plane. Obviously Brad and his co-workers never made it out. He and nearly 600 other individuals in Tower 2 who should have survived if they had been directed to evacuate, died senselessly as a result of unsound directions. As a Mother, it didn't make sense to me why they were directed to remain in a 110 story building after the high rise building next door had been hit by a plane; had a gaping hole in its side and was engulfed in flames.

Since that day I have come to recognize the inadequacies in our overall preparedness as well as the grave responsibilities and the inexcusable inertia of our political system. As with many who worked on the 9/11 Commission's Family Steering Committee, I came to Washington as a political novice, totally unfamiliar with politics or the political system, without a party affiliation.

Every election day, I voted for individuals irrespective of political party who I thought would best represent our country. However, my political involvement ended when I cast my ballot, assuming like most that my elected officials would act in my best interest, ensure my family's safety and counter any terrorist threats. I believed that my government was a cohesive organization whose officials and agencies, in the interest of national security, would share intelligence, collaborate, and coordinate their counter terrorism efforts. Sadly I was wrong.

Like others, I have also tried to make sense of my son's death and those of the nearly 3,000 other innocent citizens by collecting and scrutinizing

newspaper reports on 9/11 issues. Two important themes quickly became apparent. ONE system didn't fail our country; virtually ALL systems failed. They failed to follow existing procedures and failed to have protocols or effective lines of communication in place, leading to widespread breakdowns in our preparedness, defense and emergency response. The other painful realization was that our government is often paralyzed by partisanship and complacent to a fault.

Our sad and frightening pre-9/11 history includes pervasive failures and shortcomings within and amongst our government agencies due to breakdown in communications on all levels, lack of direction and overall strategic plan and a disconnect between policy, priorities and allocation of funds. More specifically, failures occurred due to:

- Intelligence agencies not sharing information within and amongst their organizations despite their common responsibility to protect our country;

- Not leveraging or updating technology already in place, which would have helped identify and stop these terrorists from entering our country or passing through domestic airport security check points and ultimately preventing them from turning passenger planes into weapons;

- Inadequate or failed procedures and communications systems that prevented emergency response teams from effectively working with each other, connecting to workers in the World Trade Center, and communicating with outside agencies such as airports and buildings identified as targets;

- Failure of the North American Air Defense Command and the FAA to have a protocol in place to rapidly identify and respond to hijacked planes;

- Failure of the FBI to process and act on Colleen Rowley's report and the Phoenix memo which would have identified terrorists and the potential for planes to be used as weapons;

- Failure of the legislature to act on earlier recommendations to address the threat of terrorism, such as those proposed by the Hart-Rudman Commission and those related to airline security by the Gore Commission;

- Allowing special interest groups to undermine or block preventive safety measures that could have prevented the 9/11 attacks in an effort to save money;

- Failure of our government and its intelligence agencies to have an overall strategy, to establish and coordinate policies, priorities and procedures based on the escalating threat of terrorism.

Colonel Randall Larsen and Ruth A. David of the Anser Institute for Homeland Security summed up the situation facing pre-9/11 America in an article published in Strategic Review in the Spring of 2001.

"What is needed now is leadership from the administration," they wrote. "There is widespread concern that threats to our homeland are both real and growing...However, one of the most troubling questions yet to be answered is whether substantial changes such as those recommended by Hart-Rudman or Collins-Harowitz, can be made unless America experiences a tragic wake-up call." Ultimately Larsen and David asked: "Will the administration and Congress have the vision and courage to act before we experience another Pearl Harbor or something far worse that could change the course of history?"

We all recognize that we have experienced another Pearl Harbor now known as September 11th. The administration and Congress did not have the vision or the courage to act on previous information. Now 3 years after this tragic event and the death of nearly 3,000 innocent victims it is apparent the status quo is unacceptable and reform is necessary. The questions we now face are two-fold: Are we prepared and, if not, are we ready to move decisively to embrace a comprehensive overhaul, such as the ones presented by the 9/11 Commission.

As a nation, we remain amazingly ill prepared to prevent an attack or at least minimize its impact. This is especially frightening since we are under a greater threat than ever.

Consider for a moment that we live under a heightened national terrorist alert and yet 3 years later systems have not been put in place to educate our families, our schools, our communities on how to prepare for another attack. Several initiatives have been put in place since 9/11, yet many of the core problems within and amongst government agencies have not been addressed.

- Communications systems are still inadequate;
- Community and city-wide preparedness plans have not been effectively established or communicated;
- Government agencies and legislative groups do not effectively share or leverage intelligence and general information or even readily accept it from the public as I know firsthand;
- An effective, government-wide control center for all intelligence has yet to be established, and;
- Crucial Congressional oversight and budgetary control of this effort is not in place;

Some in Washington have warned that it may take three to five years to enact all the measures needed. That is not acceptable to the families of 9/11 or the American people. Our enemies are preparing to strike us now and the longer we wait to move decisively, the greater advantages and opportunities they have to harm us.

Former Defense Secretary William Cohen put the impact of unchecked aggression into perspective six years ago in speaking to New York's Council on Foreign Relations: "No government can permit others to attack its citizens with impunity if it hopes to retain the loyalty and confidence of

those it is charged to protect." Americans have lost faith in our government and its ability to protect us. You must act now to restore it.

I recognize the challenge with moving a federal bureaucracy, however well meaning, in a new direction. Like any system, change and restructuring are difficult. Special interest groups, turf battles and simple fear of the unknown can all work against reform. Yet when American lives are at stake, indifference or inertia is unacceptable. I am confident you realize what is at stake and are up to the challenge. We must embrace a complete and interlinking set of recommendations proposed by the 9/11 Commission. This plan should include the creation of a National Counterterrorism Center (CTC) and the appointment of a National Intelligence Director (NID) who reports directly to the White House. The NID should:

- Oversee all our national intelligence and counter-terrorism activities;
- Develop an overall strategy to promote national and regional preparedness;
- Coordinate policies, priorities and protocols amongst the 15 intelligence agencies;
- Authorize and allocate the budget and resources to execute this strategy;
- Ensure qualified individuals are appointed to key posts and have the ability to hire, fire and more importantly promote individuals who are proactive in the fight against the war on terrorism;

The aim is simple: a coordinated and comprehensive approach in gathering information and operating our intelligence agencies. I recognize that this committee is charged with solely examining intelligence issues, but we must not allow ourselves to be shortsighted or piecemeal in our approach to America's safety. We must examine and embrace all of the Commission's 41 recommendations for they are interconnected. As Governor Kean has mentioned the success of the reorganization is also dependent upon changes made in foreign policy, public diplomacy, border and transportation security,

and national preparedness. Effective implementation is reliant on legislation, executive order and a willingness to maintain a consistent strategy in each of these areas. Is there risk in transition? Absolutely. Governor Kean, chairman of the 9/11 Commission, acknowledged as much in his report. He warned, however, that there is even more risk in doing nothing. We cannot afford to continue with the status quo, we must act now.

Ultimately, I want to do what I wasn't able to do on September 11th. I want protect my children and keep them safe. I can't bring my son Brad back but I can in his memory push for a safer America. When critical reforms are implemented to make our country safer I'll know that neither Brad's life, nor the lives of nearly 3,000 others who perished on September 11th were lost in vain.

As a result of research into the horrific circumstances of my son's death, I came to realize that our country was unprepared for the threat of terrorism, despite forewarning. I now recognize that I cannot just be an observer but have an obligation and responsibility as an American citizen to be educated and aware of the larger issues that impact the safety of my family and friends. I encourage all Americans to read the 9/11 Commission report and to contact their elected officials and to urge them to act expeditiously in a non-partisan fashion to enact reform.

Again I want to thank you for this opportunity to express my views. My hope is that these hearings will lead to critical reforms. We now look to you, our elected officials for leadership, courage and the fortitude to embrace the recommendations. The safety of our families, our communities and our country rests in your hands.

Thank you.

Testimony of

Stephen Push
Co-Founder and Board Member
Families of September 11

Before the

Committee on Governmental Affairs
United States Senate

At a Hearing on

Implementation of the 9/11 Commission's Recommendations

August 17, 2004

Good morning, Senators Collins and Lieberman and members of the Committee. Thank you for inviting us, representatives of the 9/11 families, to provide testimony on this important issue.

With all due respect to the members of this Committee, your colleagues in Congress, and the executive branch, I would like state what I believe is at stake in this debate. What is at stake is nothing less than the legitimacy of the U.S. government.

The primary function of government is to defend its people. If the government cannot prevent terrorists from entering the country and murdering innocent civilians by the thousands, its other functions have little value.

The 9/11 Commission has confirmed what many of us who lost loved ones in the attacks have long believed since shortly after 9/11: The U.S. intelligence community failed to capitalize on numerous opportunities to discover and disrupt the 9/11 plot. This failure disclosed long-standing systemic problems that render the intelligence community ill-prepared to deal with the threat of terrorist attacks by Islamist extremists.

In fact, the term "intelligence community" is an oxymoron. One of the so-called community's greatest weaknesses has been its inability to coordinate its operations and share its intelligence with those who could use the intelligence to provide the nation's leaders with useful, timely information.

I have no doubt that, in the wake of 9/11, this weakness has been ameliorated – in part by internal reform and in part by heightened diligence on the part of intelligence officers shocked by the devastation of the attacks. But I also have no doubt that these reforms have not gone far enough. And as the memory of 9/11 fades in the minds of those not directly affected, the systemic problems will reassert themselves and our intelligence agencies will slip back into the old habits that left the nation so vulnerable three years ago.

I concur with the Commission's conclusion that fundamental organizational reforms must be undertaken if the government is to create an intelligence community worthy of the name, worthy of the trust and treasure that the American people have invested in it, and worthy of the blood and sweat of the intelligence officers who labor – and sometimes risk their lives – serving the nation.

In my testimony, I would like to focus on three issues that I believe you, as senators and members of this committee, must address as you consider the Commission's recommendations regarding organizational reform of the intelligence community.

First, you must provide the new National Intelligence Director (NID) with sufficient authority. We don't need a toothless intelligence "czar" who can only cajole the intelligence agencies from the sidelines.

The NID must be able to marshal all of the intelligence community's resources for collection and analysis. The NID must also be able to ensure that intelligence and assessments are shared with all those who need them. To accomplish these goals, the NID must have control over budgets and personnel.

I recognize the concerns raised about the intelligence needs of the military. We must provide our war-fighters with the intelligence they need to accomplish their missions without exposing them to avoidable risks. But this concern is ***not*** a sufficient

reason to maintain the status quo, in which the Pentagon controls 80 percent of the estimated $40 billion annual intelligence budget.

While I don't want you to fix what's not broken in military intelligence, you must face the fact that the status quo has failed us. The current allocation of authority over intelligence budgets failed to prevent the murder of nearly 3,000 people in one day on American soil. If the status quo continues, and if terrorists obtain weapons of mass destruction, future attacks may take tens of thousands, or even hundred of thousands, of lives.

I urge you to draft legislation that recognizes the need to coordinate intelligence for both military and homeland security purposes. I believe this goal can be achieved with the organizational structure recommended by the Commission, or something very similar to it.

The position of Deputy NID for Defense Intelligence can ensure that the military continues to receive tactical intelligence on demand, while enabling greater integration with the CIA, the FBI, and the Department of Homeland Security. This integration will benefit both the military and homeland security and is essential for the development of comprehensive intelligence assessments for the President and others.

Some have complained that the Deputy NID for Defense Intelligence would have two bosses. That complaint reveals ignorance about the success of matrix management structures in solving similar organizational problems. Such structures have been used to great advantage for decades in corporations and other organizations. I have served in such organizations throughout my career have seen how effective they can be.

This model can be successfully applied to the intelligence community. To ensure that the military is well served, the Secretary of Defense will need to play some role in the selection of the Deputy NID for Defense Intelligence and in the development of intelligence budgets. But the ultimately authority must rest with the NID.

What clearly does ***not*** work – in the intelligence community or anywhere else – is having 15 agencies ostensibly working toward a common goal, without someone in charge full time.

The second issue I would like to address today is the vulnerability our nation has during presidential transition periods. While this issue my not be addressed in the legislation you draft, it is an issue you must face when you confirm presidential nominees. I urge you to expedite the approval process for all nominees to intelligence and homeland security positions

I also believe that the President, through the selection of nominees, and the Senate, through the confirmation process, should avoid partisanship. When it comes to homeland security, there should be no Democrats or Republicans, only Americans.

The third issue I would like to address is the need for prompt action. Since the Commission released its report last month, we have heard some officials urge you to take your time in reforming the intelligence community. I realize that fundamental reforms cannot be undertaken without deliberation. But the problems of the intelligence community have been painfully obvious to the public since 9/11. In fact, previous commissions and other knowledgeable commentators tried to alert Congress and the public to many of these problems for more than a decade. And the 9/11 Commission – composed of 10 eminent individuals backed by an outstanding staff of 80 – spent 20 months studying these problems.

Meanwhile, Al Qaeda and its offspring continue to plot attacks against Americans. Time is ***not*** on our side.

Of course, please exercise due diligence in drafting this legislation. But please do so quickly. Otherwise we may have yet another terrorism commission analyzing the opportunities that the government missed today to thwart the next major attack.

Thank you again for this opportunity to address you.

Prepared Statement of Kristin Breitweiser, Founder and Co-Chairperson, September 11th Advocates, Member, Family Steering Committee

Prior to 9/11, we had no significant commitment or political will to dedicate the necessary resources to counter-terrorism. Almost three years post-9/11, perhaps that environment has changed. Testifying before all of you here today, I want to believe that it has changed and that the time has now come to reform our Intelligence Community.

The re-organization of our government post-9/11 has been insufficient to remedy the shortcomings that left this great nation so vulnerable on 9/11. We have yet to witness the needed overhaul of our intelligence community. There has been no historic re-organization of our domestic security structure. Our CIA is a system that is broken and does not function effectively. Our border security is still lacking in sufficient funds to operate satisfactorily. Our public transportation systems remain vulnerable, our local responders remain under-funded, our ports are under-protected, and our power and water plants remain unguarded. To date, we have lacked a cohesive strategy and any follow through regarding our national security apparatus and its ability to effectively fight terrorism.

Three years post-9/11, al Qaeda has metastasized rapidly despite losing its sanctuary in Afghanistan. The attacks that have taken place in Indonesia, Thailand, and the Philippines illustrate the fact that the threat of terrorism in the U.S. could be greater than it was in 2001. The heightened threat levels of the past few weeks also illustrate this fact. Thus, if we are serious about eliminating al-Qaeda, it requires a robust offensive environment across the entire U.S. government. We need continuity in the approach over a long period of time. We need benchmarks, report cards, and do-outs. We need start-up and follow-through. We need an NID and an NCTC.

We as a nation *should* have made a historic re-organization of our domestic security structure a priority on September 12, 2001. Or, at the very least studied it more seriously. Yet nothing has been done or even seriously considered in this regard until now. Without doubt, the appointment of an NID in the next few weeks will not thwart the next attack. But, if an NID had been appointed three years ago, we might have been in a safer position than we are today.

Realize that on the day of the next attack, Congress and the Executive Branch agencies will no longer have to deal with the 9/11 families, you will have to deal with a new set of victims who will look at you and say, "How could this have happened?" You will have to deal with an entire American public who has read the 9/11 Commission's Final Report and its accompanying recommendations. They, too, will ask, "How could this have happened?" I only hope that there will be real changes underway so that at the very least your collective consciences will not haunt you.

It has been said by some that they would have moved heaven and earth to prevent 9/11. Respectfully, three full years after 9/11, we do not need heaven and earth to move, we just need our Executive and Legislative branches to move so that we are in the best possible position to prevent the next attack.

Intelligence

9/11 has been called an intelligence failure. Prior to 9/11 we had legal impediments, intelligence agencies that were not necessarily cooperative, integrated, or coordinated in their efforts, outdated computer systems, no clear, accountable and strategic management structures, and very little strategic analysis performed on terrorist organizations like al-Qaeda. These failures was due in part because our Intelligence Community lacked a true Captain of its ship.

While DCI Tenet was--in theory--in charge of the entire Intelligence Community, the record from 9/11 indicates that he failed in that capacity. One reason he might have failed was because he lacked budgetary authority to make all 15 intelligence agencies that he oversaw work efficiently, cooperatively, and successfully. Or, perhaps, the real reason was that the expectation that one man could effectively perform the job responsibilities of a DCI was far too high and impossible to meet.

Yet, after reading the 9/11 Commission's Final Report, it appears that our intelligence agencies did perform quite well on some levels because the record proves that our intelligence agencies did have enough information to stop the attack. For whatever reason, judgments were made at crucial times that impeded field agents and analysts from properly doing their jobs. Sadly, the examples of these instances are too many to fully enumerate in this limited testimony. Suffice it to say they are all clearly laid out in the Commission's Final Report, its accompanying footnotes and the Joint Inquiry of Congress' Final Report.

Going forward, we must ensure that when Intelligence Community judgments are made and people are killed, at a bare minimum, someone in our Intelligence Community is held accountable. An NID would be that person. An NID would be charged with designing and implementing an overall strategy for gathering, analyzing, and disseminating U.S. intelligence about security threats, both foreign and domestic. We need a true director of the entire intelligence community—all 15 agencies—who has the necessary authority, responsibility, and accountability he needs to adequately operate all 15 agencies that fall under his control.

An NID would ensure that both CIA and FBI would share the same standards for their classification of material. It is no longer acceptable to keep information from another intelligence agency on grounds of it being used in a criminal trial or simply because the other agency is judged incapable of capitalizing on said information. An NID and an NCTC would provide incentives to our intelligence agencies to cooperate, collaborate, and share their information. An NID would demand that all intelligence agency databases were inter-operable and broadly accessible. He would remove all real and imagined legal

impediments that hindered the sharing of information between agencies and within agencies. The NCTC would be a holding place for all data. It would provide a comprehensive span of control over all intelligence information and agents. It would in theory (and in reality) permit the fluid integration of analytical and operational capabilities.

An NID would hire reports officers to condense the volumes of information held within FBI/CIA files so as to transform that information into meaningful intelligence that could be easily retrieved and disseminated. Never again will files sit on shelves, collect dust, and keep secret a goldmine of valuable information. Never again will we have an intelligence agency that does not even know what is in its own files.

An NID would provide our Intelligence Community with a clear, accountable, strategic management structure. Never again will our government be aware of a terrorist threat to U.S. citizens and institutions overseas, but not structured to recognize that same threat at home so as to effectively act against it in time. Never again will we have a Director of Central Intelligence declaring war against an enemy and that declaration being misunderstood by our operatives in the field and all but ignored by our leaders setting national security policy. Never again will we find a National Security Advisor excusing inaction by stating that no one *told* her that she needed to do something.

An NID would encourage the use of strategic analysis by housing all national security analysts in the same center and arming them with access to all the same information and tools. With an NCTC and an NID we will never again revisit a time where intelligence reports indicated terrorist threats using aircraft as weapons and our intelligence analysts never analyzing how a hijacked aircraft might be used as a weapon. Never again will we have a figure like UBL declaring war against us, and not find an authoritative portrait of UBL's strategy, his organizational structure or his involvement in past attacks against the U.S. in our intelligence files.

An NID would establish a system so that we can learn from past mistakes. He would ensure the "closing of seams". Never again will we find that we thwart an attack by mere chance (the plot to bomb LAX) and walk away from that incident with little more than a sigh of relief. Going forward an NID would establish a process for learning from both successes and failures. He would demand after-action reviews. Attention would be drawn to failures not for fault finding, but as a way to place constructive emphasis on learning lessons and discovering practices. An NID would advocate the belief that our intelligence community (and our government as a whole) must provide a safe outlet for admitting errors and improving procedures.

With an NID and NCTC established, the next time we have a terrorist organization planning against us we will recognize the existence of that threat sooner and develop a pro-active covert action program to counter that threat before it grows to a reality. We will not suffer from instances of poor judgment that hampered our agents' abilities to stop the 9/11 hijackers. And, if we find a series of poor judgments being made we will hold

not only the Deputy of that Department responsible, but also the NID who has ultimate responsibility for the actions and behavior of the Intelligence Community.

Our Intelligence Community consumes $40 billion of taxpayer dollars. The American public should expect some sort of accounting from this organization. No one doubts the commitment and work of the field agents and rank and file workers in our intelligence agencies. But, they need clear leadership. An NID would provide this leadership. An NID would make a difference.

Airlines Security

Prior to 9/11 inadequacies in airline security were recognized, yet there was no action taken by the FAA or the airlines to remedy these system-wide shortcomings. Examples of such inadequacies range from poorly trained and paid airport security personnel, failure to maintain an effective/integrated no-fly list program, and a failure to establish effective airline security protocols.

Prior to 9/11 airport security had a 10% effective rate in detecting real threats. Much of the focus was on detecting explosives, not deterring hijackings or other asymmetric threats. Had there been a National Intelligence Director, it is likely that at some point there would have been an assessment that the airlines security apparatus needed to contemplate and prepare itself against these additional types of threats.

For example, asymmetric threats like the use of suicide pilots who might infiltrate the airline industry, the use of shoulder-launched missiles that could shoot planes out of the sky while in flight, the use of planes as weapons to fly into important or symbolic targets, or the use of separate bomb components either planted on planes prior to take off or carried onto planes by individual passengers to be ultimately assembled in flight to make a completed bomb. Whether for lack of resources, faulty cost-benefit analyses, lack of imagination, or lack of follow-up (and/or follow-through), none of these threats was ever contemplated and placed within a system-wide security strategy by the airlines community prior to 9/11. An NID would have made the difference.

Prior to 9/11, hardened or locked cockpit doors (while recommended by past commissions) were not an industry-wide standard. Many people—myself included—have stated that if the cockpit doors were hardened on 9/11, the hijackers might not have been so successful. This statement is misleading in part because even if the cockpit doors were locked on the morning of 9/11, it is very likely that the pilots (at least on the first two planes—AA11 and UA175) would have unlocked the doors and allowed the hijackers access to their cockpit. Why? Because airline protocols so dictated in the event of a hijacking.

Had there been a NID, an assessment of the likelihood of a suicide hijacking using planes as weapons might have been drawn up during the summer of 2001. Such an assessment would have required a tasking or "pulsing" of all intelligence agencies that might have revealed the following information:

1. al-Qaeda operatives were training in U.S. flight schools and gaining skills to pilot aircraft—including large commercial aircraft;
2. al-Qaeda was not interested in any type of "peaceful" resolution. They were interested in inciting terror and creating mass casualties. They were not the type of group to "negotiate" anything. In other words, "traditional" hijackings were not their style.
3. al-Qaeda did not have any friendly nations to fly a hijacked plane to so as to negotiate any type of demands that would be made during a "traditional" hijacking;
4. al-Qaeda was training and to some degree prepared to perform suicide/martyrdom missions;
5. al-Qaeda had credible plans to hijack commercial airplanes and fly them into targets;

If an NID drew up an assessment on the aforementioned information he might have had a better understanding of the who, what, where, and how of al-Qaeda and its techniques. Armed with this knowledge an NID would have:

1. Told airline pilots that hijackers knew how to fly planes and to not permit anyone in the cockpit under any circumstances.
2. Told flight attendants and flight crews to ignore previous protocols that called for the peaceful resolution of all hijackings.
3. Reassigned air marshals to domestic flights.
4. Tasked NORAD to be on a shorter alert status so that they were more prepared to respond to a domestic air incident like a suicide hijacking using planes as missiles. Or, at the very least told NORAD that they need to turn their "eyes" inward and anticipate a *domestic* hijacking.
5. Informed the FAA that suicide hijackings were a possibility and tasked FAA with being prepared to handle such situations—in other words, making sure everyone knew who to contact, understood authorities and the chain of command in such incidents, and most importantly knew how to respond adequately, effectively and decisively in such situations.
6. Tasked the intelligence agencies for more information on any sleeper cells within the U.S. who had made contacts with anything airlines-industry related.
7. Increased airport security measures to look out for asymmetrical threats.

Three years post-9/11, the need for an NID is more urgent than ever. The impact of an NID on the airlines security apparatus is undeniable. Airline security is not fixed. Chain of command and authority issues are not resolved. An NID would be able to force all constants and variables involved in the airline security equation to work together

cooperatively. He would be able to assign accountability and responsibility so that problems are identified, addressed, and remedied. He would be able to effectively prioritize problems because he would have the benefit of knowing our overall national intelligence strategy. He could apply that overall strategy to affect day-to-day operations of the airlines industry.

In sum, an NID would be able to take the airlines—just one component of the national security apparatus and better equip them to meet the demands of the ever-evolving national security environment. He would not be influenced by financial interests or persuaded by lobbyists. He would look at airline security through a pure and singular focus—to make the airlines as safe as they can be. None of our public transportation systems will ever be 100% safe. But they can be safer. An NID would be able to prioritize which systems can be made safer; he would set goals; assign tasks to meet those goals; demand accountability and allocate funds accordingly.

The Military

The largest problem presented to our military was (and in some ways continues to be) the failure of our intelligence community to gather actionable intelligence for our military to justifiably act upon. Prior to 9/11, whether it was missile strikes, deploying our special forces to infiltrate organizations, or sending reconnaissance aerial vehicles to gather information, all of these options ultimately failed because they lacked the actionable intelligence to spark their action. A secondary problem confronted by our military was the failure to take risks because of the fear of the American public not supporting actions and the military's overall lack of vision. A third problem encountered by our military in its efforts to deal with al-Qaeda was its inability to deal with a nimble enemy.

As a nation fighting terrorist organizations, we cannot expect a military that was designed to deal with the Cold War to successfully fight an enemy like al-Qaeda. There might not be one single large nation to invade. There might not be any available terrain so as to set up basing facilities for search and rescue. Diplomacy might not be an option. Actionable intelligence might not rise to the level of 100% reliability. Serious, real risks might need to be undertaken. Creative thinking might be the standard. And old "models" and "techniques" might have to yield to make way for new models and techniques.

Prior to 9/11, much debate took place about whether to fly the Predator over Afghanistan, who would pay for the flights, who would be responsible if the aerial vehicle got shot down, who would be responsible if the vehicle marked and killed people, etc. In short, nobody—neither DCI George Tenet nor DOD--wanted to take operational responsibility or fiscal responsibility for flying this vital reconnaissance vehicle.

This was the topic of discussion during the first Principals meeting of the Bush Administration held at the end of the summer of threat. September 11th was a mere 6 days away. 3000 civilian people were rightfully carrying on with their lives completely unaware of their sealed fate. And, our leaders—those charged with protecting us-- were

fighting over whether to fly the Predator half way around the world to try and gain surveillance video of al-Qaeda. As their heated debate continued—their petty argument over monies and responsibilities—al Qaeda was already here in the United States, lying in wait, fully embedded and prepared to kill 3000 innocent people. If that does not illustrate how off the mark our military and intelligence community was in the months leading up to 9/11, I don't know what does. Perhaps an NID would have made the difference.

An NID would demand that raw intelligence, become richer in detail and stronger in fiber so as to rise to the level of "actionable intelligence". He would do this through the tools and information sharing demanded by the structure of an NCTC. An NID would be able to streamline areas and individuals that were no longer useful and efficient in providing their "work product" to their consumers. An NID would help our military to become more effective and more efficient by providing a reliable work product that could be used by the military to foster their creative, imaginative, and prudent action. Most importantly, an NID would welcome his own ultimate accountability and responsibility for his work product (the intelligence community assessment), so that others would be able to exercise their sound judgment and subsequently carry out their own sound action without worry of political or public redress.

Regarding the need to remove many of the 15 intelligence agencies outside the Department of Defense, perhaps one thing needs to be made clear. In the fight against terrorist organizations, "boots on the ground"—engaging our military—is Step Two in the process. We mustn't forget about Step One. In truth, if all the players in Step One do their job, we never have to get to Step Two. Step Two—our military-- should not be our primary tool, it should be our secondary tool—our back up plan. That is why we must strengthen our abilities and capabilities in Step One.

Step One involves our intelligence community having the most direct unfiltered information and effectively acting upon that information. To get the best, most direct information our intelligence agencies need the authority and budgetary control over the tools that provide them with such information. Leaving management and budgetary authority over these tools in the hands of the Defense Department has proven ineffective. 9/11 speaks to that ineffectiveness. For example, leaving NSA under the authority of DoD makes little sense when in reality and on a proportional basis the intelligence agencies like CIA and FBI are more dependent on and can better use the information provided by NSA as compared to the Pentagon.

In a perfect dynamic, our intelligence agencies—led by an NID—would have the authority and budgetary control over their own vital tools. An NID would have management power and budgetary control over the NSA who provides information that CIA and FBI need to successfully fight terrorism. If tools are used correctly, intelligence information flows freely and directly, and our intelligence community acts effectively, Step Two—boots on the ground--might never be needed. *The problem to this very day is that nobody is coordinating our intelligence resources, being held accountable for improving and re-organizing our overall intelligence apparatus, and demanding*

responsibility from those elements in Step One(our Intelligence Community) so that we don't have to arrive at step Two. Again, perhaps an NID would make a difference.

Most importantly, under the structure recommended by the 9/11 Commission, we would no longer have agencies and institutions competing against one another. However healthy that competition may have been heralded in the past, 9/11 proved that such entrenched competition between agencies, institutions, and individuals contributed in part to the deaths of 3000 innocent people.

How is it possible that three years since 9/11 we still find our leaders making statements that the "boots on the ground" should not have to wait to "borrow satellites" from other agencies. Everyone must accept and understand that we are in this fight together. It has nothing to do with "borrowing" it has to do with "sharing" and working in concert so that all parts of our national security apparatus receive the most benefit from all available assets and tools. That is why all of our intelligence agencies must be housed under the same roof and managed by one person. Such a set-up will remind everyone that we are working cooperatively to meet a common goal. We must relinquish outdated and ill-suited models that might have served us well in the past so that we are capable of better defending ourselves against our enemies in the future. An NID would make the difference.

Diplomacy

Prior to 9/11, the use of diplomacy to deal with terrorist groups like al-Qaeda was not a model of success. The problem regarding counter-terrorism and diplomacy was a problem involving evidence and action.

To get action—to find whole governments accountable-- our nation needed definitive intelligence. Yet, our Intelligence Community prior to 9/11 was careful, conservative, and their language was loaded with caveats. All evidence in counter-terrorism cases was catalogued in neutral detail. And, as our nation remained cautious and risk adverse, al-Qaeda grew larger and stronger. Simply put, pre-9/11, we had a lot of evidence but we showed very little action.

Post 9/11, we still find ourselves encountering the same problem regarding counter-terrorism and diplomacy-- it remains a problem involving evidence and action. Only now we have an intelligence community that is no longer cautious in its language and careful and conservative in its production of evidence. The faulty intelligence that provided the basis for the war in Iraq would immediately come to mind. Thus, post-9/11, we had very little evidence that resulted in a lot of action.

In sum, prior to 9/11 we had a clear and present danger presented by al-Qaeda that was clearly not fully appreciated. Our intelligence community failed to pick up and act upon the real threat that was presented by al-Qaeda. Politics and policy might have played a role in this failure. Post 9/11, we did not have such a clear and present danger of WMD in Iraq and our intelligence community apparently over-stated that danger. Politics and

policy might have played a role in this result, as well. Nevertheless, in both scenarios two constants remain. One--people are being killed and two--we have an intelligence community failing to do its job. This has to change.

We, as a nation, must find the middle ground. First, we must have an Intelligence Community that we can rely upon. We must equip them with the skills, tools, and resources to do their job. And, we must set up a structure that will hold them accountable when they fail to do their job. We must insulate their work product from both politics and policy. Only then can our leaders earnestly rely upon their work product and advice in making their own policy-level decisions. From that pure, unfiltered work product our leaders can decide whether, when, and how to take action.

An NID would be responsible for providing the pure unfiltered evidence—his (the intelligence community's) work product-- to our leaders. An NID would be held accountable and responsible for the quality and nature of that information that he/she gives to our leaders, and, an NID would be at best insulated from both policy and politics. An NID must be an independent individual whose bottom line interest is solely keeping this nation safe from terrorism. Taken in conjunction with the myriad of other advisors to the President, an NID could authoritatively add to the dialogue and debate needed—from his strict intelligence community perspective-- when discussing our nation's role in the world. An NID would make a difference.

Border Security

Prior to 9/11, 19 hijackers entered the U.S. a total of 33 times. Thus, we had 33 times to catch them. More than half of the 33 times the entrances/exits involved Miami, JFK, and Newark airports. Had our border security been properly focused, we might have stopped these hijackers. Eight of the hijackers' passports were clearly doctored in ways that should have indicated an association with al-Qaeda. From the mid-90s, our FBI and CIA had al-Qaeda training manuals that illustrated some al-Qaeda practices in passport alterations. Yet, from 1992 until 9/11 there was no sign of intelligence, law enforcement, or border inspection services to acquire, develop or disseminate systematic information about al-Qaeda's travel or passport practices. An NID would have made a difference.

All of the visa applications of the hijackers were incomplete in some way, either with a data field left blank or a data field not fully answered. Three of the hijackers' visas contained false statements that were provable false at the time of their application for a US visa. For example, Hani Hanjour and Khalid Al-Midhar said that they had never applied for a US visa before, and a background check of old records would have revealed that they had applied for US visas. But, prior to 9/11 our border security focus was placed on "overstay" candidates—not terrorists who wanted to kill us. And, even with our focus on "overstays" we still allowed the 9/11 hijackers to enter this country, when most of them were classic "overstay" candidates. They were young men, with little money, and few ties to their country of origin. Nevertheless, they were able to parade through our borders with great ease.

An NID would be able to integrate our border control into our national security strategy and give our border control agents commensurate resources. An NID would ensure that terrorist travel intelligence became a valued part of our counter-terrorism strategy. An NID would recognize that disrupting terrorist mobility globally is at least as important as disrupting terrorist financing. He would demand that our student tracking system be operable and effective. He would oversee, follow-up and designate resources for the use of biometrics in our border security system. He would make sure that programs like TIPOFF are able to work effectively and share their information collectively.

In short, he would make sure that our border security focus was on the mark—in other words, he would ensure that established national security priorities were adequately reflected in our border security apparatus. With any hope at all, we would not have a situation like we had pre-9/11 where our border control agents were pre-occupied with keeping potential "over-stay" candidates out of our country, while opening the doors to terrorists who wanted to kill us. Three years since 9/11, our border security still suffers from inefficiencies, poor funding, inadequate intelligence sharing, and the poor integration of an overall strategy. An NID would make a difference.

39 Remaining Recommendations of Equal Importance

While the two recommendations (the NID and the NCTC) that are the focus of this hearing are important, we must not lose focus on the equal importance of the remaining 39 recommendations. Quoting Commissioner John Lehman, the Commission's report is not a Chinese menu.

Toward that sentiment, we respectfully request that President Bush clearly state which of the remaining 39 recommendations he plans to address and implement through Presidential Directives.

Thereafter, we would respectfully request that Senator Frist and Representative Delay assign the other 9/11 Commission recommendations to any other congressional committees not already holding hearings so as to begin the long process in getting these recommendations enacted into law or simply acted upon.

We must no longer take a single-track approach to our nation's security. It is not simply striking out and fighting the terrorists overseas. We need to contemplate other complementary methods in this ongoing war. By holding public hearings on these other supplemental methods the American public will be able to consider these additional methods--methods that include providing education and economic opportunities, eviscerating terrorist funding, decreasing our dependence on foreign oil, and re-allocating funds to pay for vital programs.

Thus, it is not sufficient to work on only two of 41 recommendations, because the remaining 39 recommendations will take effort, time, and the re-allocation of funds to come to fruition. We need an aggressive, imaginative, efficient multi-track approach to our homeland security. We need a similar aggressive, imaginative, efficient multi-track

approach applied to the 9/11 Commission's recommendations. Failure on either front is no longer an option.

Patriotism—Being an American First

We ask the Congress, the White House, and all other Congressional and Executive Branch agencies to be Americans first. Not partisan politicians with self-interests. Not appointed officials with turf to protect. Not un-imaginative figures unwilling to embrace change out of fear of losing the status quo.

It is not sufficient to support national security on an ad-hoc basis. Your support of national security must be all-inclusive and whole-hearted—regardless of how it may hurt you personally or politically. In short, working cooperatively to make this nation safe is like the 9/11 Commission's recommendations. Your commitment must be wholesale, measured in thought, and endorsed by sound action. You cannot pick and choose which initiatives should succeed on the basis of your own self-interest.

For example, you cannot support the de-classification of over-classified national security information, but oppose border security reforms because that particular issue (stronger border security) may negatively affect your constituents who rely on foreign labor. Or, you cannot support the creation of a National Intelligence Director who is not given the appropriate powers and authorities (in other words is merely akin to a "czar") because you do not want to strip long-standing entities of ill-suited, ineffective, and long-outdated powers.

You must have the courage to be an American first.

We stand before you as people who have lost our loved ones. On 9/11 and for many months afterward, the pain was overwhelming. Through it, we began the process of adapting to life without our loved ones. We have taken our unspeakable pain and made some good out of it by fighting for the creation of the 9/11 Commission. We are now urging you to act upon the Commission's recommendations. Today, there are many other families whose husbands and wives, sons and daughters, brothers and sisters are risking and sadly giving their lives to defend this great nation. We are grateful to those who serve and we share the pain of families whose loved ones have died in service to our nation. We recognize and appreciate their self-sacrifice in being Americans First and making this nation safer.

In the ensuing months as this language begins to be drafted and thereafter battled about behind the scenes, I simply, humbly and with great respect ask all of you to remember during those negotiations how many of us have already learned to be Americans first. I truly hope you can do the same.

104TH CONGRESS
2D SESSION

S. 1718

[Report No. 104–258]

[Report No. 104–277]

To authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 1996

Mr. SPECTER, from the Select Committee on Intelligence, reported the following original bill; which was read twice and placed on the calendar

MAY 2, 1996

Referred to the Committee on Armed Services for a thirty-day period provided in section 3(b) of Senate Resolution 400, Ninety-fourth Congress, except that if the Committee fails to report the bill within the thirty-day limit, the Committee shall be automatically discharged from further consideration of the bill in accordance with that section

JUNE 6, 1996

Reported by Mr. THURMOND, with amendments; referred to the Committee on Governmental Affairs, for a thirty-day period provided in section 3(b) of Senate Resolution 400, Ninety-fourth Congress, to report or be discharged

[Omit the part struck through and insert the part printed in italic]

A BILL

To authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Ac-

count, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 "Intelligence Authorization Act for Fiscal Year 1997".

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Postponement of applicability of sanctions laws to intelligence activities.
Sec. 304. Post-employment restrictions.
Sec. 305. Executive branch oversight of budgets of elements of the intelligence community.

TITLE IV—FEDERAL BUREAU OF INVESTIGATION

Sec. 401. Access to telephone records.

TITLE V—ECONOMIC ESPIONAGE

Sec. 501. Short title.
Sec. 502. Prevention of economic espionage and protection of proprietary economic information.

TITLE VI—COMBATTING PROLIFERATION

Sec. 601. Short title.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

Sec. 611. Establishment of commission.
Sec. 612. Duties of commission.
Sec. 613. Powers of commission.
Sec. 614. Commission personnel matters.
Sec. 615. Termination of commission.
Sec. 616. Definition.
Sec. 617. Authorization of appropriations.

Subtitle B—Other Matters

Sec. 621. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions.

TITLE VII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

Sec. 701. Short title.
Sec. 702. Committee on Foreign Intelligence.
Sec. 703. Annual reports on intelligence.
Sec. 704. Transnational threats.
Sec. 705. Office of the Director of Central Intelligence.
Sec. 706. National Intelligence Council.
Sec. 707. Enhancement of authority of Director of Central Intelligence to manage budget, personnel, and activities of intelligence community.
~~Sec. 708. Reallocation of responsibilities of Director of Central Intelligence and Secretary of Defense for intelligence activities under National Foreign Intelligence Program.~~
Sec. 708. Responsibilities of Secretary of Defense pertaining to the National Foreign Intelligence Program.
Sec. 709. Improvement of intelligence collection.
Sec. 710. Improvement of analysis and production of intelligence.
Sec. 711. Improvement of administration of intelligence activities.
Sec. 712. Pay level of Assistant Directors of Central Intelligence.
Sec. 713. General Counsel of the Central Intelligence Agency.
Sec. 714. Office of Congressional Affairs of ~~the Intelligence Community.~~ *the Director of Central Intelligence.*
Sec. 715. Assistance for law enforcement agencies by intelligence community.
Sec. 716. Appointment and evaluation of officials responsible for intelligence-related activities.
~~Sec. 717. Intelligence Community Senior Executive Service.~~
Sec. ~~718.~~ *717.* Requirements for submittal of budget information on intelligence activities.
Sec. ~~719.~~ *718.* Terms of service for members of Select Committee on Intelligence of the Senate.
Sec. ~~720.~~ *719.* Report on intelligence community policy on protecting the national information infrastructure against strategic attacks.

TITLE VIII—NATIONAL IMAGERY AND MAPPING AGENCY

~~Sec. 801. Establishment.~~
~~Sec. 802. Effective date.~~
Sec. 801. National mission and collection tasking authority for the National Imagery and Mapping Agency.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(11) The National Reconnaissance Office.

(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings

1 as of September 30, 1997, for the conduct of the intel-
2 ligence and intelligence-related activities of the elements
3 listed in such section, are those specified in the classified
4 Schedule of Authorizations prepared to accompany the
5 conference report on the bill ____ of the One Hundred
6 Fourth Congress.

7 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-
8 THORIZATIONS.—The Schedule of Authorizations shall be
9 made available to the Committees on Appropriations of
10 the Senate and House of Representatives and to the Presi-
11 dent. The President shall provide for suitable distribution
12 of the Schedule, or of appropriate portions of the Sched-
13 ule, within the executive branch.

14 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

15 (a) AUTHORITY FOR ADJUSTMENTS.—With the ap-
16 proval of the Director of the Office of Management and
17 Budget, the Director of Central Intelligence may authorize
18 employment of civilian personnel in excess of the number
19 authorized for fiscal year 1997 under section 102 when
20 the Director of Central Intelligence determines that such
21 action is necessary to the performance of important intel-
22 ligence functions, except that the number of personnel em-
23 ployed in excess of the number authorized under such sec-
24 tion may not, for any element of the intelligence commu-

1 nity, exceed two percent of the number of civilian person-
2 nel authorized under such section for such element.
3 (b) NOTICE TO INTELLIGENCE COMMITTEES.—The
4 Director of Central Intelligence shall promptly notify the
5 Permanent Select Committee on Intelligence of the House
6 of Representatives and the Select Committee on Intel-
7 ligence of the Senate whenever he exercises the authority
8 granted by this section.

9 **SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.**

10 (a) AUTHORIZATIONS OF APPROPRIATIONS.—There
11 is authorized to be appropriated for the Community Man-
12 agement Account of the Director of Central Intelligence
13 for fiscal year 1997 the sum of $95,526,000. Within such
14 amounts authorized, funds identified in the classified
15 Schedule of Authorizations referred to in section 102(a)
16 for the Advanced Research and Development Committee
17 and the Environmental Task Force shall remain available
18 until September 30, 1998.
19 (b) AUTHORIZED PERSONNEL LEVELS.—The staff of
20 the Community Management Account of the Director of
21 Central Intelligence is authorized 265 full-time personnel
22 as of September 30, 1997. Such personnel of the Commu-
23 nity Management Staff may be permanent employees of
24 the Community Management Staff or personnel detailed
25 from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1997, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1997 the sum of $184,200,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts

1 as may be necessary for increases in such compensation
2 or benefits authorized by law.

3 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
4 **ACTIVITIES.**

5 The authorization of appropriations by this Act shall
6 not be deemed to constitute authority for the conduct of
7 any intelligence activity which is not otherwise authorized
8 by the Constitution or the laws of the United States.

9 **SEC. 303. POSTPONEMENT OF APPLICABILITY OF SANC-**
10 **TIONS LAWS TO INTELLIGENCE ACTIVITIES.**

11 Section 905 of the National Security Act of 1947 (50
12 U.S.C. 441d) is amended by striking "the date which is
13 one year after the date of the enactment of this title" and
14 inserting "January 6, 1998".

15 **SEC. 304. POST-EMPLOYMENT RESTRICTIONS.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 date of enactment of this Act, the Director of Central In-
18 telligence shall prescribe regulations requiring each new
19 and current employee of the Central Intelligence Agency
20 to sign a written agreement restricting the activities of
21 that employee upon ceasing employment with the Central
22 Intelligence Agency.

23 (b) AGREEMENT ELEMENTS.—The regulations shall
24 provide that an agreement contain provisions specifying
25 that the employee concerned not represent or advise the

1 government, or any political party, of a foreign country
2 during the five-year period beginning on the termination
3 of the employee's employment with the Central Intel-
4 ligence Agency.

5 (c) DISCIPLINARY ACTIONS.—The regulations shall
6 specify appropriate disciplinary actions (including loss of
7 retirement benefits) to be taken against any employee de-
8 termined by the Director of Central Intelligence to have
9 violated the agreement of the employee under this section.

10 **SEC. 305. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF**
11 **ELEMENTS OF THE INTELLIGENCE COMMU-**
12 **NITY.**

13 (a) REPORT.—Not later than 90 days after the date
14 of the enactment of this Act, the President shall submit
15 to the congressional intelligence committees a report set-
16 ting forth the actions that have been taken to ensure ade-
17 quate oversight by the executive branch of the budget of
18 the National Reconnaissance Office and the budgets of
19 other elements of the intelligence community within the
20 Department of Defense.

21 (b) REPORT ELEMENTS.—The report required by
22 subsection (a) shall—

23 (1) describe the extent to which the elements of
24 the intelligence community carrying out programs
25 and activities in the National Foreign Intelligence

1 Program are subject to requirements imposed on
2 other elements and components of the Department
3 of Defense under the Chief Financial Officers Act of
4 1990 (Public Law 101–576), and the amendments
5 made by that Act, and the Federal Financial Man-
6 agement Act of 1994 (title IV of Public Law 103–
7 356), and the amendments made by that Act;
8 (2) describe the extent to which such elements
9 submit to the Office of Management and Budget
10 budget justification materials and execution reports
11 similar to the budget justification materials and exe-
12 cution reports submitted to the Office of Manage-
13 ment and Budget by the non-intelligence components
14 of the Department of Defense;
15 (3) describe the extent to which the National
16 Reconnaissance Office submits to the Office of Man-
17 agement and Budget, the Community Management
18 Staff, and the Office of the Secretary of Defense—
19 (A) complete information on the cost,
20 schedule, performance, and requirements for
21 any new major acquisition before initiating the
22 acquisition;
23 (B) yearly reports (including baseline cost
24 and schedule information) on major acquisi-
25 tions;

1 (C) planned and actual expenditures in
2 connection with major acquisitions; and
3 (D) variances from any cost baselines for
4 major acquisitions (including explanations of
5 such variances); and
6 (4) assess the extent to which the National Re-
7 connaissance Office has submitted to Office of Man-
8 agement and Budget, the Community Management
9 Staff, and the Office of the Secretary of Defense on
10 a monthly basis a detailed budget execution report
11 similar to the budget execution report prepared for
12 Department of Defense programs.
13 (c) DEFINITIONS.—For purposes of this section:
14 (1) The term "congressional intelligence com-
15 mittees" shall mean the Select Committee on Intel-
16 ligence of the Senate and the Permanent Select
17 Committee on Intelligence of the House of Rep-
18 resentatives.
19 (2) The term "National Foreign Intelligence
20 Program" has the meaning given such term in sec-
21 tion 3(6) of the National Security Act of 1947 (50
22 U.S.C. 401a(6)).

TITLE IV—FEDERAL BUREAU OF INVESTIGATION

SEC. 401. ACCESS TO TELEPHONE RECORDS.

(a) ACCESS FOR COUNTERINTELLIGENCE PURPOSES.—Section 2709(b)(1) of title 18, United States Code, is amended by inserting "local and long distance" before "toll billing records".

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(C) of such title is amended by inserting "local and long distance" after "address,".

(c) CIVIL REMEDY.—Section 2707 of such title is amended—

(1) in subsection (a), by striking "customer" and inserting "other person";

(2) in subsection (c), by adding at the end the following: "If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.";

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

1 "(d) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a
2 court determines that any agency or department of the
3 United States has violated this chapter and the court finds
4 that the circumstances surrounding the violation raise the
5 question whether or not an officer or employee of the
6 agency or department acted willfully or intentionally with
7 respect to the violation, the agency or department con-
8 cerned shall promptly initiate a proceeding to determine
9 whether or not disciplinary action is warranted against the
10 officer or employee.".

11 TITLE V—ECONOMIC 12 ESPIONAGE

13 **SEC. 501. SHORT TITLE.**

14 This title may be cited as the "Economic Espionage
15 Act of 1996".

16 **SEC. 502. PREVENTION OF ECONOMIC ESPIONAGE AND**
17 **PROTECTION OF PROPRIETARY ECONOMIC**
18 **INFORMATION.**

19 (a) IN GENERAL.—Part I of title 18, United States
20 Code, is amended by inserting after chapter 27 the follow-
21 ing new chapter:

22 "CHAPTER 28—ECONOMIC ESPIONAGE

"Sec.
"571. Definitions.
"572. Economic espionage.
"573. Criminal forfeiture.
"574. Import and export sanctions.
"575. Scope of extraterritorial jurisdiction.
"576. Construction with other laws.

"577. Preservation of confidentiality.
"578. Law enforcement and intelligence activities.

1 **"§ 571. Definitions**

2 "For purposes of this chapter, the following defini-
3 tions shall apply:

4 "(1) FOREIGN AGENT.—The term 'foreign
5 agent' means any officer, employee, proxy, servant,
6 delegate, or representative of a foreign nation or
7 government.

8 "(2) FOREIGN INSTRUMENTALITY.—The term
9 'foreign instrumentality' means any agency, bureau,
10 ministry, component, institution, association, or any
11 legal, commercial, or business organization, corpora-
12 tion, firm, or entity that is substantially owned, con-
13 trolled, sponsored, commanded, managed, or domi-
14 nated by a foreign government or any political sub-
15 division, instrumentality, or other authority thereof.

16 "(3) OWNER.—The term 'owner' means the
17 person or persons in whom, or the United States
18 Government component, department, or agency in
19 which, rightful legal, beneficial, or equitable title to,
20 or license in, proprietary economic information is re-
21 posed.

22 "(4) PROPRIETARY ECONOMIC INFORMATION.—
23 The term 'proprietary economic information' means
24 all forms and types of financial, business, scientific,

1 technical, economic, or engineering information (in-
2 cluding data, plans, tools, mechanisms, compounds,
3 formulas, designs, prototypes, processes, procedures,
4 programs, codes, or commercial strategies, whether
5 tangible or intangible, and whether stored, compiled,
6 or memorialized physically, electronically, graphi-
7 cally, photographically, or in writing), if—
8 "(A) the owner thereof has taken reason-
9 able measures to keep such information con-
10 fidential; and
11 "(B) the information derives independent
12 economic value, actual or potential, from not
13 being generally known to, and not being readily
14 ascertainable through proper means by, the
15 public.
16 "(5) UNITED STATES PERSON.—The term
17 'United States person' means—
18 "(A) in the case of a natural person, a citi-
19 zen of the United States or a permanent resi-
20 dent alien of the United States; and
21 "(B) in the case of an organization (as
22 that term is defined in section 18 of this title),
23 an entity substantially owned or controlled by
24 citizens of the United States or permanent resi-

1 dent aliens of the United States, or incor-
2 porated in the United States.

3 **"§ 572. Economic espionage**

4 "(a) IN GENERAL.—Any person who, with knowledge
5 or reason to believe that he or she is acting on behalf of,
6 or with the intent to benefit, any foreign nation, govern-
7 ment, instrumentality, or agent, knowingly—

8 "(1) steals, wrongfully appropriates, takes, car-
9 ries away, or conceals, or by fraud, artifice, or de-
10 ception obtains proprietary economic information;

11 "(2) wrongfully copies, duplicates, sketches,
12 draws, photographs, downloads, uploads, alters, de-
13 stroys, photocopies, replicates, transmits, delivers,
14 sends, mails, communicates, or conveys proprietary
15 economic information;

16 "(3) being entrusted with, or having lawful pos-
17 session or control of, or access to, proprietary eco-
18 nomic information, wrongfully copies, duplicates,
19 sketches, draws, photographs, downloads, uploads,
20 alters, destroys, photocopies, replicates, transmits,
21 delivers, sends, mails, communicates, or conveys the
22 same;

23 "(4) receives, buys, or possesses proprietary
24 economic information, knowing the same to have

1 been stolen or wrongfully appropriated, obtained, or
2 converted;
3 "(5) attempts to commit any offense described
4 in any of paragraphs (1) through (4);
5 "(6) wrongfully solicits another to commit any
6 offense described in any of paragraphs (1) through
7 (4); or
8 "(7) conspires with one or more other persons
9 to commit any offense described in any of para-
10 graphs (1) through (4), and one or more of such
11 persons do any act to effect the object of the con-
12 spiracy,
13 shall, except as provided in subsection (b), be fined not
14 more than $500,000 or imprisoned not more than 25
15 years, or both.
16 "(b) ORGANIZATIONS.—Any organization that com-
17 mits any offense described in subsection (a) shall be fined
18 not more than $10,000,000.
19 "(c) EXCEPTION.—It shall not be a violation of this
20 section to disclose proprietary economic information in the
21 case of—
22 "(1) appropriate disclosures to Congress; or
23 "(2) disclosures to an authorized official of an
24 executive agency that are deemed essential to report-
25 ing a violation of United States law.

1 **"§ 573. Criminal forfeiture**

2 "(a) IN GENERAL.—Notwithstanding any provision
3 of State law to the contrary, any person convicted of a
4 violation under this chapter shall forfeit to the United
5 States—

6 "(1) any property constituting, or derived from,
7 any proceeds the person obtained, directly or indi-
8 rectly, as the result of such violation; and

9 "(2) any of the property of that person used, or
10 intended to be used, in any manner or part, to com-
11 mit or facilitate the commission of such violation.

12 "(b) COURT ACTION.—The court, in imposing sen-
13 tence on such person, shall order, in addition to any other
14 sentence imposed pursuant to this chapter, that the person
15 forfeit to the United States all property described in this
16 section.

17 "(c) APPLICABILITY OF OTHER LAW.—Property sub-
18 ject to forfeiture under this section, any seizure and dis-
19 position thereof, and any administrative or judicial pro-
20 ceeding in relation thereto, shall be governed by the provi-
21 sions of section 413 of the Comprehensive Drug Abuse
22 Prevention and Control Act of 1970 (21 U.S.C. 853),
23 other than subsection (d) of that section.

24 **"§ 574. Import and export sanctions**

25 "(a) ACTION BY THE PRESIDENT.—The President
26 may, to the extent consistent with international agree-

1 ments to which the United States is a party, prohibit, for
2 a period of not longer than 5 years, the importation into,
3 or exportation from, the United States, whether by car-
4 riage of tangible items or by transmission, any merchan-
5 dise produced, made, assembled, or manufactured by a
6 person convicted of any offense described in section 572
7 of this title, or in the case of an organization convicted
8 of any offense described in such section, its successor en-
9 tity or entities.

10 "(b) ACTION BY THE SECRETARY OF THE TREAS-
11 URY.—

12 "(1) CIVIL PENALTY.—The Secretary of the
13 Treasury may impose on any person who knowingly
14 violates any order of the President issued under the
15 authority of this section, a civil penalty equal to not
16 more than 5 times the value of the exports or im-
17 ports involved, or $100,000, whichever is greater.

18 "(2) SEIZURE AND FORFEITURE.—Any mer-
19 chandise imported or exported in violation of an
20 order of the President issued under this section shall
21 be subject to seizure and forfeiture in accordance
22 with sections 602 through 619 of the Tariff Act of
23 1930.

24 "(3) APPLICABILITY OF OTHER PROVISIONS.—
25 The provisions of law relating to seizure, summary

1 and judicial forfeiture, and condemnation of prop-
2 erty for violation of the United States customs laws,
3 the disposition of such property or the proceeds from
4 the sale thereof, the remission or mitigation of such
5 forfeiture, and the compromise of claims, shall apply
6 to seizures and forfeitures incurred, or alleged to
7 have been incurred under this section to the extent
8 that they are applicable and not inconsistent with
9 the provisions of this chapter.

10 **"§ 575. Scope of extraterritorial jurisdiction**

11 "This chapter applies—

12 "(1) to conduct occurring within the United
13 States; and

14 "(2) to conduct occurring outside the United
15 States if—

16 "(A) the offender is a United States per-
17 son; or

18 "(B) the act in furtherance of the offense
19 was committed in the United States.

20 **"§ 576. Construction with other laws**

21 "This chapter shall not be construed to preempt or
22 displace any other remedies, whether civil or criminal, pro-
23 vided by Federal, State, commonwealth, possession, or ter-
24 ritorial laws that are applicable to the misappropriation
25 of proprietary economic information.

1 **"§ 577. Preservation of confidentiality**

2 "In any prosecution or other proceeding under this
3 chapter, the court shall enter such orders and take such
4 other action as may be necessary and appropriate to pre-
5 serve the confidentiality of proprietary economic informa-
6 tion, consistent with the requirements of the Federal
7 Rules of Criminal Procedure, the Federal Rules of Civil
8 Procedure, the Federal Rules of Evidence, and all other
9 applicable laws. An interlocutory appeal by the United
10 States shall lie from a decision or order of a district court
11 authorizing or directing the disclosure of proprietary eco-
12 nomic information.

13 **"§ 578. Law enforcement and intelligence activities**

14 "This chapter does not prohibit, and shall not impair,
15 any lawful activity conducted by a law enforcement or reg-
16 ulatory agency of the United States, a State, or a political
17 subdivision of a State, or an intelligence agency of the
18 United States.".

19 (b) CLERICAL AMENDMENT.—The table of chapters
20 at the beginning of part I of title 18, United States Code,
21 is amended by inserting after the item relating to chapter
22 27 the following new item:

"28. Economic espionage ..... 571".

23 (c) CONFORMING AMENDMENT.—Section 2516(1)(a)
24 of title 18, United States Code, is amended by inserting

"chapter 28 (relating to economic espionage)," after "or under the following chapters of this title:".

TITLE VI—COMBATTING PROLIFERATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Combatting Proliferation of Weapons of Mass Destruction Act of 1996".

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

SEC. 611. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of eight members of whom—

(1) four shall be appointed by the President;

(2) one shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

1 (4) one shall be appointed by the Speaker of
2 the House of Representatives; and
3 (5) one shall be appointed by the Minority
4 Leader of the House of Representatives.
5 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
6 bers shall be appointed for the life of the Commission. Any
7 vacancy in the Commission shall not affect its powers, but
8 shall be filled in the same manner as the original appoint-
9 ment.
10 (d) INITIAL MEETING.—No later than 30 days after
11 the date on which all members of the Commission have
12 been appointed, the Commission shall hold its first meet-
13 ing.
14 (e) QUORUM.—A majority of the members of the
15 Commission shall constitute a quorum, but a lesser num-
16 ber of members may hold hearings.
17 (f) CHAIRMAN AND VICE CHAIRMAN.—The Commis-
18 sion shall select a Chairman and Vice Chairman from
19 among its members.
20 (g) MEETINGS.—The Commission shall meet at the
21 call of the Chairman.
22 **SEC. 612. DUTIES OF COMMISSION.**
23 (a) STUDY.—
24 (1) IN GENERAL.—The Commission shall carry
25 out a thorough study of the organization of the Fed-

1 eral Government, including the elements of the intel-
2 ligence community, with respect to combatting the
3 proliferation of weapons of mass destruction.
4 (2) SPECIFIC REQUIREMENTS.—In carrying out
5 the study, the Commission shall—
6 (A) assess the current structure and orga-
7 nization of the departments and agencies of the
8 Federal Government having responsibilities for
9 combatting the proliferation of weapons of mass
10 destruction; and
11 (B) assess the effectiveness of the coopera-
12 tion between elements of the intelligence com-
13 munity and the intelligence-gathering services
14 of foreign governments in addressing issues re-
15 lating to the proliferation of such weapons.
16 (b) RECOMMENDATIONS.—In conducting the study,
17 the Commission shall develop recommendations on means
18 of improving the effectiveness of the organization of the
19 departments and agencies of the Federal Government in
20 meeting the national security interests of the United
21 States with respect to the proliferation of weapons of mass
22 destruction. Such recommendations shall include specific
23 recommendations to eliminate duplications of effort, and
24 other inefficiencies, in and among such departments and
25 agencies.

1 (c) REPORT.—Not later than 18 months after the
2 date of the enactment of this Act, the Commission shall
3 submit to Congress a report containing a detailed state-
4 ment of the findings and conclusions of the Commission,
5 together with its recommendations for such legislation and
6 administrative actions as it considers appropriate.

7 **SEC. 613. POWERS OF COMMISSION.**

8 (a) HEARINGS.—The Commission may hold such
9 hearings, sit and act at such times and places, take such
10 testimony, and receive such evidence as the Commission
11 considers advisable to carry out the purposes of this sub-
12 title.

13 (b) INFORMATION FROM FEDERAL AGENCIES.—

14 (1) IN GENERAL.—The Commission may secure
15 directly from any Federal department or agency
16 such information as the Commission considers nec-
17 essary to carry out the provisions of this subtitle.
18 Upon request of the Chairman of the Commission,
19 the head of such department or agency shall furnish
20 such information to the Commission.

21 (2) CLASSIFIED INFORMATION.—A department
22 or agency may furnish the Commission classified in-
23 formation under this subsection. The Commission
24 shall take appropriate actions to safeguard classified

1 information furnished to the Commission under this
2 paragraph.
3 (c) POSTAL SERVICES.—The Commission may use
4 the United States mails in the same manner and under
5 the same conditions as other departments and agencies of
6 the Federal Government.
7 (d) GIFTS.—The Commission may accept, use, and
8 dispose of gifts or donations of services or property.
9 **SEC. 614. COMMISSION PERSONNEL MATTERS.**
10 (a) COMPENSATION OF MEMBERS.—Each member of
11 the Commission who is not an officer or employee of the
12 Federal Government shall be compensated at a rate equal
13 to the daily equivalent of the annual rate of basic pay pre-
14 scribed for level IV of the Executive Schedule under sec-
15 tion 5315 of title 5, United States Code, for each day (in-
16 cluding travel time) during which such member is engaged
17 in the performance of the duties of the Commission. All
18 members of the Commission who are officers or employees
19 of the United States shall serve without compensation in
20 addition to that received for their services as officers or
21 employees of the United States.
22 (b) TRAVEL EXPENSES.—The members of the Com-
23 mission shall be allowed travel expenses, including per
24 diem in lieu of subsistence, at rates authorized for employ-
25 ees of agencies under subchapter I of chapter 57 of title

1 5, United States Code, while away from their homes or
2 regular places of business in the performance of services
3 for the Commission.

4 (c) STAFF.—

5 (1) IN GENERAL.—The Chairman of the Com-
6 mission may, without regard to the civil service laws
7 and regulations, appoint and terminate an executive
8 director and such other additional personnel as may
9 be necessary to enable the Commission to perform
10 its duties. The employment of an executive director
11 shall be subject to confirmation by the Commission.

12 (2) COMPENSATION.—The Chairman of the
13 Commission may fix the compensation of the execu-
14 tive director and other personnel without regard to
15 the provisions of chapter 51 and subchapter III of
16 chapter 53 of title 5, United States Code, relating
17 to classification of positions and General Schedule
18 pay rates, except that the rate of pay for the execu-
19 tive director and other personnel may not exceed the
20 rate payable for level V of the Executive Schedule
21 under section 5316 of such title.

22 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
23 Federal Government employee may be detailed to the
24 Commission without reimbursement, and such detail shall

1 be without interruption or loss of civil service status or
2 privilege.

3 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
4 TENT SERVICES.—The Chairman of the Commission may
5 procure temporary and intermittent services under section
6 3109(b) of title 5, United States Code, at rates for individ-
7 uals which do not exceed the daily equivalent of the annual
8 rate of basic pay prescribed for level V of the Executive
9 Schedule under section 5316 of such title.

10 **SEC. 615. TERMINATION OF COMMISSION.**

11 The Commission shall terminate 60 days after the
12 date on which the Commission submits its report under
13 section 612(c).

14 **SEC. 616. DEFINITION.**

15 For purposes of this subtitle, the term "intelligence
16 community" shall have the meaning given such term in
17 section 3(4) of the National Security Act of 1947 (50
18 U.S.C. 401a(4)).

19 **SEC. 617. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IN GENERAL.—There are authorized to be appro-
21 priated for the Commission for fiscal year 1997 such sums
22 as may be necessary for the Commission to carry out its
23 duties under this subtitle.

24 (b) AVAILABILITY.—Amounts appropriated pursuant
25 to the authorization of appropriations in subsection (a)

1 shall remain available for expenditure until the termi-
2 nation of the Commission under section 615.

3 Subtitle B—Other Matters

4 SEC. 621. REPORTS ON ACQUISITION OF TECHNOLOGY RE-
5 LATING TO WEAPONS OF MASS DESTRUCTION
6 AND ADVANCED CONVENTIONAL MUNITIONS.

7 (a) REPORTS.—Not later than 6 months after the
8 date of the enactment of this Act, and every 6 months
9 thereafter, the Director of Central Intelligence shall sub-
10 mit to Congress a report on—

11 (1) the acquisition by foreign countries during
12 the preceding 6 months of dual-use and other tech-
13 nology useful for the development or production of
14 weapons of mass destruction (including nuclear
15 weapons, chemical weapons, and biological weapons)
16 and advanced conventional munitions; and

17 (2) trends in the acquisition of such technology
18 by such countries.

19 (b) FORM OF REPORTS.—The reports submitted
20 under subsection (a) shall be submitted in unclassified
21 form, but may include a classified annex.

TITLE VII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

SEC. 701. SHORT TITLE.

This title may be cited as the "Intelligence Activities Renewal and Reform Act of 1996".

SEC. 702. COMMITTEE ON FOREIGN INTELLIGENCE.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h)(1) There is established within the National Security Council a committee to be known as the 'Committee on Foreign Intelligence'.

"(2) The Committee shall be composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Secretary of State.

"(C) The Secretary of Defense.

"(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

1 "(E) Such other members as the President may
2 designate.
3 "(3) The function of the Committee shall be to assist
4 the Council in its activities by—
5 "(A) identifying the intelligence required to ad-
6 dress the national security interests of the United
7 States as specified by the President;
8 "(B) establishing priorities (including funding
9 priorities) among the programs, projects, and activi-
10 ties that address such interests and requirements;
11 and
12 "(C) establishing policies relating to the con-
13 duct of intelligence activities of the United States,
14 including appropriate roles and missions for the ele-
15 ments of the intelligence community and appropriate
16 targets of intelligence collection activities.
17 "(4) In carrying out its function, the Committee
18 shall—
19 "(A) conduct an annual review of the national
20 security interests of the United States;
21 "(B) identify on an annual basis, and at such
22 other times as the Council may require, the intel-
23 ligence required to meet such interests and establish
24 an order of priority for the collection and analysis of
25 such intelligence; and

1 "(C) conduct an annual review of the elements
2 of the intelligence community in order to determine
3 the success of such elements in collecting, analyzing,
4 and disseminating the intelligence identified under
5 subparagraph (B).
6 "(5) The Committee shall submit each year to the
7 Council and to the Director of Central Intelligence a com-
8 prehensive report on its activities during the preceding
9 year, including its activities under paragraphs (3) and
10 (4).".

11 **SEC. 703. ANNUAL REPORTS ON INTELLIGENCE.**

12 (a) IN GENERAL.—Section 109 of the National Secu-
13 rity Act of 1947 (50 U.S.C. 404d) is amended by striking
14 out subsections (a) and (b) and inserting in lieu thereof
15 the following new subsections:
16 "SEC. 109. (a) IN GENERAL.—(1) Not later than
17 January 31 each year, the President shall submit to the
18 appropriate congressional committees a report on the re-
19 quirements of the United States for intelligence and the
20 activities of the intelligence community.
21 "(2) The purpose of the report is to facilitate an as-
22 sessment of the activities of the intelligence community
23 during the preceding fiscal year and to assist in the devel-
24 opment of a mission and a budget for the intelligence com-

1 munity for the fiscal year beginning in the year in which
2 the report is submitted.
3 "(3) The report shall be submitted in unclassified
4 form, but may include a classified annex.
5 "(b) MATTERS COVERED.—(1) Each report under
6 subsection (a) shall—
7 "(A) specify the intelligence required to meet
8 the national security interests of the United States,
9 and set forth an order of priority for the collection
10 and analysis of intelligence required to meet such in-
11 terests, for the fiscal year beginning in the year in
12 which the report is submitted; and
13 "(B) evaluate the performance of the intel-
14 ligence community in collecting and analyzing intel-
15 ligence required to meet such interests during the
16 fiscal year ending in the year preceding the year in
17 which the report is submitted, including a descrip-
18 tion of the significant successes and significant fail-
19 ures of the intelligence community in such collection
20 and analysis during that fiscal year.
21 "(2) The report shall specify matters under para-
22 graph (1)(A) in sufficient detail to assist Congress in mak-
23 ing decisions with respect to the allocation of resources
24 for the matters specified.

1 "(c) DEFINITION.—In this section, the term 'appro-
2 priate congressional committees' means the following:
3 "(1) The Select Committee on Intelligence, the
4 Committee on Appropriations, and the Committee on
5 Armed Services of the Senate.
6 "(2) The Permanent Select Committee on Intel-
7 ligence, the Committee on Appropriations, and the
8 Committee on National Security of the House of
9 Representatives.".
10 (b) CONFORMING AMENDMENTS.—(1) The section
11 heading of such section is amended to read as follows:
12 "ANNUAL REPORT ON INTELLIGENCE".
13 (2) The table of contents in the first section of that
14 Act is amended by striking the item relating to section
15 109 and inserting the following new item:

"Sec. 109. Annual report on intelligence.".

16 **SEC. 704. TRANSNATIONAL THREATS.**
17 Section 101 of the National Security Act of 1947 (50
18 U.S.C. 402) is amended by inserting after subsection (h),
19 as amended by section 702 of this Act, the following new
20 subsection:
21 "(i)(1) There is established within the National Secu-
22 rity Council a committee to be known as the 'Committee
23 on Transnational Threats'.
24 "(2) The Committee shall include the following mem-
25 bers:

1 "(A) The Director of Central Intelligence.

2 "(B) The Secretary of State.

3 "(C) The Secretary of Defense.

4 "(D) The Attorney General.

5 "(E) The Assistant to the President for Na-
6 tional Security Affairs, who shall serve as the chair-
7 person of the Committee.

8 "(F) Such other members as the President may
9 designate.

10 "(3) The function of the Committee shall be to co-
11 ordinate and direct the activities of the United States Gov-
12 ernment relating to combatting transnational threats.

13 "(4) In carrying out its function, the Committee
14 shall—

15 "(A) identify transnational threats;

16 "(B) develop strategies to enable the United
17 States Government to respond to transnational
18 threats identified under subparagraph (A);

19 "(C) monitor implementation of such strategies;

20 "(D) make recommendations as to appropriate
21 responses to specific transnational threats;

22 "(E) assist in the resolution of operational and
23 policy differences among Federal departments and
24 agencies in their responses to transnational threats;

"(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

"(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

"(5) For purposes of this subsection, the term 'transnational threat' means the following:

"(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

"(B) Any individual or group that engages in an activity referred to in subparagraph (A).".

SEC. 705. OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—Title I of The National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended—

(1) in section 102 (50 U.S.C. 403)—

(A) by striking the section heading and all that follows through paragraph (1) of subsection (a) and inserting the following:

"OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

"SEC. 102.";

(B) by redesignating paragraph (2) of subsection (a) as subsection (a) and in such subsection (a), as so redesignated, by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(C) by striking subsection (d) and inserting the following:

"(d)(1) There is an Office of the Director of Central Intelligence. The function of the Office is to assist the Director of Central Intelligence in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by law.

"(2) The Office of the Director of Central Intelligence is composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Deputy Director of Central Intelligence.

"(C) The National Intelligence Council.

"(D) The Assistant Director of Central Intelligence for Collection.

1 "(E) The Assistant Director of Central Intel-
2 ligence for Analysis and Production.
3 "(F) The Assistant Director of Central Intel-
4 ligence for Administration.
5 "(G) Such other offices and officials as may be
6 established by law or the Director of Central Intel-
7 ligence may establish or designate in the Office.
8 "(3) To assist the Director in fulfilling the respon-
9 sibilities of the Director as head of the intelligence commu-
10 nity, the Director shall employ and utilize in the Office
11 of the Director of Central Intelligence a professional staff
12 having an expertise in matters relating to such responsibil-
13 ities and may establish permanent positions and appro-
14 priate rates of pay with respect to that staff."; and
15 (2) by inserting after section 102, as so amend-
16 ed, the following new section:
17 "CENTRAL INTELLIGENCE AGENCY
18 "SEC. 102A. There is a Central Intelligence Agency.
19 The function of the Agency shall be to assist the Director
20 of Central Intelligence in carrying out the responsibilities
21 referred to in paragraphs (1) through (4) of section
22 103(d) of this Act.".
23 (b) CLERICAL AMENDMENT.—The table of contents
24 in the first section of that Act is amended by striking the
25 item relating to section 102 and inserting the following
26 new items:

"Sec. 102. Office of the Director of Central Intelligence.
"Sec. 102A. Central Intelligence Agency.".

1 **SEC. 706. NATIONAL INTELLIGENCE COUNCIL.**

2 Section 103(b) of the National Security Act of 1947
3 (50 U.S.C. 403–3(b)) is amended—

4 (1) in paragraph (1)(B), by inserting ", or as
5 contractors of the Council or employees of such con-
6 tractors," after "on the Council";

7 (2) by redesignating paragraphs (4) and (5) as
8 paragraphs (5) and (6), respectively;

9 (3) by inserting after paragraph (3) the follow-
10 ing new paragraph (4):

11 "(4) Subject to the direction and control of the Direc-
12 tor of Central Intelligence, the Center may carry out its
13 responsibilities under this subsection by contract, includ-
14 ing contracts for substantive experts necessary to assist
15 the Center with particular assessments under this sub-
16 section."; and

17 (4) in paragraph (5), as so redesignated, by
18 adding at the end the following: "The Center shall
19 also be readily accessible to policymaking officials
20 and other appropriate individuals not otherwise asso-
21 ciated with the intelligence community.".

SEC. 707. ENHANCEMENT OF AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE TO MANAGE BUDGET, PERSONNEL, AND ACTIVITIES OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph (1):

"(1) facilitate the development of an annual budget for intelligence and intelligence-related activities of the United States by—

"(A) developing and presenting to the President an annual budget for the National Foreign Intelligence Program; *and*

~~"(B) concurring in the development by the Secretary of Defense of the annual budget for the Joint Military Intelligence Program; and~~

~~"(C) consulting with the Secretary of Defense in the development of the annual budget for the Tactical Intelligence and Related Activities program;";~~

"(B) participating in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

~~"(3) manage the national collection activities of the intelligence community in order to ensure that such activities, and the intelligence collected through such activities, meet the national security requirements of the United States;".~~

"(3) approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;".

~~(b) USE OF FUNDS.—~~

~~(1) REPROGRAMMING.—Subsection (c) of such section is amended by inserting "or under the Joint Military Intelligence Program" after "the National Foreign Intelligence Program".~~

~~(2) TRANSFERS.—Subsection (d)(2)(E) of such section is amended by striking "does not object to" and inserting "is consulted by the Director before".~~

~~(3) DIRECTION OF EXPENDITURES.—Such section is further amended—~~

1 ~~(A) by redesignating subsections (e), (f),~~
2 ~~and (g) as subsections (f), (g), and (h), respec-~~
3 ~~tively; and~~
4 ~~(B) by inserting after subsection (d) the~~
5 ~~following new subsection (e):~~
6 ~~"(e) USE OF FUNDS.—The Director of Central Intel-~~
7 ~~ligence shall, with the approval of the Director of the Of-~~
8 ~~fice of Management and Budget and subject to applicable~~
9 ~~provisions of law (including provisions of authorization~~
10 ~~Acts and appropriations Acts), direct and oversee the allo-~~
11 ~~cation, allotment, obligation, and expenditure of funds ap-~~
12 ~~propriated or otherwise made available for the national in-~~
13 ~~telligence programs, projects, and activities that are man-~~
14 ~~aged by the Director of the Central Intelligence Agency,~~
15 ~~the Director of the National Security Agency, the Director~~
16 ~~of the National Reconnaissance Office, and the Director~~
17 ~~of the National Imagery and Mapping Agency.".~~
18 *(b) USE OF FUNDS.—Section 104 of the National Se-*
19 *curity Act of 1947 (50 U.S.C. 403–4) is amended—*
20 *(1) by adding at the end of subsection (c) the fol-*
21 *lowing: "The Secretary of Defense shall consult with*
22 *the Director of Central Intelligence before reprogram-*
23 *ming funds made available under the Joint Military*
24 *Intelligence Program.";*

(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(3) by inserting after subsection (d) the following new subsection (e):

"(e) DATABASE AND BUDGET EXECUTION INFORMATION.—The Director of Central Intelligence and the Secretary of Defense shall jointly issue guidance for the development and implementation by the year 2000 of a database to provide timely and accurate information on the amounts and status of resources, including periodic budget execution updates, for national, defense-wide, and tactical intelligence activities.".

~~(c) PERSONNEL, TRAINING, AND ADMINISTRATIVE ACTIVITIES.—Subsection (g) of such section, as redesignating by subsection (b)(3)(A) of this section, is amended—~~

~~(1) by striking "USE OF PERSONNEL.—" and inserting "PERSONNEL, TRAINING, AND ADMINISTRATIVE FUNCTIONS.—";~~

~~(2) in the matter preceding paragraph (1)—~~

~~(A) by striking "in coordination with" and inserting "after consultation with"; and~~

~~(B) by inserting "national elements of" after "policies and programs within"; and~~

~~(3) in paragraph (2), by striking "personnel," and all that follows through "programs" and inserting "personnel programs, administrative programs, training programs, and security programs and management activities".~~

~~SEC. 708. REALLOCATION OF RESPONSIBILITIES OF DIRECTOR OF CENTRAL INTELLIGENCE AND SECRETARY OF DEFENSE FOR INTELLIGENCE ACTIVITIES UNDER NATIONAL FOREIGN INTELLIGENCE PROGRAM.~~

~~(a) CONSULTATION OF SECRETARY OF DEFENSE WITH DCI REGARDING GENERAL RESPONSIBILITIES.—Subsection (a) of section 105 of the National Security Act of 1947 (50 U.S.C. 405–5) is amended—~~

~~(1) in the matter preceding paragraph (1), by inserting ", in consultation with the Director of Central Intelligence," after "Secretary of Defense"; and~~

~~(2) in paragraph (2), by striking "appropriate".~~

~~(b) JOINT RESPONSIBILITY OF DCI AND SECRETARY OF DEFENSE FOR PERFORMANCE OF CERTAIN SPECIFIC FUNCTIONS.—Subsection (b) of that section is amended—~~

~~(1) by striking "RESPONSIBILITY" and inserting "JOINT RESPONSIBILITY OF THE DCI AND THE SECRETARY OF DEFENSE";~~

1 ~~(2) in the matter preceding paragraph (1), by~~
2 ~~striking "Consistent with sections 103 and 104 of~~
3 ~~this Act," and inserting "The Director of Central~~
4 ~~Intelligence and";~~
5 ~~(3) in paragraph (2)—~~
6 ~~(A) by striking "within the Department of~~
7 ~~Defense"; and~~
8 ~~(B) by adding "and" after the semicolon~~
9 ~~at the end; and~~
10 ~~(4) by striking the semicolon at the end of~~
11 ~~paragraph (3) and inserting a period.~~
12 ~~(c) RESPONSIBILITY OF SECRETARY OF DEFENSE~~
13 ~~FOR PERFORMANCE OF OTHER SPECIFIC FUNCTIONS.—~~
14 ~~Such section is further amended—~~
15 ~~(1) by redesignating subsection (c) as sub-~~
16 ~~section (d);~~
17 ~~(2) by inserting after paragraph (3) of sub-~~
18 ~~section (b) the following:~~
19 ~~"(c) RESPONSIBILITY OF SECRETARY OF DEFENSE~~
20 ~~FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS.—Con-~~
21 ~~sistent with section 103 and 104 of this Act, the Secretary~~
22 ~~of Defense, in consultation with the Director of Central~~
23 ~~Intelligence, shall—";~~
24 ~~(3) by redesignating paragraphs (4), (5), and~~
25 ~~(6) as paragraphs (1), (2), and (3), respectively, of~~

1 ~~subsection (c), as added by paragraph (2) of this~~
2 ~~subsection; and~~
3 ~~(4) in paragraph (2), as redesignated by para-~~
4 ~~graph (3) of this subsection, by inserting "(other~~
5 ~~than clandestine collection)" before "human intel-~~
6 ~~ligence activities".~~
7 ~~(d) CONFORMING AMENDMENTS.—(1) The section~~
8 ~~heading of that section is amended to read as follows:~~
9 ~~"RESPONSIBILITIES OF SECRETARY OF DEFENSE AND DI-~~
10 ~~RECTOR OF CENTRAL INTELLIGENCE PERTAINING~~
11 ~~TO NATIONAL FOREIGN INTELLIGENCE PROGRAM".~~
12 ~~(2) The table of contents in the first section of that~~
13 ~~Act is amended by striking the item relating to section~~
14 ~~105 and inserting the following new item:~~

~~"Sec. 105. Responsibilities of Secretary of Defense and Director of Central Intelligence pertaining to National Foreign Intelligence Program.".~~

15 ***SEC. 708. RESPONSIBILITIES OF SECRETARY OF DEFENSE***
16 ***PERTAINING TO THE NATIONAL FOREIGN IN-***
17 ***TELLIGENCE PROGRAM.***
18 *Section 105 of the National Security Act of 1947 (50*
19 *U.S.C. 403–5) is amended—*
20 *(1) in subsection (a), by inserting ", in consulta-*
21 *tion with the Director of Central Intelligence," after*
22 *"Secretary of Defense" in the matter preceding para-*
23 *graph (1); and*
24 *(2) by adding at the end the following:*

1 *"(d) ANNUAL EVALUATION OF THE DIRECTOR OF*
2 *CENTRAL INTELLIGENCE.—The Director of Central Intel-*
3 *ligence, in consultation with the Secretary of Defense and*
4 *the Chairman of the Joint Chiefs of Staff, shall submit each*
5 *year to the Committee on Foreign Intelligence of the Na-*
6 *tional Security Council and the appropriate congressional*
7 *committees (as defined in section 109(c)) an evaluation of*
8 *the performance and the responsiveness of the National Se-*
9 *curity Agency, the National Reconnaissance Office, and the*
10 *National Imagery and Mapping Agency in meeting their*
11 *national missions.".*

12 **SEC. 709. IMPROVEMENT OF INTELLIGENCE COLLECTION.**

13 (a) ASSISTANT DIRECTOR OF CENTRAL INTEL-
14 LIGENCE FOR COLLECTION.—Section 102 of the National
15 Security Act of 1947, as amended by section 705(a)(1)
16 of this Act, is amended by adding at the end the following:
17 "(e)(1) To assist the Director of Central Intelligence
18 in carrying out the Director's responsibilities under this
19 Act, there shall be an Assistant Director of Central Intel-
20 ligence for Collection, who shall be appointed by the Presi-
21 dent, by and with the advice and consent of the Senate.
22 "(2)(A) If neither the Director of Central Intelligence
23 nor the Deputy Director of Central Intelligence is a com-
24 missioned officer of the Armed Forces at the time of the
25 nomination of an individual to the position of Assistant

1 Director of Central Intelligence for Collection, the Presi-
2 dent shall nominate an individual for that position from
3 among the commissioned officers of the Armed Forces who
4 have substantial experience in managing intelligence ac-
5 tivities.

6 "(B) The provisions of subsection (c)(3) shall apply
7 to any commissioned officer of the Armed Forces while
8 serving in the position of Assistant Director for Collection.

9 "(3) The Assistant Director for Collection shall man-
10 age the collection of national intelligence by the intel-
11 ligence community in order to ensure the efficient and ef-
12 fective collection of national intelligence that is identified
13 for collection by the Assistant Director of Central Intel-
14 ligence for Analysis and ~~Production.~~ *Production.*".

15 ~~"(4) In carrying out the responsibility set forth in~~
16 ~~paragraph (3), the Assistant Director for Collection~~
17 ~~shall—~~

18 ~~"(A) provide guidance and direction for, and~~
19 ~~concur in, the procurement and operation of systems~~
20 ~~necessary for the collection of national intelligence;~~
21 ~~and~~

22 ~~"(B) assist the Director of Central Intelligence~~
23 ~~in the formulation of plans and budgets for national~~
24 ~~intelligence collection activities.".~~

(b) CONSOLIDATION OF HUMAN INTELLIGENCE COLLECTION ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence ~~shall enter into an agreement with the Secretary of Defense to transfer from the Secretary to the Director the responsibilities and authorities of the Secretary for the collection of clandestine intelligence from human sources currently conducted by the Defense Human Intelligence Service within the Department of Defense~~ *and the Deputy Secretary of Defense shall jointly submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the National Security Committee and Permanent Select Committee on Intelligence of the House of Representatives a report on the ongoing efforts of those officials to achieve commonality, interoperability, and, where practicable, consolidation of the collection of clandestine intelligence from human sources conducted by the Defense Human Intelligence Service of the Department of Defense and the Directorate of Operations of the Central Intelligence Agency.*

SEC. 710. IMPROVEMENT OF ANALYSIS AND PRODUCTION OF INTELLIGENCE.

Section 102 of the National Security Act of 1947, as amended by section 709(a) of this Act, is further amended by adding at the end the following:

1 "(f)(1) To assist the Director of Central Intelligence
2 in carrying out the Director's responsibilities under this
3 Act, there shall be an Assistant Director of Central Intel-
4 ligence for Analysis and Production, who shall be ap-
5 pointed by the President, by and with the advice and con-
6 sent of the Senate.
7 "(2) The Assistant Director for Analysis and Produc-
8 tion shall—
9 "(A) oversee the analysis and production of in-
10 telligence by the elements of the intelligence commu-
11 nity;
12 "(B) establish standards and priorities relating
13 to such analysis and production;
14 "(C) monitor the allocation of resources for the
15 analysis and production of intelligence in order to
16 identify unnecessary duplication in the analysis and
17 production of intelligence;
18 "(D) identify intelligence to be collected for
19 purposes of the Assistant Director of Central Intel-
20 ligence for Collection; and
21 "(E) provide such additional analysis and pro-
22 duction of intelligence as the President and the Na-
23 tional Security Council may require.".

SEC. 711. IMPROVEMENT OF ADMINISTRATION OF INTELLIGENCE ACTIVITIES.

Section 102 of the National Security Act of 1947, as amended by section 710 of this Act, is further amended by adding at the end the following:

"(g)(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Administration, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Administration shall manage such activities relating to the administration of the intelligence community as the Director of Central Intelligence shall require~~, including management of civilian personnel (including recruitment, security investigations, processing, and training of such personnel), information systems, telecommunications systems, finance and accounting services, and security services, and procurement of supplies and support services~~.".

SEC. 712. PAY LEVEL OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Directors of Central Intelligence (3).".

1 **SEC. 713. GENERAL COUNSEL OF THE CENTRAL INTEL-**
2 **LIGENCE AGENCY.**

3 (a) ESTABLISHMENT OF POSITION.—The Central In-
4 telligence Agency Act of 1949 (50 U.S.C. 403a et seq.)
5 is amended by adding at the end the following:

6 "GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE
7 AGENCY

8 "SEC. 20. (a) There is a General Counsel of the
9 Central Intelligence Agency, appointed from civilian life
10 by the President, by and with the advice and consent of
11 the Senate.

12 "(b) The General Counsel is the chief legal officer
13 of the Central Intelligence Agency.

14 "(c) The General Counsel of the Central Intelligence
15 Agency shall perform such functions as the Director of
16 Central Intelligence may prescribe.".

17 (b) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section
18 5315 of title 5, United States Code, as amended by section
19 712 of this Act, is further amended by adding at the end
20 the following:

21 "General Counsel of the Central Intelligence
22 Agency.".

SEC. 714. OFFICE OF CONGRESSIONAL AFFAIRS OF ~~THE INTELLIGENCE COMMUNITY.~~ *THE DIRECTOR OF CENTRAL INTELLIGENCE.*

Section 102 of the National Security Act of 1947, as amended by section 711 of this Act, is further amended by adding at the end the following:

"(h)(1) There is hereby established the Office of Congressional Affairs of ~~the Intelligence Community.~~ *the Director of Central Intelligence.*

"(2)(A) The Office shall be headed by the Director of the Office of Congressional Affairs of ~~the Intelligence Community.~~ *the Director of Central Intelligence.*

"(B) The Director of Central Intelligence may designate the Director of the Office of Congressional Affairs of the Central Intelligence Agency to serve as the Director of the Office of Congressional Affairs of ~~the Intelligence Community.~~ *the Director of Central Intelligence.*

"(3) The Director shall coordinate the congressional affairs activities of the elements of the intelligence community and have such additional responsibilities as the Director of Central Intelligence may prescribe.

"(4) Nothing in the subsection may be construed to preclude the elements of the intelligence community from responding directly to requests from Congress.".

1 **SEC. 715. ASSISTANCE FOR LAW ENFORCEMENT AGENCIES**
2 **BY INTELLIGENCE COMMUNITY.**

3 (a) IN GENERAL.—Title I of the National Security
4 Act of 1947 (50 U.S.C. 402 et seq.) is amended by insert-
5 ing after section 105 the following new section:

6 "ASSISTANCE TO UNITED STATES LAW ENFORCEMENT
7 AGENCIES

8 "SEC. 105A. (a) AUTHORITY TO PROVIDE ASSIST-
9 ANCE.—~~Notwithstanding any other provision of law~~ *Sub-*
10 *ject to subsection (b)*, elements of the intelligence commu-
11 nity may, upon the request of a United States law enforce-
12 ment agency, collect information outside the United States
13 about individuals who are not United States persons. Such
14 elements may collect such information notwithstanding
15 that the law enforcement agency intends to use the infor-
16 mation collected for purposes of a law enforcement inves-
17 tigation or counterintelligence investigation.

18 *"(b) LIMITATION ON ASSISTANCE BY ELEMENTS OF*
19 *DEPARTMENT OF DEFENSE.—(1) With respect to elements*
20 *within the Department of Defense, the authority in sub-*
21 *section (a) applies only to the National Security Agency,*
22 *the National Reconnaissance Office, and the National Im-*
23 *agery and Mapping Agency.*

24 *"(2) Assistance provided under this section by elements*
25 *of the Department of Defense may not include the direct*

1 *participation of a member of the Army, Navy, Air Force,*
2 *or Marine Corps in an arrest or similar activity.*
3 *"(3) Assistance may not be provided under this section*
4 *by an element of the Department of Defense if the provision*
5 *of such assistance will adversely affect the military pre-*
6 *paredness of the United States.*
7 *"(4) The Secretary of Defense shall prescribe regula-*
8 *tions governing the exercise of authority under this section*
9 *by elements of the Department of Defense, including regula-*
10 *tions relating to the protection of sources and methods in*
11 *the exercise of such authority.*
12 "~~(b)~~ *(c)* DEFINITIONS.—For purposes of subsection
13 (a):
14 "(1) The term 'United States law enforcement
15 agency' means any department or agency of the
16 Federal Government that the Attorney General des-
17 ignates as law enforcement agency for purposes of
18 this section.
19 "(2) The term 'United States person' means
20 the following:
21 "(A) A United States citizen.
22 "(B) An alien known by the intelligence
23 agency concerned to be a permanent resident
24 alien.

"(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

"(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 105 the following new item:

"Sec. 105A. Assistance to United States law enforcement agencies.".

SEC. 716. APPOINTMENT AND EVALUATION OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is amended to read as follows:

"APPOINTMENT AND EVALUATION OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

"SEC. 106. (a) CONCURRENCE OF DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the Director of Central Intelligence before ~~appointing an individual to fill the vacancy.~~ *recommending to the President an individual for ap-*

1 *pointment to the position. If the Director does not concur*
2 *in the recommendation, the Secretary may make the rec-*
3 *ommendation to the President without the Director's con-*
4 *currence, but shall include in the recommendation a state-*
5 *ment that the Director does not concur in the recommenda-*
6 *tion.*

7 "(2) Paragraph (1) applies to the following positions:

8 "(A) The Director of the National Security
9 Agency.

10 "(B) The Director of the National Reconnais-
11 sance Office.

12 "(b) CONSULTATION WITH DCI IN CERTAIN AP-
13 POINTMENTS.—(1) In the event of a vacancy in a position
14 referred to in paragraph (2), the head of the department
15 or agency having jurisdiction over the position shall con-
16 sult with the Director of Central Intelligence before ap-
17 pointing an individual to fill the vacancy or recommending
18 to the President an individual to be nominated to fill the
19 vacancy.

20 "(2) Paragraph (1) applies to the following positions:

21 "(A) The Director of the Defense Intelligence
22 Agency.

23 "(B) The Assistant Secretary of State for Intel-
24 ligence and Research.

"(C) The Director of the Office of Nonproliferation and National Security of the Department of Energy.

"(D) The Assistant Director, National Security Division of the Federal Bureau of ~~Investigation.~~ *Investigation.*".

~~"(c) PERFORMANCE EVALUATIONS.—The Director of Central Intelligence shall provide annually to the Secretary of Defense an evaluation of the performance of the individuals holding the positions referred to in subparagraphs (A) and (B) of subsection (a)(2), and of the individual holding the position of Director of the National Imagery and Mapping Agency, in fulfilling their respective responsibilities with regard to the National Foreign Intelligence Program.".~~

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by striking the item relating to section 106 and inserting in lieu thereof the following new item:

"Sec. 106. Appointment and evaluation of officials responsible for intelligence-related activities.".

~~**SEC. 717. INTELLIGENCE COMMUNITY SENIOR EXECUTIVE SERVICE.**~~

~~(a) IN GENERAL.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following:~~

1 ~~"INTELLIGENCE COMMUNITY SENIOR EXECUTIVE~~
2 ~~SERVICE~~
3 ~~"SEC. 110. (a) ESTABLISHMENT.—(1) The Director~~
4 ~~of Central Intelligence shall by regulation establish a per-~~
5 ~~sonnel system for senior civilian personnel within the intel-~~
6 ~~ligence community to be known as the Intelligence Com-~~
7 ~~munity Senior Executive Service.~~
8 ~~"(2) The Intelligence Community Senior Executive~~
9 ~~Service shall include personnel within the following agen-~~
10 ~~cies:~~
11 ~~"(A) The Central Intelligence Agency.~~
12 ~~"(B) The National Security Agency.~~
13 ~~"(C) The Defense Intelligence Agency.~~
14 ~~"(D) The National Imagery and Mapping~~
15 ~~Agency.~~
16 ~~"(E) The National Reconnaissance Office.~~
17 ~~"(F) Any other office of the Department of De-~~
18 ~~fense the civilian employees of which are subject to~~
19 ~~section 1590 of title 10, United States Code, as of~~
20 ~~the effective date of the regulations prescribed under~~
21 ~~this section.~~
22 ~~"(3) The Director of Central Intelligence shall pre-~~
23 ~~scribe the regulations required under this section in con-~~
24 ~~sultation with the Department of Defense.~~

1 "(b) REQUIREMENTS.—The regulations prescribed
2 under this section shall, to the extent not inconsistent with
3 the authorities of the Director of Central Intelligence—
4 "(1) meet the requirements set forth in section
5 3131 of title 5, United States Code, for the Senior
6 Executive Service;
7 "(2) provide rates of pay for the Intelligence
8 Community Senior Executive Service that are not in
9 excess of the maximum rate or less than the mini-
10 mum rate of basic pay established for the Senior Ex-
11 ecutive Service under section 5382 of title 5, United
12 States Code, and that are adjusted at the same time
13 and to the same extent as rates of basic pay for the
14 Senior Executive Service are adjusted;
15 "(3) provide a performance appraisal system for
16 the Intelligence Community Senior Executive Service
17 that conforms to the provisions of subchapter II of
18 chapter 43 of title 5, United States Code;
19 "(4) provide for—
20 "(A) removal or suspension from the Intel-
21 ligence Community Senior Executive Service;
22 "(B) reduction-in-force procedures;
23 "(C) procedures in accordance with which
24 any furlough affecting the Intelligence Commu-

1 ~~nity Senior Executive Service shall be carried~~
2 ~~out;~~
3 ~~"(D) procedures setting forth due process~~
4 ~~rights to which members of the Intelligence~~
5 ~~Community Senior Executive Service are enti-~~
6 ~~tled in cases of removal or suspension; and~~
7 ~~"(E) procedures for periodic recertifi-~~
8 ~~cation;~~
9 ~~"(5) permit the payment of performance awards~~
10 ~~to members of the Intelligence Community Senior~~
11 ~~Executive Service; and~~
12 ~~"(6) provide that members of the Intelligence~~
13 ~~Community Senior Executive Service may be grant-~~
14 ~~ed sabbatical leaves.~~
15 ~~"(c) LIMITATIONS.—(1) Except as provided in sub-~~
16 ~~section (b), the Director of Central Intelligence—~~
17 ~~"(A) may make applicable to the Intelligence~~
18 ~~Community Senior Executive Service any of the pro-~~
19 ~~visions of title 5, United States Code, applicable to~~
20 ~~applicants for or members of the Senior Executive~~
21 ~~Service; and~~
22 ~~"(B) shall delegate to the heads of the agencies~~
23 ~~referred to in subparagraphs (B) through (E) of~~
24 ~~subsection (a)(2) the authority to appoint, promote,~~
25 ~~and assign individuals to Intelligence Community~~

~~Senior Executive Service positions within their respective agencies without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, provided that such actions shall be subject to the approval of the Director of Central Intelligence in accordance with the regulations prescribed under this section.~~

~~"(2) Members of the Intelligence Community Senior Executive Service shall be subject to the limitations of section 5307 of title 5, United States Code.~~

~~"(3) Notwithstanding any other provision of title 5, United States Code, any individual who is a member of the Senior Executive Service or an equivalent personnel system at the Central Intelligence Agency or at an agency referred to in subparagraphs (B) through (E) of subsection (a)(2) at the time of the effective date of the regulations prescribed under this section shall be a member of the Intelligence Community Senior Executive Service.~~

~~"(4) Upon the establishment of the Intelligence Community Senior Executive Service under this section, no individual may be selected for membership in the service unless such individual has served at least one assignment outside his or her employing agency. An assignment to the Office of the Director of Central Intelligence shall be~~

1 ~~treated as an assignment outside an individual's employ-~~
2 ~~ing agency (including an individual employed by the~~
3 ~~Central Intelligence Agency) for purposes of this subpara-~~
4 ~~graph.~~

5 ~~"(d) AWARD OF RANKS TO MEMBERS OF SERVICE.—~~
6 ~~The President, based upon the recommendations of the~~
7 ~~Director of Central Intelligence, may award ranks to mem-~~
8 ~~bers of the Intelligence Community Senior Executive Serv-~~
9 ~~ice in a manner consistent with section 4507 of title 5,~~
10 ~~United States Code.~~

11 ~~"(e) DETAIL AND ASSIGNMENT OF MEMBERS.—(1)~~
12 ~~Notwithstanding any other provision of law, the Director~~
13 ~~of Central Intelligence—~~

14 ~~"(A) may, after consultation with the head of~~
15 ~~the agency affected, detail or assign any member of~~
16 ~~the Intelligence Community Senior Executive Service~~
17 ~~to serve in any position in the intelligence commu-~~
18 ~~nity; or~~

19 ~~"(B) may, with the concurrence of the head of~~
20 ~~the agency affected, detail or assign any member of~~
21 ~~the service to serve in any position in another Gov-~~
22 ~~ernment agency or outside the Federal Government.~~

23 ~~"(2) A member of the Intelligence Community Senior~~
24 ~~Executive Service may be detailed or assigned under para-~~

1 graph (1) only if such detail or assignment is for the bene-
2 fit of the intelligence community.
3 "(3) A member shall not by reason of such detail or
4 assignment lose any entitlement or status associated with
5 membership in the Intelligence Community Senior Execu-
6 tive Service.
7 "(f) ANNUAL REPORT.—The Director of Central In-
8 telligence shall submit to Congress each year, at the time
9 the budget is submitted by the President for the next fiscal
10 year, a report on the Intelligence Community Senior Exec-
11 utive Service. The report shall include, in the aggregate
12 and by agency—
13 "(1) the number of Intelligence Community
14 Senior Executive Service positions established as of
15 the end of the preceding fiscal year;
16 "(2) the number of individuals being paid at
17 each rate of basic pay for the Intelligence Commu-
18 nity Senior Executive Service as of the end of the
19 preceding fiscal year;
20 "(3) the number, distribution, and amount of
21 awards paid to members of the Intelligence Commu-
22 nity Senior Executive Service during the preceding
23 fiscal year; and

1 ~~"(4) the number of individuals removed from~~
2 ~~the Intelligence Community Senior Executive Service~~
3 ~~during the preceding fiscal year—~~
4 ~~"(A) for less than fully successful perform-~~
5 ~~ance;~~
6 ~~"(B) due to a reduction in force; or~~
7 ~~"(C) for any other reason.".~~
8 ~~(2) The table of contents in the first section of that~~
9 ~~Act is amended by inserting after the item relating to sec-~~
10 ~~tion 109 the following new item:~~

~~"Sec. 110. Intelligence Community Senior Executive Service.".~~

11 ~~(b) EFFECTIVE DATE OF REGULATIONS.—The regu-~~
12 ~~lations prescribed under section 110(a) of the National Se-~~
13 ~~curity Act of 1947, as added by subsection (a)(1), shall~~
14 ~~take effect one year after the date of the enactment of~~
15 ~~this Act.~~
16 ~~(c) CONFORMING AMENDMENTS.—(1) Section 12 of~~
17 ~~the National Security Agency Act of 1959 (50 U.S.C. 402~~
18 ~~note) is amended—~~
19 ~~(A) by striking out subsections (a) and (c); and~~
20 ~~(B) by striking out "(b)".~~
21 ~~(2)(A) Sections 1601 and 1603 of title 10, United~~
22 ~~States Code, are repealed.~~
23 ~~(B) The table of sections at the beginning of chapter~~
24 ~~83 of such title is amended by striking out the items relat-~~
25 ~~ing to sections 1601 and 1603.~~

~~(3) Section 1590 of title 10, United States Code, is amended—~~

~~(A) in subsection (a)(1)—~~

~~(i) by striking out "; including positions in the Senior Executive Service,"; and~~

~~(ii) by striking out "; except that" and all that follows through the semicolon and inserting in lieu thereof a semicolon;~~

~~(B) in subsection (b)—~~

~~(i) in the third sentence, by striking out "Except in the case" and all that follows through "no civilian" and inserting in lieu thereof "No civilian"; and~~

~~(ii) by striking out the second sentence; and~~

~~(C) by striking out subsections (f) and (g).~~

~~(4) Section 1604(b) of title 10, United States Code, is amended in the second sentence by striking out "Except in the case" and all that follows through "no officer" and inserting in lieu thereof "No officer".~~

~~(5)(A) Section 2108 of title 5, United States Code, is amended in the flush matter following paragraph (3) by striking "the Defense Intelligence Senior Executive Service, the Senior Cryptologic Executive Service" and in-~~

~~serting "the Intelligence Community Senior Executive Service".~~

~~(B) Section 6304(f)(1) of such title is amended—~~

~~(i) by striking subparagraphs (C) and (D) and inserting the following new subparagraph (C):~~

~~"(C) the Intelligence Community Senior Executive Service; or"; and~~

~~(ii) by redesignating subparagraph (E) as subparagraph (D).~~

~~(C) Title 5, United States Code, is further amended by striking "the Defense Intelligence Senior Executive Service or the Senior Cryptologic Executive Service" and inserting "the Intelligence Community Senior Executive Service" in each of the following provisions:~~

~~(i) Section 8336(h)(2).~~

~~(ii) Section 8414(a)(2).~~

~~(6) The amendments made by this subsection shall take effect one year after the date of the enactment of this Act.~~

SEC. ~~718.~~ *717.* REQUIREMENTS FOR SUBMITTAL OF BUDGET INFORMATION ON INTELLIGENCE ACTIVITIES.

(a) SUBMITTAL WITH ANNUAL BUDGET.—Notwithstanding any other provision of law, the President shall include in each budget for a fiscal year submitted under

1 section 1105 of title 31, United States Code, the following
2 information:
3 (1) The aggregate amount appropriated during
4 the current fiscal year on all intelligence and intel-
5 ligence-related activities of the United States Gov-
6 ernment.
7 (2) The aggregate amount requested in such
8 budget for the fiscal year covered by the budget for
9 all intelligence and intelligence-related activities of
10 the United States Government.
11 (b) FORM OF SUBMITTAL.—The President shall sub-
12 mit the information required under subsection (a) in un-
13 classified form.
14 **SEC. ~~719.~~ *718.* TERMS OF SERVICE FOR MEMBERS OF SE-**
15 **LECT COMMITTEE ON INTELLIGENCE OF THE**
16 **SENATE.**
17 (a) INDEFINITE TERMS OF SERVICE.—Section 2(b)
18 of Senate Resolution 400 of the Ninety-fourth Congress
19 (adopted May 19, 1976) is amended by striking the first
20 sentence.
21 (b) LIMIT ON TERM OF CHAIRMAN AND VICE CHAIR-
22 MAN.—Section 2(c) of that resolution is amended by add-
23 ing at the end the following new sentence: "No Member
24 shall serve as chairman or vice chairman of the select com-
25 mittee for more than six years of continuous service.".

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsections (a) and (b) shall take effect with the com-
3 mencement of the One Hundred Fifth Congress.
4 (d) RULES OF THE SENATE.—The amendments
5 made by subsections (a) and (b) are enacted as an exercise
6 of the rulemaking power of the Senate with full recogni-
7 tion of the constitutional right of the Senate to change
8 rules at any time, in the same manner, and to the same
9 extent, as in the case of any other rule of the Senate.

10 **SEC. ~~720.~~ *719.* REPORT ON INTELLIGENCE COMMUNITY POL-**
11 **ICY ON PROTECTING THE NATIONAL INFOR-**
12 **MATION INFRASTRUCTURE AGAINST STRATE-**
13 **GIC ATTACKS.**

14 (a) IN GENERAL.—(1) Not later than 120 days after
15 the date of the enactment of this Act, the Director of
16 Central Intelligence shall submit to Congress a report set-
17 ting forth—
18 (A) the results of a review of the threats to the
19 United States on protecting the national information
20 infrastructure against information warfare and other
21 non-traditional attacks; and
22 (B) the counterintelligence response of the Di-
23 rector.
24 (2) The report shall include a description of the plans
25 of the intelligence community to provide intelligence sup-

1 port for the indications, warning, and assessment func-
2 tions of the intelligence community with respect to infor-
3 mation warfare and other non-traditional attacks by for-
4 eign nations, groups, or individuals against the national
5 information infrastructure.

6 (b) DEFINITIONS.—For purposes of this section:

7 (1) The term "national information infrastruc-
8 ture" includes the information infrastructure of the
9 public or private sector.

10 (2) The term "intelligence community" has the
11 meaning given that term in section 3(4) of the Na-
12 tional Security Act of 1947 (50 U.S.C. 401a(4)).

13 TITLE VIII—NATIONAL IMAGERY
14 AND MAPPING AGENCY

15 ~~**SEC. 801. ESTABLISHMENT.**~~

16 ~~(a) ESTABLISHMENT.—(1) Title I of the National Se-~~
17 ~~curity Act of 1947 (50 U.S.C. 402 et seq.), as amended~~
18 ~~by section 717 of this Act, is further amended by adding~~
19 ~~at the end the following:~~

20 ~~"NATIONAL IMAGERY AND MAPPING AGENCY~~

21 ~~"SEC. 120. (a) ESTABLISHMENT AND DUTIES.—~~

22 ~~"(1) ESTABLISHMENT AND MISSION.—There is~~
23 ~~hereby established a National Imagery and Mapping~~
24 ~~Agency which shall provide timely, relevant, and ac-~~
25 ~~curate imagery, imagery intelligence, and imagery-~~
26 ~~related products and geospatial information in sup-~~

1 port of the national security objectives of the United
2 States. It shall also have a navigational mission as
3 specified in section 2791 of title 10, United States
4 Code.

5 "(2) MISSION OF THE NATIONAL IMAGERY AND
6 MAPPING AGENCY.—The National Imagery and
7 Mapping Agency shall have a national mission to
8 support the imagery requirements of the Depart-
9 ment of State and other non-Department of Defense
10 agencies, as well as a mission to support the combat
11 and other operational requirements of the Depart-
12 ment of Defense. The Director of Central Intel-
13 ligence shall establish requirements and priorities to
14 govern the collection of national intelligence of na-
15 tional importance by the National Imagery and Map-
16 ping Agency.

17 "(3) DIRECTOR.—The President shall appoint
18 the Director of the National Imagery and Mapping
19 Agency. The Secretary of Defense shall, with the
20 concurrence of the Director of Central Intelligence,
21 recommend an individual to the President for such
22 appointment. If the Secretary identifies a commis-
23 sioned officer of the Armed Forces to serve as Direc-
24 tor, he shall recommend that individual to the Presi-
25 dent for appointment to hold the grade of lieutenant

1 general or, in the case of an officer of the Navy, vice
2 admiral, while serving in such position. A commis-
3 sioned officer appointed by the President under this
4 paragraph shall not be counted against the numbers
5 and percentages of commissioned officers of the rank
6 and grade of such officer for the Armed Force of
7 which such officer is a member.
8 "(4) DEPUTY DIRECTOR.—There shall be a
9 Deputy Director to assist the Director. The Deputy
10 may be appointed from among the commissioned of-
11 ficers of the Armed Forces, or from civilian life, but
12 at no time shall both the Director and the Deputy
13 Director positions be simultaneously occupied by
14 commissioned officers of the Armed Forces, whether
15 in active or retired status.
16 "(b) CENTRAL INTELLIGENCE AGENCY SUPPORT
17 FOR NATIONAL IMAGERY AND MAPPING AGENCY.—
18 "(1) ADMINISTRATIVE AND CONTRACTING
19 SERVICES.—Notwithstanding any other provision of
20 law, the Central Intelligence Agency may, under
21 terms and conditions agreed to by the Secretary of
22 Defense and the Director of Central Intelligence,
23 provide administrative and contracting services (in-
24 cluding the services of security police notwithstand-
25 ing any limitations on the jurisdiction of such per-

1 ~~sonnel contained in section 15 of the Central Intel-~~
2 ~~ligence Agency Act of 1949), and detail personnel~~
3 ~~indefinitely to the National Imagery and Mapping~~
4 ~~Agency, in furtherance of the national intelligence~~
5 ~~effort.~~

6 ~~"(2) TRANSFER AND ACCEPTANCE.—The Na-~~
7 ~~tional Imagery and Mapping Agency will transfer~~
8 ~~funds to the Central Intelligence Agency for the pur-~~
9 ~~poses of producing imagery and imagery-related~~
10 ~~products of national importance, and the Central In-~~
11 ~~telligence Agency may accept a transfer of funds~~
12 ~~from the National Imagery and Mapping Agency,~~
13 ~~and the Central Intelligence Agency may expend~~
14 ~~such funds pursuant to the Central Intelligence~~
15 ~~Agency Act of 1949 to carry out the purposes of~~
16 ~~paragraph (1).~~

17 ~~"(c) FUNDS FOR FOREIGN IMAGERY INTELLIGENCE~~
18 ~~AND GEOSPATIAL INFORMATION SUPPORT.—The Director~~
19 ~~of the National Imagery and Mapping Agency may use~~
20 ~~appropriated funds available to the National Imagery and~~
21 ~~Mapping Agency to provide foreign countries imagery in-~~
22 ~~telligence and geospatial information support, except that~~
23 ~~such arrangements shall be coordinated with the Director~~
24 ~~of the Central Intelligence when they involve imagery in-~~

1 telligence or intelligence products, or any support to an
2 intelligence or security service of a foreign country.
3 "(d) FUNDS FOR CIVIL APPLICATIONS.—The Direc-
4 tor of the National Imagery and Mapping Agency may use
5 appropriated funds available to the National Imagery and
6 Mapping Agency to support and encourage civilian use of
7 imagery intelligence and geospatial information support
8 provided by the National Imagery and Mapping Agency.
9 "(e) DEFINITIONS.—In this section:
10 "(1) The term 'geospatial information' means
11 information that identifies the geographic location
12 and characteristics of natural or constructed fea-
13 tures and boundaries on the earth, including statis-
14 tical data, information derived from, among other
15 things, remote sensing, mapping, and surveying
16 technologies, and, for purposes of this section, the
17 term includes mapping, charting and geodetic data,
18 including geodetic products as that term is used in
19 chapter 167 of title 10, United States Code.
20 "(2) The term 'imagery' means a likeness or
21 presentation of any natural or man-made feature or
22 related object or activities and the positional data
23 acquired at the same time the likeness or represen-
24 tation was acquired (including products produced by
25 space-based national intelligence reconnaissance sys-

1 ~~tems), in accordance with Executive Order No.~~
2 ~~12591, as well as likenesses or presentations pro-~~
3 ~~duced by satellites, airborne platforms, unmanned~~
4 ~~aerial vehicles, or other similar means (except that~~
5 ~~handheld or clandestine photography taken by or on~~
6 ~~behalf of human intelligence collection organizations~~
7 ~~is excluded)).~~
8 ~~"(3) The term 'imagery intelligence' means the~~
9 ~~technical, geographic, and intelligence information~~
10 ~~derived through the interpretation or analysis of im-~~
11 ~~agery and collateral materials.".~~
12 ~~(2) The table of contents in the first section of the~~
13 ~~National Security Act of 1947, as so amended, is further~~
14 ~~amended by inserting after the item relating to section~~
15 ~~110 the following new item:~~

~~"Sec. 120. National Imagery and Mapping Agency.".~~

16 ~~**SEC. 802. EFFECTIVE DATE.**~~
17 ~~The amendments made by this title shall take effect~~
18 ~~on the later of—~~
19 ~~(1) the date of the enactment of an Act appro-~~
20 ~~priating funds for the National Imagery and Map-~~
21 ~~ping Agency for fiscal year 1997, or~~
22 ~~(2) October 1, 1996.~~

1 ***SEC. 801. NATIONAL MISSION AND COLLECTION TASKING***
2 ***AUTHORITY FOR THE NATIONAL IMAGERY***
3 ***AND MAPPING AGENCY.***

4 *(a) IN GENERAL.—(1) Title I of the National Security*
5 *Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding*
6 *at the end the following:*

7 *"NATIONAL MISSION AND COLLECTION TASKING AUTHORITY*
8 *FOR THE NATIONAL IMAGERY AND MAPPING AGENCY*

9 *"SEC. 110. (a) NATIONAL MISSION.—The National*
10 *Imagery and Mapping Agency shall have a national mis-*
11 *sion to support the imagery requirements of the Department*
12 *of State, the Department of Defense, and other departments*
13 *and agencies of the Federal Government. The Director of*
14 *Central Intelligence shall establish requirements and prior-*
15 *ities to govern the collection of national intelligence by the*
16 *National Imagery and Mapping Agency. The Secretary of*
17 *Defense and the Director of Central Intelligence, in con-*
18 *sultation with the Chairman of the Joint Chiefs of Staff,*
19 *shall jointly identify deficiencies in the capabilities of the*
20 *National Imagery and Mapping Agency to accomplish as-*
21 *signed national missions and shall jointly develop policies*
22 *and programs to review and correct such deficiencies.*

23 *"(b) COLLECTION AND TASKING AUTHORITY.—Except*
24 *as otherwise agreed by the Director of Central Intelligence*
25 *and the Secretary of Defense pursuant to direction provided*
26 *by the President, the Director of Central Intelligence has*

1 *the authority to approve collection requirements, determine*
2 *collection priorities, and resolve conflicts in collection prior-*
3 *ities levied on national imagery collection assets.".*
4 *(2) The table of contents in the first section of that*
5 *Act is amended by inserting after the item relating to sec-*
6 *tion 109 the following new item:*

"Sec. 110. National mission and collection tasking authority for the National Imagery and Mapping Agency.".

7 *(b) EFFECTIVE DATE.—The amendments made by sub-*
8 *section (a) shall take effect on the later of—*
9 *(1) the date of the enactment of the National De-*
10 *fense Authorization Act for Fiscal Year 1997; or*
11 *(2) the date of the enactment of this Act.*

○

II

108TH CONGRESS
2D SESSION

S. 2811

To establish the Department of Intelligence, to modify and enhance authorities and responsibilities relating to the administration of intelligence and the intelligence community, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2004

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To establish the Department of Intelligence, to modify and enhance authorities and responsibilities relating to the administration of intelligence and the intelligence community, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Reformation Act of 2004" or "9–11 Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings; purposes.
Sec. 3. Definitions.

TITLE I—DEPARTMENT OF INTELLIGENCE

Subtitle A—Executive Department

Sec. 101. Executive department.
Sec. 102. Director of Intelligence.

Subtitle B—Office of the Director of Intelligence

Sec. 111. Office of the Director of Intelligence.
Sec. 112. Deputy Director of Intelligence.
Sec. 113. National Counterterrorism Center.
Sec. 114. Other national intelligence centers.
Sec. 115. Assistant Director of Intelligence for Research, Development, and Procurement.
Sec. 116. Assistant Director of Intelligence for Civil Liberties and Privacy.
Sec. 117. National Intelligence Council.
Sec. 118. General Counsel of the Department of Intelligence.
Sec. 119. Inspector General of the Department of Intelligence.
Sec. 120. Intelligence Comptroller.
Sec. 121. Chief Information Officer of the Department of Intelligence.
Sec. 122. Chief Financial Officer of the Department of Intelligence.
Sec. 123. Military status of Director of Intelligence and Deputy Director of Intelligence.

Subtitle C—Mission, Responsibilities, and Authorities

Sec. 131. Provision of national intelligence.
Sec. 132. Responsibilities of Director of Intelligence.
Sec. 133. Authorities of Director of Intelligence.

TITLE II—ELEMENTS OF DEPARTMENT OF INTELLIGENCE

Subtitle A—Central Intelligence Agency

Sec. 201. Central Intelligence Agency.
Sec. 202. Mission; power and authorities.

Subtitle B—National Security Agency

Sec. 211. National Security Agency.
Sec. 212. Mission; power and authorities.

Subtitle C—National Geospatial-Intelligence Agency

Sec. 221. National Geospatial-Intelligence Agency.
Sec. 222. Mission; power and authorities.

Subtitle D—National Reconnaissance Office

Sec. 231. National Reconnaissance Office.
Sec. 232. Mission; power and authorities.

Subtitle E—Other Offices

Sec. 241. Intelligence, counterterrorism, and counterintelligence offices.
Sec. 242. Office of Civil Liberties and Privacy.

TITLE III—OTHER INTELLIGENCE MATTERS

Subtitle A—Modifications and Improvements of Intelligence Authorities

Sec. 301. Sense of Congress on availability to public of certain intelligence funding information.
Sec. 302. Coordination between Director of Intelligence and Secretary of Defense in performance of specific functions pertaining to National Foreign Intelligence Program.
Sec. 303. Role of Director of Intelligence in certain recommendations to the President on appointments to intelligence community.
Sec. 304. Collection tasking authority.
Sec. 305. Oversight of combat support agencies of the intelligence community.
Sec. 306. Improvement of intelligence capabilities of the Federal Bureau of Investigation.

Subtitle B—Restatement of Authorities on National Geospatial-Intelligence Agency

PART I—MISSIONS

Sec. 311. Missions.
Sec. 312. Support for foreign countries on imagery intelligence and geospatial information.

PART II—MAPS, CHARTS, AND GEODETIC PRODUCTS

Sec. 321. Maps, charts, and books.
Sec. 322. Pilot charts.
Sec. 323. Sale of maps, charts, and navigational publications.
Sec. 324. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations.
Sec. 325. Public availability of maps, charts, and geodetic data.
Sec. 326. Civil actions barred.
Sec. 327. Treatment of certain operational files.

PART III—PERSONNEL MANAGEMENT

Sec. 331. Management rights.
Sec. 332. Financial assistance to certain employees in acquisition of critical skills.

PART IV—DEFINITIONS

Sec. 341. Definitions.

TITLE IV—TRANSITION MATTERS

Subtitle A—Modification of Authorities on Elements of Intelligence Community

Sec. 401. Conforming modification of authorities on Central Intelligence Agency.
Sec. 402. Other conforming modifications of law relating to missions, responsibilities, and authorities of Director of Intelligence and Director of Central Intelligence Agency.
Sec. 403. Conforming modification of authorities on certain Central Intelligence Agency officers.
Sec. 404. Conforming modification of authorities on National Security Agency.
Sec. 405. Inclusion of Department of Intelligence in intelligence community.

Sec. 406. Repeal of superseded authorities on National Geospatial-Intelligence Agency.
Sec. 407. Other conforming amendment.

Subtitle B—Other Transition Matters Relating to Intelligence

Sec. 411. Preservation of intelligence capabilities.
Sec. 412. General references to intelligence officials.

Subtitle C—Transfer of Elements

Sec. 421. Transfer of Terrorist Threat Integration Center.
Sec. 422. Transfer of Community Management Staff.
Sec. 423. Transfer of certain elements of Federal Bureau of Investigation.

Subtitle D—Transfer of Functions

Sec. 431. Transfer of functions.
Sec. 432. Transitional authorities.
Sec. 433. Savings provisions.

Subtitle E—Other Matters

Sec. 441. Treatment of Department of Intelligence as executive department.
Sec. 442. Executive Schedule matters.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States receives the best intelligence available.

(2) The National Security Act of 1947 (50 U.S.C. 401 et seq.) created a formal structure under an official who would lead the Central Intelligence Agency and, in a separate role as Director of Cen-

1 tral Intelligence, the intelligence community of the
2 United States Government, and serve as the prin-
3 cipal adviser to the President on intelligence.

4 (3) Executive Order 12333 (December 4, 1981;
5 46 F.R. 59941) states that "the United States intel-
6 ligence effort shall provide the President and the
7 National Security Council with the necessary infor-
8 mation on which to base decisions concerning the
9 conduct and development of foreign, defense and
10 economic policy and the protection of United States
11 national interests from foreign security threats. All
12 departments and agencies shall cooperate fully to
13 fulfill this goal".

14 (4) The intelligence community of the United
15 States is supposed to function as a single corporate
16 enterprise, supporting those who manage the stra-
17 tegic interests of the United States, whether polit-
18 ical, economic, or military.

19 (5) The United States has suffered through an
20 escalating cycle of intelligence failures, especially
21 since the end of the Cold War, while witnessing the
22 onset of new and emerging global threats such as
23 terrorism and proliferation of weapons of mass de-
24 struction.

(6) The Director of Central Intelligence has no genuine influence over elements of the intelligence community other than the Central Intelligence Agency because, among other things, the Director controls only a small portion of the funds, personnel, and related assets of the intelligence community. There is no structural mechanism to enforce the mandate of Executive Order 12333 that all elements of the intelligence community must fully cooperate with one another.

(7) As such, the existing intelligence structure is dysfunctional, and not organized to effectively respond to new and emerging threats. In fact, the intelligence apparatus of the United States has for decades grown more cumbersome and unaccountable and may now properly be characterized as a Cold War model in an era of terrorism.

(8) The existing dysfunctional structure of the intelligence community has severe consequences, as the Director of Central Intelligence—or those ostensibly under the Director's control—missed, ignored, or failed to connect numerous warnings which could have averted the terrorist plot of September 11, 2001. Similar errors may have caused the Director to mislead the President on the nature of weapons

of mass destruction threats as the Administration weighed military action against Iraq.

(9) Despite the best efforts of the Administration of President George W. Bush, Congress, and the American people, much of the dysfunction in the intelligence community—including the lack of common terrorist watchlists and the inability to detect and apprehend terrorists traveling in the United States—has not been remedied in the three years since the terrorist attacks of September 11, 2001.

(10) The final report of the National Commission on Terrorist Attacks Upon the United States, while making certain recommendations on the restructuring of the intelligence community to meet new and emerging terrorist threats, leaves much discretion to Congress in determining the scope and nature of the restructuring of the intelligence community.

(11) President George W. Bush on August 2, 2004, specifically requested that Congress create a national intelligence director in a "free-standing entity similar to a cabinet agency or an agency" and "who will have a great deal of budget authority" and will have "the same relationship to the White House and the President that the Secretary of Defense

would have, the Secretary of the Department of Homeland Security, the Attorney General, [or] the Secretary of the Treasury would have." The Executive Orders issued on August 27, 2004, while properly focusing on strengthened management of the intelligence community, strengthening information sharing, and the creation of a National Counterterrorism Center, also leaves a great deal of discretion to Congress to codify these matters in law and determine the scope and nature of the restructuring of the intelligence community.

(12) To effectively counter the grave threat of transnational terrorism, Secretary of Defense Donald Rumsfeld recently conceded, as he must, that "strong, entrenched agencies must be willing to give up some of their turf and authority in exchange for a stronger, faster, more efficient, government-wide effort".

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for fundamental reform of the intelligence community of the United States Government involving a robust Department of Intelligence and Director of Intelligence with control over the

1 budgets, personnel, and related assets of the intel-
2 ligence community.
3 (2) To compel the elements of the intelligence
4 community to work together to accomplish their
5 common mission, much as the Goldwater-Nichols
6 Department of Defense Reorganization Act of 1986
7 (Public Law 99–433) fostered "jointness" among
8 the various Armed Forces, in conformance with the
9 requirements of law and Executive orders.
10 (3) To facilitate the provision to the President
11 and the National Security Council of the necessary
12 information on which to base decisions concerning
13 the development and conduct of foreign policy, de-
14 fense policy, and economic policy, and the protection
15 of United States national interests from security
16 threats, including threats related to transnational
17 terrorism.
18 (4) To ensure that all means, consistent with
19 United States laws, Executive orders, and regula-
20 tions and with full consideration of the rights of
21 United States persons, are used to develop intel-
22 ligence for the President and the National Security
23 Council.
24 (5) To create a structure for the intelligence
25 community that will better serve the President in his

duty under the Constitution of the United States to protect the security of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Intelligence.

(2) DIRECTOR.—The term "Director" means the Director of Intelligence.

(3) INTELLIGENCE.—The term "intelligence" includes foreign intelligence and counterintelligence.

(4) FOREIGN INTELLIGENCE.—The term "foreign intelligence" means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(5) COUNTERINTELLIGENCE.—The term "counterintelligence" means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(6) INTELLIGENCE COMMUNITY.—The term "intelligence community" includes—

1 (A) the Department, which shall include
2 the Office of the Director of Intelligence and
3 such other offices as the Director may des-
4 ignate or are prescribed by law;
5 (B) the Central Intelligence Agency;
6 (C) the National Security Agency;
7 (D) the Defense Intelligence Agency;
8 (E) the National Geospatial-Intelligence
9 Agency;
10 (F) the National Reconnaissance Office;
11 (G) other offices within the Department of
12 Defense for the collection of specialized national
13 intelligence through reconnaissance programs;
14 (H) the intelligence elements of the Army,
15 Navy, Air Force, and Marine Corps, the Fed-
16 eral Bureau of Investigation, the Department of
17 the Treasury, the Department of Energy, and
18 the Coast Guard;
19 (I) the Bureau of Intelligence and Re-
20 search of the Department of State;
21 (J) the elements of the Department of
22 Homeland Security concerned with the analyses
23 of foreign intelligence information; and
24 (K) such other elements of any other de-
25 partment or agency of the United States as

1 may be designated by the President, or des-
2 ignated jointly by the Director and the head of
3 the department or agency concerned, as an ele-
4 ment of the intelligence community.

5 (7) NATIONAL INTELLIGENCE; INTELLIGENCE
6 RELATED TO THE NATIONAL SECURITY.—The terms
7 "national intelligence" and "intelligence related to
8 the national security"—

9 (A) refer to intelligence which pertains to
10 the interests of more than one department or
11 agency of the Government; and

12 (B) do not refer to counterintelligence or
13 law enforcement activities conducted by the
14 Federal Bureau of Investigation except to the
15 extent provided for in procedures agreed to by
16 the Director and the Attorney General, or oth-
17 erwise as expressly provided for in this Act or
18 otherwise provided by law.

19 (8) NATIONAL FOREIGN INTELLIGENCE PRO-
20 GRAM.—The term "National Foreign Intelligence
21 Program" refers to all programs, projects, and ac-
22 tivities of the intelligence community, as well as any
23 other programs of the intelligence community des-
24 ignated jointly by the Director and the head of a de-
25 partment or agency of the United States Govern-

1 ment or by the President. Such term does not in-
2 clude programs, projects, or activities of the military
3 departments to acquire intelligence solely for the
4 planning and conduct of tactical military operations
5 by United States Armed Forces.

6 (9) CONGRESSIONAL INTELLIGENCE COMMIT-
7 TEES.—The term "congressional intelligence com-
8 mittees" means—

9 (A) the Select Committee on Intelligence of
10 the Senate; and

11 (B) the Permanent Select Committee on
12 Intelligence of the House of Representatives.

13 (10) TERRORISM INFORMATION.—The term
14 "terrorism information" means any information,
15 whether collected, produced, or distributed by intel-
16 ligence, law enforcement, military, homeland secu-
17 rity, or other United States Government activities,
18 relating to—

19 (A) the existence, organization, capabili-
20 ties, plans, intentions, vulnerabilities, means of
21 finance or material support, or activities of for-
22 eign or international terrorist groups or individ-
23 uals, or of domestic groups or individuals in-
24 volved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to other nations or the persons or interests of other nations;

(C) communications of or by such groups or individuals; or

(D) groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

TITLE I—DEPARTMENT OF INTELLIGENCE

Subtitle A—Executive Department

SEC. 101. EXECUTIVE DEPARTMENT.

(a) EXECUTIVE DEPARTMENT.—The Department of Intelligence is an executive department of the United States.

(b) COMPOSITION.—The Department is composed of the following:

(1) The Office of the Director of Intelligence.

(2) The elements specified in title II.

(3) Such other offices, agencies, and activities as may be established by law or by the President.

1 (c) SEAL.—The Director shall have a seal for the De-
2 partment. The design of the seal is subject to approval
3 by the President. Judicial notice shall be taken of the seal.

4 **SEC. 102. DIRECTOR OF INTELLIGENCE.**

5 (a) DIRECTOR OF INTELLIGENCE.—There is a Direc-
6 tor of Intelligence, who is the head of the Department of
7 Intelligence, appointed by the President, by and with the
8 advice and consent of the Senate.

9 (b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any
10 individual nominated for appointment as Director shall
11 have extensive national security expertise.

12 (c) TERM OF OFFICE.—(1) The term of service of
13 the Director shall be 10 years.

14 (2) Paragraph (1) shall apply with respect to any in-
15 dividual appointed as Director after the date of the enact-
16 ment of this Act.

17 (3) If the individual serving as the Director of Cen-
18 tral Intelligence on the date of the enactment of this Act
19 is the first person appointed as Director of Intelligence
20 under this section, the date of appointment of such indi-
21 vidual as Director of Intelligence shall be treated as the
22 date of the commencement of the term of service of the
23 individual as Director of Intelligence for purposes of this
24 subsection.

1 (d) DUTIES AND RESPONSIBILITIES.—The Director
2 shall—
3 (1) serve as head of the intelligence community
4 in accordance with the provisions of this Act, the
5 National Security Act of 1947 (50 U.S.C. 401 et
6 seq.), and other applicable provisions of law;
7 (2) act as a principal adviser to the President
8 for intelligence related to the national security; and
9 (3) determine the annual budget for intelligence
10 and intelligence-related activities of the United
11 States Government in accordance with section 133.

12 Subtitle B—Office of the Director
13 of Intelligence

14 **SEC. 111. OFFICE OF THE DIRECTOR OF INTELLIGENCE.**

15 (a) OFFICE OF DIRECTOR OF INTELLIGENCE.—
16 There is within the Department an Office of the Director
17 of Intelligence.
18 (b) FUNCTION.—The function of the Office of the Di-
19 rector of Intelligence is to assist the Director in carrying
20 out the duties and responsibilities of the Director under
21 this Act, the National Security Act of 1947 (50 U.S.C.
22 401 et seq.), and other applicable provisions of law and
23 to carry out such other duties as may be prescribed by
24 law.

1 (c) COMPOSITION.—The Office of the Director of In-
2 telligence is composed of the following:
3 (1) The Deputy Director of Intelligence.
4 (2) The National Counterterrorism Center.
5 (3) Other national intelligence centers estab-
6 lished under section 114.
7 (4) The Assistant Director of Intelligence for
8 Research, Development, and Procurement.
9 (5) The Assistant Director of Intelligence for
10 Civil Liberties and Privacy.
11 (6) The National Intelligence Council.
12 (7) The General Counsel of the Department of
13 Intelligence.
14 (8) The Inspector General of the Department of
15 Intelligence.
16 (9) The Intelligence Comptroller.
17 (10) The Chief Information Officer of the De-
18 partment of Intelligence.
19 (11) The Chief Financial Officer of the Depart-
20 ment of Intelligence.
21 (12) Such other offices and officials as may be
22 established by law or the Director may establish or
23 designate in the Office.
24 (d) STAFF.—(1) To assist the Director in fulfilling
25 the responsibilities of the Director as head of the intel-

1 ligence community, the Director shall employ and utilize
2 in the Office of the Director of Intelligence a professional
3 staff having an expertise in matters relating to such re-
4 sponsibilities, and may establish permanent positions and
5 appropriate rates of pay with respect to that staff.

6 (2) The staff of the Office under paragraph (1) shall
7 include the elements of the Community Management Staff
8 that are transferred to the Office under title IV.

9 (3) To the maximum extent practicable, the Director
10 shall utilize existing personnel, resources, and expertise in
11 organizing the staff of the Office under paragraph (1).

12 **SEC. 112. DEPUTY DIRECTOR OF INTELLIGENCE.**

13 (a) DEPUTY DIRECTOR OF INTELLIGENCE.—There is
14 a Deputy Director of Intelligence who shall be appointed
15 by the President, by and with the advice and consent of
16 the Senate.

17 (b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any
18 individual nominated for appointment as Deputy Director
19 of Intelligence shall have extensive national security exper-
20 tise.

21 (c) DUTIES AND RESPONSIBILITIES.—The Deputy
22 Director of Intelligence shall, subject to the direction of
23 the Director, be responsible for assisting the Director in
24 carrying out the responsibilities of the Director, includ-
25 ing—

1 (1) assisting the Director in the development
2 and execution of budgets under section 133, evalu-
3 ating programs, and exercising authority under sec-
4 tion 133(f) with respect to reprogramming and re-
5 allocation of funds and transfers of personnel;
6 (2) assisting the Director in the transition of
7 elements of the intelligence community to the De-
8 partment under this Act;
9 (3) assisting the Director in the development,
10 implementation, and management of a personnel
11 system for intelligence community personnel;
12 (4) collecting data and preparing separate quar-
13 terly reports on the obligation and expenditures of
14 funds from the elements of the intelligence commu-
15 nity under the National Foreign Intelligence Pro-
16 gram;
17 (5) assisting the Director in the establishment
18 of the National Counterterrorism Center and the na-
19 tional intelligence centers;
20 (6) assisting the Director in the management
21 and administration of the staff of the Office of the
22 Director of Intelligence;
23 (7) assisting the Director in performing man-
24 agement functions across the intelligence commu-

1 nity, including the management of personnel and re-
2 sources;
3 (8) assisting the Director in ensuring that the
4 elements of the intelligence community make better
5 use of open source intelligence analysis;
6 (9) assisting the Director in directing the effi-
7 cient and effective tasking of national intelligence
8 collection using technical means and human sources;
9 (10) assisting the Director with the establish-
10 ment of standards, requirements, and priorities for
11 the analysis and production of intelligence by all ele-
12 ments of the intelligence community;
13 (11) assisting the Director in overseeing the
14 collection, analysis, production, and dissemination of
15 intelligence by all elements of the intelligence com-
16 munity;
17 (12) assisting the Director in monitoring the al-
18 location of resources for the collection, analysis, and
19 production of intelligence in order to identify any
20 unnecessary duplication in the collection, analysis
21 and production of intelligence;
22 (13) assisting the Director in directing the com-
23 petitive analysis of analytical products having na-
24 tional importance;

1 (14) assisting the Director with the establish-
2 ment of priorities and requirements for daily tasking
3 of collection, analysis, and dissemination of informa-
4 tion;
5 (15) assisting the Director in conducting daily
6 tasking of collection, analysis, and dissemination of
7 information;
8 (16) assisting the Director in providing advisory
9 guidance on the tasking of collection, analysis, and
10 dissemination of information to elements of the de-
11 partments and agencies of the United States Gov-
12 ernment that collect intelligence and are not within
13 the National Foreign Intelligence Program;
14 (17) assisting the Director with the establish-
15 ment of procedures and mechanisms to provide for
16 real-time automated tasking across multiple intel-
17 ligence disciplines, such as signals intelligence, meas-
18 urement and signature intelligence, human intel-
19 ligence, imagery intelligence, and electronic intel-
20 ligence;
21 (18) assisting the Director in assessing the per-
22 formance of the elements of the intelligence commu-
23 nity with respect to tasking requests and priorities;
24 and

1 (19) making recommendations to the Director
2 regarding the assignment within the Department of
3 officers or employees of the Central Intelligence
4 Agency, the National Security Agency, the National
5 Geospatial-Intelligence Agency, the National Recon-
6 naissance Office, and other elements of the Depart-
7 ment to assist in the tasking of collection, analysis,
8 and dissemination of information to all elements of
9 the intelligence community under the National For-
10 eign Intelligence Program.

11 (d) POWER TO ACT AS DIRECTOR OF INTEL-
12 LIGENCE.—The Deputy Director of Intelligence shall act
13 for, and exercise the powers of, the Director during the
14 Director's absence or disability or during a vacancy in the
15 position of Director of Intelligence.

16 (e) PRECEDENCE IN OFFICE OF DIRECTOR OF IN-
17 TELLIGENCE.—The Deputy Director of Intelligence takes
18 precedence in the Office of the Director of Intelligence im-
19 mediately after the Director.

20 **SEC. 113. NATIONAL COUNTERTERRORISM CENTER.**

21 (a) NATIONAL COUNTERTERRORISM CENTER.—
22 There is a National Counterterrorism Center.

23 (b) MISSIONS.—(1) The missions of the National
24 Counterterrorism Center shall be as follows:

1 (A) To serve as the primary organization within
2 the United States Government for analyzing and in-
3 tegrating all intelligence possessed or acquired by
4 the United States Government pertaining to ter-
5 rorism or counterterrorism (other than purely do-
6 mestic counterterrorism information) and, in fur-
7 therance of such mission—
8 (i) to receive, retain, and disseminate in-
9 formation from any department, agency, or
10 other element of the Federal Government, any
11 State or local government, or any other source
12 to the extent consistent with applicable law; and
13 (ii) to respond to inquiries from any de-
14 partment, agency, or other element of the Fed-
15 eral Government, or any State or local govern-
16 ment agency, that is discharging
17 counterterrorism responsibilities in order to as-
18 sist such department, agency, or element in dis-
19 charging such responsibilities.
20 (B) To conduct strategic planning for oper-
21 ations for counterterrorism activities that integrate
22 all instruments of National power, including diplo-
23 macy, finance, military force, intelligence, homeland
24 security, and law enforcement.

1 (C) Consistent with applicable law, to assign
2 general responsibilities for counterterrorism in sup-
3 port of strategic plans under paragraph (2) to de-
4 partments, agencies, and elements of the United
5 States Government having counterterrorism respon-
6 sibilities, and provide such departments, agencies,
7 and elements with access to intelligence necessary to
8 accomplish the responsibilities so assigned, without
9 undertaking the direction of such operations.
10 (D) To serve as the central and shared infor-
11 mation repository within the United States Govern-
12 ment on terrorism information.
13 (E) To ensure that appropriate departments,
14 agencies, and elements of the United States Govern-
15 ment have access to and receive all-source intel-
16 ligence support necessary to executive their
17 counterterrorism plans or perform alternative, inde-
18 pendent analysis.
19 (F) To unify the strategic intelligence and plan-
20 ning of operations against transnational terrorist
21 threats across the foreign-domestic divide.
22 (G) To foster joint action among the depart-
23 ment, agencies, and elements of the United States
24 Government involved in counterterrorism.

1 (H) To oversee the counterterrorism operations
2 of the United States Government.
3 (I) To ensure that an accountable official has
4 authority to guide the Government-wide
5 counterterrorism efforts of the United States Gov-
6 ernment.
7 (2) A department, agency, or element of the United
8 States Government that objects to the assignment of gen-
9 eral operational authority to such department, agency, or
10 element under paragraph (1)(C) shall notify the National
11 Security Council and the Homeland Security Council
12 under title IX of the Homeland Security Act of 2002 (6
13 U.S.C. 491 et seq.) of such objection.
14 (c) ADMINISTRATOR OF NATIONAL COUNTER-
15 TERRORISM CENTER.—(1) There is an Administrator of
16 the National Counterterrorism Center, who shall be the
17 head of the National Counterterrorism Center, who shall
18 be appointed from civilian life by the President, by and
19 with the advice and consent of the Senate.
20 (2) Any individual nominated for appointment as Ad-
21 ministrator of the National Counterterrorism Center shall
22 have significant expertise in matters relating to the na-
23 tional security of the United States and matters relating
24 to terrorism that threatens the national security of the
25 United States.

1 (d) DUTIES AND RESPONSIBILITIES OF ADMINIS-
2 TRATOR.—Notwithstanding any other provision of law, at
3 the policy direction of the President and the National Se-
4 curity Council, the Administrator of the National
5 Counterterrorism Center shall, through the Director, be
6 responsible for the following insofar as it relates to
7 counterterrorism:
8 (1) Serving as the principal advisor to the
9 President on counterterrorism matters.
10 (2) Directing the efficient and effective tasking
11 of national intelligence collection using technical
12 means and human sources.
13 (3) Establishing standards and priorities relat-
14 ing to the analysis and production of intelligence by
15 the elements of the intelligence community.
16 (4) Directing the tasking of analysis and pro-
17 duction of intelligence by the elements of the intel-
18 ligence community.
19 (5) Directing competitive analysis of analytical
20 products having national importance.
21 (6) Identifying intelligence requirements.
22 (e) AUTHORITIES OF ADMINISTRATOR.—In carrying
23 out the duties and responsibilities specified in subsection
24 (d), the Administrator of the National Counterterrorism
25 Center shall—

1 (1) monitor the implementation of
2 counterterrorism operations and coordinate the up-
3 dating of plans for such operations as needed;
4 (2) oversee interagency task forces on
5 counterterrorism (including task forces of the Cen-
6 tral Intelligence Agency, the Federal Bureau of In-
7 vestigation, and other departments, agencies, and
8 elements of the United States Government), and, as
9 the Administrator determines necessary, incorporate
10 the coordinating activities of such task forces into
11 the Center;
12 (3) incorporate into the Center any interagency
13 planning of operations on counterterrorism that is
14 being conducted by the staff of the National Secu-
15 rity Council as of the date of the enactment of this
16 Act;
17 (4) establish priorities and requirements for,
18 and coordinate the efficient and effective tasking of,
19 national intelligence collection on counterterrorism,
20 whether inside or outside the United States, using
21 technical means and human sources, including the
22 establishment of mechanisms and procedures to pro-
23 vide for automated tasking across multiple intel-
24 ligence disciplines in real time;

1 (5) develop assessments comparing terrorist ca-
2 pabilities and intentions with United States defenses
3 against such threats (commonly referred to as "net-
4 assessments");
5 (6) provide warnings of terrorist threats as di-
6 rected by the President;
7 (7) incorporate, as necessary, the perspectives
8 and needs of State and local counterterrorism offi-
9 cials in implementing the mission of the Center; and
10 (8) access, as considered necessary by the Ad-
11 ministrator for the performance of the functions of
12 the Center, information to which the Administrator
13 is granted access by subsection (i).
14 (f) DEPUTY ADMINISTRATORS OF NATIONAL
15 COUNTERTERRORISM CENTER.—(1) There is in the Na-
16 tional Counterterrorism Center a Deputy Administrator of
17 the National Counterterrorism Center for Intelligence who
18 shall be appointed by the Administrator of the National
19 Counterterrorism Center.
20 (2) There is in the National Counterterrorism Center
21 a Deputy Administrator of the National Counterterrorism
22 Center for Operations who shall be appointed by the Ad-
23 ministrator of the National Counterterrorism Center.
24 (3) The Deputy Administrators shall have the respon-
25 sibilities set forth in subsection (g).

1 (g) DUTIES AND RESPONSIBILITIES OF DEPUTY AD-
2 MINISTRATORS.—(1) The Deputy Administrator of the
3 National Counterterrorism Center for Intelligence shall
4 have responsibilities for matters as follows:
5 (A) Strategic analysis of terrorist threats.
6 (B) The pooling of all-source intelligence
7 (whether domestic or foreign) about transnational
8 terrorist organizations with worldwide reach.
9 (C) The development of assessment comparing
10 terrorist capabilities and intentions with United
11 States defenses against such threats (commonly re-
12 ferred to as "net assessments").
13 (D) The provision of warnings on terrorist
14 threats.
15 (E) The discharge of the tasking of national in-
16 telligence under subsection (d) and (e).
17 (F) The duties of the Terrorist Threat Integra-
18 tion Center (TTIC) transferred to the Department
19 under title IV.
20 (2) The Deputy Administrator of the National
21 Counterterrorism Center for Operations shall have respon-
22 sibilities as follows:
23 (A) Joint planning for the assignment of re-
24 sponsibilities for operations to lead agencies.
25 (B) The tracking of operations so assigned.

1 (C) The overall coordination of operations of
2 the intelligence community.
3 (h) STAFF.—(1) To assist the Administrator of the
4 National Counterterrorism Center in fulfilling the respon-
5 sibilities of the Administrator under this section, the Ad-
6 ministrator shall employ and utilize in the Center a profes-
7 sional staff having an expertise in matters relating to such
8 responsibilities.
9 (2) The head of any element of the intelligence com-
10 munity may, upon the request of the Director, assign or
11 detail to the Center any officer or employee of such ele-
12 ment to assist the Administrator in carrying out the re-
13 sponsibilities of the Administrator under this section.
14 (i) ACCESS TO TERRORISM INFORMATION.—The
15 head of each department, agency, or other element of the
16 United States Government that possesses or acquires ter-
17 rorism information shall—
18 (1) give prompt access to such information to
19 the Administrator of the National Counterterrorism
20 Center, unless otherwise expressly prohibited by law
21 or otherwise directed by the President;
22 (2) cooperate in, and facilitate the production
23 of, reports based on terrorism information with con-
24 tents and formats that permit dissemination of such
25 information in a manner that maximizes the utility

1 of such information in protecting the territory, peo-
2 ple, and interests of the United States; and
3 (3) if such department, agency, or other ele-
4 ment conducts diplomatic, financial, military, home-
5 land security, intelligence, or law enforcement activi-
6 ties relating to counterterrorism, keep the Adminis-
7 trator fully and currently informed of such activities,
8 unless expressly prohibited by law or otherwise di-
9 rected by the President.

10 **SEC. 114. OTHER NATIONAL INTELLIGENCE CENTERS.**

11 (a) NATIONAL INTELLIGENCE CENTERS.—(1) The
12 Director shall establish within the Department one or
13 more centers (to be known as "national intelligence cen-
14 ters") to address intelligence priorities established by the
15 National Security Council.
16 (2) Each national intelligence center shall be assigned
17 an area of intelligence responsibility, whether expressed in
18 terms of a geographic region (including the Middle East),
19 in terms of function (including counterterrorism, prolifera-
20 tion of weapons of mass destruction, and international
21 crime and narcotics), or in other terms.
22 (b) REQUIREMENTS RELATING TO ESTABLISHMENT
23 OF CENTERS.—(1) In establishing a national intelligence
24 center, the Director shall assign lead responsibility for

1 such center to an element of the intelligence community
2 selected by the Director for that purpose.
3 (2) The Director shall determine the structure and
4 size of each national intelligence center.
5 (3) The Director shall notify the congressional intel-
6 ligence committees of the establishment of a national intel-
7 ligence center not later than 60 days before the date of
8 the establishment of the center.
9 (c) MISSION OF CENTERS.—(1) Each national intel-
10 ligence center shall provide joint all-source intelligence
11 analysis and planning of intelligence operations in the area
12 of intelligence responsibility assigned the center by the Di-
13 rector pursuant to intelligence priorities established by the
14 National Security Council.
15 (2) As part of its intelligence analysis mission, a na-
16 tional intelligence center shall—
17 (A) undertake primary responsibility for stra-
18 tegic and tactical intelligence analysis, fusing all-
19 source intelligence, whether foreign or domestic, on
20 the area of intelligence responsibility of the center;
21 (B) develop intelligence net assessments;
22 (C) provide threat warnings to the Director and
23 to appropriate departments, agencies, and elements
24 of the United States Government for further dis-
25 semination at the State and local level; and

1 (D) direct foreign and domestic intelligence col-
2 lection and analysis to address threats and to sup-
3 port implementation of operations.
4 (3) As part of its mission to plan intelligence oper-
5 ations, a national intelligence center shall—
6 (A) develop, based on policy objectives and pri-
7 orities established by the National Security Council,
8 plans for operations for intelligence collection for its
9 area of intelligence responsibility;
10 (B) assign responsibilities for operations for in-
11 telligence collection for its area of intelligence re-
12 sponsibility to the elements of the intelligence com-
13 munity, which operations shall be directed and con-
14 ducted by the elements of the intelligence community
15 concerned; and
16 (C) oversee implementation of such plans and
17 operations, and update such plans, as the adminis-
18 trator of the center considers appropriate.
19 (d) SUPERVISION.—The administrator of each na-
20 tional intelligence center shall report directly to the Direc-
21 tor in order to ensure adequate sharing of intelligence
22 analysis and adequate planning of intelligence operations
23 in the area of intelligence responsibility assigned to such
24 center.

1 (e) STAFF OF CENTERS.—(1) The head of an element
2 of the intelligence community shall, upon the request of
3 the administrator of a national intelligence center and
4 with the approval of the Director, assign or detail to the
5 center any personnel, including intelligence analysts and
6 intelligence operations specialists, of such element as the
7 administrator of the center considers appropriate to carry
8 out the mission of the center.

9 (2) Personnel assigned or detailed to a national intel-
10 ligence center under paragraph (1) shall be under the au-
11 thority, direction, and control of the administrator of the
12 center on all matters for which the center has been as-
13 signed responsibility and for all matters related to the ac-
14 complishment of the mission of the center.

15 (3) Performance evaluations of personnel assigned or
16 detailed to a national intelligence center under this sub-
17 section shall be undertaken by the supervisors of such per-
18 sonnel at the center.

19 (4) The supervisors of the staff of a national center
20 may, with the approval of the Director, reward the staff
21 of the center for meritorious performance by the provision
22 of such performance awards as the Director shall pre-
23 scribe.

24 (5) The administrator of a national intelligence cen-
25 ter may recommend to the head of the element of the intel-

1 ligence community concerned the reassignment to such
2 element of any personnel of such element previously as-
3 signed or detailed to the center.

4 (f) MODIFICATION OR TERMINATION OF CENTERS.—
5 (1) The Director may terminate a national intelligence
6 center if the Director determines that the center is no
7 longer required to meet an intelligence priority established
8 by the National Security Council.

9 (2) The Director may from time to time recommend
10 to the National Security Council a modification of the mis-
11 sion or responsibilities of a national intelligence center,
12 and may, with the approval of the National Security Coun-
13 cil, modify the mission or responsibilities of a national in-
14 telligence center.

15 (g) SUPPORT.—The element of the intelligence com-
16 munity assigned lead responsibility for a national intel-
17 ligence center under subsection (b)(1) shall be responsible
18 for the provision of administrative support for the center,
19 including the provision of funds to the center necessary
20 for the administration of the center, until such time as
21 the center is included in the National Foreign Intelligence
22 Program Budget.

1 **SEC. 115. ASSISTANT DIRECTOR OF INTELLIGENCE FOR RE-**
2 **SEARCH, DEVELOPMENT, AND PROCURE-**
3 **MENT.**

4 (a) ASSISTANT DIRECTOR OF INTELLIGENCE FOR
5 RESEARCH, DEVELOPMENT, AND PROCUREMENT.—There
6 is an Assistant Director of Intelligence for Research, De-
7 velopment, and Procurement who shall be appointed by
8 the Director.

9 (b) DIRECTION.—The Assistant Director of Intel-
10 ligence for Research, Development, and Procurement shall
11 report to the Director regarding the activities of the As-
12 sistant Director.

13 (c) PRINCIPAL RESPONSIBILITIES.—The Assistant
14 Director of Intelligence for Research, Development, and
15 Procurement shall—

16 (1) manage and oversee the research and devel-
17 opment activities of the intelligence community with
18 respect to the intelligence and intelligence-related ac-
19 tivities of the United States Government;

20 (2) ensure that research and development
21 projects are consistent with national intelligence re-
22 quirements;

23 (3) establish priorities among such projects in
24 order to address deficiencies in the collection, anal-
25 ysis, and dissemination of national intelligence;

1 (4) account for funding constraints in program
2 development and acquisition;
3 (5) address system requirements from collection
4 to final dissemination (also known as "end-to-end
5 architecture"); and
6 (6) in consultation with the Director, the Chief
7 Information Officer of the Department of Intel-
8 ligence, and the Intelligence Comptroller, ensure
9 that tactical military intelligence systems, military
10 systems, and national intelligence systems are suffi-
11 ciently interoperable.
12 (e) RESPONSIBILITY FOR PERFORMANCE OF SPE-
13 CIFIC FUNCTION.—In carrying out responsibilities under
14 this section, the Assistant Director of Intelligence for Re-
15 search, Development, and Procurement shall ensure
16 through the National Reconnaissance Office the continued
17 operation of an effective unified organization for the re-
18 search, development, and acquisition of overhead recon-
19 naissance systems necessary to satisfy—
20 (1) the requirements of all elements of the in-
21 telligence community; and
22 (2) the needs of the Department of Defense, in-
23 cluding the Chairman of the Joint Chiefs of Staff
24 and the commanders of the unified and specified
25 commands.

1 **SEC. 116. ASSISTANT DIRECTOR OF INTELLIGENCE FOR**
2 **CIVIL LIBERTIES AND PRIVACY.**

3 (a) ASSISTANT DIRECTOR OF INTELLIGENCE FOR
4 CIVIL LIBERTIES AND PRIVACY.—There is an Assistant
5 Director of Intelligence for Civil Liberties and Privacy who
6 shall be appointed by the Director.

7 (b) DIRECTION.—The Assistant Director of Intel-
8 ligence for Civil Liberties and Privacy shall report to the
9 Director regarding the activities of the Assistant Director.

10 (c) DUTIES AND RESPONSIBILITIES.—The Assistant
11 Director of Intelligence for Civil Liberties and Privacy
12 shall—

13 (1) serve as the head of the Office of Civil Lib-
14 erties and Privacy under section 242; and

15 (2) in that capacity, have the duties and re-
16 sponsibilities specified in that section.

17 **SEC. 117. NATIONAL INTELLIGENCE COUNCIL.**

18 (a) NATIONAL INTELLIGENCE COUNCIL.—There is a
19 National Intelligence Council.

20 (b) COMPOSITION.—(1) The National Intelligence
21 Council shall be composed of substantive experts on mat-
22 ters addressed by the Council who shall be appointed by,
23 report to, and serve at the pleasure of the Director.

24 (2) The Director shall prescribe appropriate security
25 requirements for service on the Council to ensure the pro-
26 tection of intelligence sources and methods.

1 (c) DUTIES AND RESPONSIBILITIES.—(1) The Na-
2 tional Intelligence Council shall—
3 (A) produce national intelligence estimates for
4 the United States Government, including alternative
5 views held by elements of the intelligence commu-
6 nity;
7 (B) evaluate intelligence community-wide collec-
8 tion, analysis, and production of intelligence and the
9 requirements and resources of the collection, anal-
10 ysis, and production of such intelligence; and
11 (C) otherwise assist the Director in carrying
12 out the responsibilities described in section 131.
13 (2)(A) National intelligence estimates produced
14 under paragraph (1)(A) shall—
15 (i) separately state, and distinguish between,
16 the intelligence underlying the estimate and the as-
17 sumptions and judgment of analysts with respect to
18 that intelligence and estimate;
19 (ii) describe the quality and reliability of the in-
20 telligence underlying the estimates; and
21 (iii) present and explain alternative conclusions
22 with respect to the intelligence and estimates.
23 (B) Before publication and distribution of a national
24 intelligence estimate, the estimate shall be certified by

1 both the Director and the Chairman of the Council as ap-
2 proved for publication and distribution.

3 (d) ACCESS TO INTELLIGENCE.—To the extent ap-
4 proved by the President and recommended by the Direc-
5 tor, the National Intelligence Council shall have access to
6 all intelligence related to the national security that is nec-
7 essary for its duties and responsibilities under this section.

8 (e) CONTRACT AUTHORITY.—Subject to the direction
9 and control of the Director, the National Intelligence
10 Council may carry out its duties and responsibilities under
11 this section by contract, including contracts for sub-
12 stantive experts necessary to assist the Council with par-
13 ticular assessments under this section.

14 (f) STAFF.—The Director shall make available to the
15 National Intelligence Council such staff as may be nec-
16 essary to permit the Council to carry out its duties and
17 responsibilities under this section.

18 (g) AVAILABILITY TO POLICYMAKERS.—The Na-
19 tional Intelligence Council shall be readily accessible to
20 policymaking officials of the United States.

21 (h) ASSISTANCE OF INTELLIGENCE COMMUNITY.—
22 The heads of the elements of the intelligence community
23 shall, as appropriate, furnish such support to the National
24 Intelligence Council, including the preparation of intel-
25 ligence analyses, as may be required by the Director.

1 **SEC. 118. GENERAL COUNSEL OF THE DEPARTMENT OF IN-**
2 **TELLIGENCE.**

3 (a) GENERAL COUNSEL.—There is a General Counsel
4 of the Department of Intelligence who shall be appointed
5 from civilian life by the President, by and with the advice
6 and consent of the Senate.

7 (b) PROHIBITION ON DUAL SERVICE AS GENERAL
8 COUNSEL OF ANOTHER AGENCY.—The individual serving
9 in the position of General Counsel of the Department of
10 Intelligence may not, while so serving, also serve as the
11 General Counsel of any other department, agency, or ele-
12 ment of the United States Government.

13 (c) SCOPE OF POSITION.—The General Counsel of
14 the Department of Intelligence is the chief legal officer
15 of the Department.

16 (d) FUNCTIONS.—The General Counsel of the De-
17 partment of Intelligence shall perform such functions as
18 the Director may prescribe.

19 **SEC. 119. INSPECTOR GENERAL OF THE DEPARTMENT OF**
20 **INTELLIGENCE.**

21 (a) INSPECTOR GENERAL.—There is an Inspector
22 General of the Department of Intelligence who shall be
23 appointed as provided in section 3 of the Inspector Gen-
24 eral Act of 1978 (5 U.S.C. App. 3).

25 (b) SUPERVISION AND CONTROL; REMOVAL.—(1)
26 The Inspector General of the Department of Intelligence

1 shall report to and be under the general supervision of
2 the Director.
3 (2) The Inspector General may be removed from of-
4 fice only by the President. The President shall imme-
5 diately communicate in writing to the congressional intel-
6 ligence committees the reasons for the removal of any indi-
7 vidual from the position of Inspector General.
8 (c) DUTIES AND RESPONSIBILITIES.—It shall be the
9 duty and responsibility of the Inspector General of the De-
10 partment of Intelligence—
11 (1) to provide policy direction for, and to plan,
12 conduct, supervise, and coordinate independently,
13 the inspections, investigations, and audits relating to
14 the programs and operations of the Department and
15 the intelligence community to ensure they are con-
16 ducted efficiently and in accordance with applicable
17 law and regulations;
18 (2) to keep the Director fully and currently in-
19 formed concerning violations of law and regulations,
20 violations of civil liberties and privacy, and fraud
21 and other serious problems, abuses, and deficiencies
22 that may occur in such programs and operations,
23 and to report the progress made in implementing
24 corrective action;

1 (3) to take due regard for the protection of in-
2 telligence sources and methods in the preparation of
3 all reports issued by the Inspector General, and, to
4 the extent consistent with the purpose and objective
5 of such reports, take such measures as may be ap-
6 propriate to minimize the disclosure of intelligence
7 sources and methods described in such reports;
8 (4) to prepare semiannual reports as provided
9 in subsection (d); and
10 (5) to perform such other duties specified for
11 inspectors general in the Inspector General Act of
12 1978 as the Director shall prescribe.
13 (d) POWERS AND AUTHORITIES.—(1)(A) The Inspec-
14 tor General of the Department of Intelligence shall have
15 access to any employee or any employee of a contractor
16 of the Department or any other element of the intelligence
17 community whose testimony is needed for the performance
18 of the duties and responsibilities of the Inspector General.
19 (B) The Inspector General shall have direct access
20 to all records, reports, audits, reviews, documents, papers,
21 recommendations, or other materials which relate to the
22 programs and operations with respect to which the Inspec-
23 tor General has responsibilities under this section.
24 (C) The level of classification or compartmentation
25 of information shall not, in and of itself, provide a suffi-

1 cient rationale for denying the Inspector General access
2 to any materials under subparagraph (B).
3 (2) The Inspector General is authorized to receive
4 and investigate complaints or information from any person
5 concerning the existence of an activity constituting a viola-
6 tion of laws, rules, or regulations, or mismanagement,
7 gross waste of funds, abuse of authority, or a substantial
8 and specific danger to the public health and safety. Once
9 such complaint or information has been received from an
10 employee of the Department or any other element of the
11 intelligence community—
12 (A) the Inspector General shall not disclose the
13 identity of the employee without the consent of the
14 employee, unless the Inspector General determines
15 that such disclosure is unavoidable during the course
16 of the investigation or the disclosure is made to an
17 official of the Department of Justice responsible for
18 determining whether a prosecution should be under-
19 taken; and
20 (B) no action constituting a reprisal, or threat
21 of reprisal, for making such complaint may be taken
22 by any employee of the Agency or any other element
23 of the intelligence community in a position to take
24 such actions, unless the complaint was made or the
25 information was disclosed with the knowledge that it

1 was false or with willful disregard for its truth or
2 falsity.
3 (3) The Inspector General shall have authority to ad-
4 minister to or take from any person an oath, affirmation,
5 or affidavit, whenever necessary in the performance of the
6 Inspector General's duties, which oath, affirmation, or af-
7 fidavit when administered or taken by or before an em-
8 ployee of the Office designated by the Inspector General
9 shall have the same force and effect as if administered
10 or taken by or before an officer having a seal.
11 (4) The Inspector General shall have such additional
12 powers and authorities specified for inspectors general in
13 the Inspector General Act of 1978 as the Director shall
14 prescribe.
15 (e) SEMIANNUAL REPORTS.—(1) Not later than April
16 30 and October 31 each year, the Inspector General of
17 the Department of Intelligence shall submit to the Direc-
18 tor a report on the activities of the Inspector General
19 under this section during the six-month period ending
20 March 31 and September 30 of such year, respectively.
21 (2) Each report shall include, for the period covered
22 by such report, the following:
23 (A) The matters specified for semiannual re-
24 ports of inspectors general in section 5 of the In-
25 spector General Act of 1978.

1 (B) An assessment of the effectiveness of all
2 measures in place in the Department for the protec-
3 tion of civil liberties and privacy of United States
4 persons.
5 (3) Not later than 30 days after receipt of a report
6 under paragraph (1), the Director shall transmit to the
7 congressional intelligence committees a complete, un-
8 abridged copy of such report together with such comments
9 on such report as the Director considers appropriate.
10 (f) COOPERATION WITH OTHER INSPECTORS GEN-
11 ERAL OF INTELLIGENCE COMMUNITY.—Each inspector
12 general of an element of the intelligence community shall
13 cooperate fully with the Inspector General of the Depart-
14 ment of Intelligence in the performance of any duty or
15 function by the Inspector General of the Department of
16 Intelligence under this section regarding such element.
17 (g) CONSTRUCTION OF DUTIES REGARDING ELE-
18 MENTS OF INTELLIGENCE COMMUNITY.—The perform-
19 ance by the Inspector General of the Department of Intel-
20 ligence of any duty or function regarding an element of
21 the intelligence community may not be construed to mod-
22 ify or affect the responsibility of any other inspector gen-
23 eral having responsibilities regarding the element of the
24 intelligence community.

1 **SEC. 120. INTELLIGENCE COMPTROLLER.**

2 (a) INTELLIGENCE COMPTROLLER.—There is an In-
3 telligence Comptroller who shall be appointed by the Di-
4 rector.

5 (b) SUPERVISION.—The Intelligence Comptroller
6 shall report directly to the Director.

7 (c) DUTIES.—The Intelligence Comptroller shall—

8 (1) assist the Secretary of Defense in the prep-
9 aration and execution of the budget of the Depart-
10 ment of Defense insofar as such budget relates to
11 the tactical intelligence programs;

12 (2) assist the Deputy Director of Intelligence in
13 the preparation and execution of the budget of the
14 intelligence community under the National Foreign
15 Intelligence Program;

16 (3) provide unfettered access to the Director to
17 financial information under the National Foreign In-
18 telligence Program; and

19 (4) provide information to the Deputy Director
20 of Intelligence necessary for reports under section
21 112(c)(4).

22 (d) STAFF.—The staff of the Intelligence Comptroller
23 shall consist of personnel of the intelligence community
24 who are assigned to the staff by the Director, in consulta-
25 tion with the heads of the other elements of the intel-
26 ligence community.

1 **SEC. 121. CHIEF INFORMATION OFFICER OF THE DEPART-**
2 **MENT OF INTELLIGENCE.**

3 (a) CHIEF INFORMATION OFFICER OF DEPARTMENT
4 OF INTELLIGENCE.—There is a Chief Information Officer
5 of the Department of Intelligence who shall be appointed
6 by the Director.

7 (b) ELIGIBILITY FOR APPOINTMENT.—Any indi-
8 vidual appointed as Chief Information Officer of the De-
9 partment of Intelligence shall have extensive experience in
10 the management, operation, and maintenance of complex
11 information networks, including the use of advanced infor-
12 mation technology applications and products to promote
13 the efficient and secure exchange of information across
14 such networks.

15 (c) DUTIES AND RESPONSIBILITIES.—The Chief In-
16 formation Officer of the Department of Intelligence
17 shall—

18 (1) develop an integrated information tech-
19 nology network that provides for the efficient and
20 secure exchange of intelligence information among
21 the elements of the intelligence community and, as
22 directed by the President, other departments, agen-
23 cies, and elements of the United States Government
24 and of State and local governments;

25 (2) develop an enterprise architecture for the
26 intelligence community and ensure that elements of

1 the intelligence community comply with such archi-
2 tecture;
3 (3) ensure that the elements of the intelligence
4 community have direct and continuous electronic ac-
5 cess to all information (including unevaluated intel-
6 ligence) necessary for appropriately cleared analysts
7 to conduct comprehensive all-source analysis and for
8 appropriately cleared policymakers to perform their
9 duties;
10 (4) review and provide recommendations to the
11 Director on intelligence community budget requests
12 for information technology and national security sys-
13 tems;
14 (5) ensure the interoperability of information
15 technology and national security systems throughout
16 the intelligence community;
17 (6) promulgate and enforce standards on infor-
18 mation technology and national security systems
19 that apply throughout the intelligence community;
20 (7) provide for the elimination of duplicate in-
21 formation technology and national security systems
22 within and between the elements of the intelligence
23 community; and
24 (8) maintain a consolidated inventory of mis-
25 sion critical and mission essential information sys-

1 tems for the intelligence community, identify inter-
2 faces between such systems and other information
3 systems, and develop and maintain contingency
4 plans for responding to a disruption in the operation
5 of any of such systems.

6 **SEC. 122. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT**
7 **OF INTELLIGENCE.**

8 (a) CHIEF FINANCIAL OFFICER OF DEPARTMENT OF
9 INTELLIGENCE.—There is a Chief Financial Officer of the
10 Department of Intelligence who shall be appointed from
11 civilian life by the Director.

12 (b) SUPERVISION.—The Chief Financial Officer of
13 the Department of Intelligence shall report directly to the
14 Director.

15 (c) DUTIES AND RESPONSIBILITIES.—The Chief Fi-
16 nancial Officer of the Department of Intelligence shall, in
17 consultation with the Intelligence Comptroller—

18 (1) assist the Director and the Deputy Director
19 of Intelligence in the preparation and execution of
20 the budget of the elements of the intelligence com-
21 munity under the National Foreign Intelligence Pro-
22 gram;

23 (2) assist the Secretary of Defense in the prep-
24 aration and execution of the budget of the Depart-
25 ment of Defense insofar as such budget relates to

1 the elements of the intelligence community within the
2 Joint Military Intelligence Program and the Tactical
3 Intelligence and Related Activities Program; and
4 (3) provide unfettered access to the Director to
5 financial information under the National Foreign In-
6 telligence Program.
7 (d) STAFF.—The staff of the Chief Financial Officer
8 of the Department of Intelligence shall consist of per-
9 sonnel of the elements of the intelligence community who
10 are assigned to the staff by the Director.

11 **SEC. 123. MILITARY STATUS OF DIRECTOR OF INTEL-**
12 **LIGENCE AND DEPUTY DIRECTOR OF INTEL-**
13 **LIGENCE.**

14 (a) IN GENERAL.—(1) Not more than one of the indi-
15 viduals serving in the positions specified in subsection (b)
16 may be a commissioned officer of the Armed Forces in
17 active status.
18 (2) It is the sense of Congress that at least one of
19 the individuals serving in a position specified in subsection
20 (b) should be a commissioned officer of the Armed Forces,
21 whether in active or retired status.
22 (b) COVERED POSITIONS.—The positions referred to
23 in this subsection are the following:
24 (1) The Director.
25 (2) The Deputy Director of Intelligence.

1 (c) SERVICE OF COMMISSIONED OFFICERS.—(1) A
2 commissioned officer of the Armed Forces, while serving
3 in a position specified in subsection (b)—
4 (A) shall not be subject to supervision or con-
5 trol by the Secretary of Defense or by any officer or
6 employee of the Department of Defense;
7 (B) shall not exercise, by reason of the officer's
8 status as a commissioned officer, any supervision or
9 control with respect to any of the military or civilian
10 personnel of the Department of Defense, except as
11 otherwise authorized by law; and
12 (C) shall not be counted against the numbers
13 and percentages of commissioned officers of the rank
14 and grade of such officer authorized for the military
15 department of that officer.
16 (2) Except as provided in subparagraph (A) or (B)
17 of paragraph (1), the appointment of an officer of the
18 Armed Forces to a position specified in subsection (b)
19 shall not affect the status, position, rank, or grade of such
20 officer in the Armed Forces, or any emolument, perquisite,
21 right, privilege, or benefit incident to or arising out of such
22 status, position, rank, or grade.
23 (3) A commissioned officer of the Armed Forces on
24 active duty who is appointed to a position specified in sub-
25 section (b), while serving in such position and while re-

1 maining on active duty, shall continue to receive military
2 pay and allowances and shall not receive the pay pre-
3 scribed for such position. Funds from which such pay and
4 allowances are paid shall be reimbursed from funds avail-
5 able to the Director.

6 Subtitle C—Mission, 7 Responsibilities, and Authorities

8 **SEC. 131. PROVISION OF NATIONAL INTELLIGENCE.**

9 (a) PROVISION OF NATIONAL INTELLIGENCE.—The
10 Director shall be responsible for providing national intel-
11 ligence—

12 (1) to the President;

13 (2) to the heads of other departments and
14 agencies of the executive branch;

15 (3) to the Chairman of the Joint Chiefs of Staff
16 and senior military commanders; and

17 (4) upon request, to the Senate and House of
18 Representatives and the committees thereof.

19 (b) SENSE OF CONGRESS.—The national intelligence
20 provided under subsection (a) should be timely, objective,
21 independent of political considerations, and based upon all
22 sources available to the intelligence community.

1 **SEC. 132. RESPONSIBILITIES OF DIRECTOR OF INTEL-**
2 **LIGENCE.**

3 (a) IN GENERAL.—The Director shall, in consulta-
4 tion with the heads of relevant entities and taking into
5 consideration the intelligence requirements established by
6 the National Security Council for purposes of national se-
7 curity and foreign policy—

8 (1) direct and manage the tasking of collection,
9 analysis, and dissemination of national intelligence
10 by elements of the intelligence community, including
11 the establishment of requirements and priorities of
12 such tasking;

13 (2) approve collection and analysis require-
14 ments, determine collection and analysis priorities,
15 and resolve conflicts in collection and analysis prior-
16 ities levied on national collection and analysis assets,
17 except as otherwise agreed with the Secretary of De-
18 fense pursuant to the direction of the President;

19 (3) promote and evaluate the utility of national
20 intelligence to consumers within the United States
21 Government;

22 (4) eliminate waste and unnecessary duplication
23 within the intelligence community;

24 (5) establish requirements and priorities for for-
25 eign intelligence information to be collected under
26 the Foreign Intelligence Surveillance Act of 1978

1 (50 U.S.C. 1801 et seq.), and provide assistance to
2 the Attorney General to ensure that information de-
3 rived from electronic surveillance or physical
4 searches under that Act is disseminated so it may be
5 used efficiently and effectively for foreign intel-
6 ligence purposes, except that the Director shall have
7 no authority to direct, manage, or undertake elec-
8 tronic surveillance or physical search operations pur-
9 suant to that Act unless otherwise authorized by
10 statute or Executive order;
11 (6) establish requirements and procedures for
12 the classification of information;
13 (7) establish requirements and procedures for
14 the dissemination of classified information by ele-
15 ments of the intelligence community;
16 (8) establish intelligence reporting guidelines
17 while protecting intelligence sources and methods;
18 (9) oversee and ensure compliance by each ele-
19 ment of the intelligence community with the statutes
20 and Executive orders of the United States, including
21 laws related to the protection of civil liberties and
22 privacy of United States persons;
23 (10) protect intelligence sources and methods
24 from unauthorized disclosure as provided in sub-
25 section (b);

1 (11) establish and implement policies and pro-
2 cedures governing access to, and use of, specified
3 data base information by officers and employees of
4 the elements of the intelligence community and, as
5 directed by the President (after recommendations by
6 the Attorney General), law enforcement personnel of
7 the United States Government;
8 (12) develop, in consultation with the Secretary
9 of Defense, the Secretary of Homeland Security, and
10 the heads of other appropriate departments and
11 agencies of the United States Government, an inte-
12 grated communications network that provides inter-
13 operable communications capabilities among all ele-
14 ments of the intelligence community and such other
15 entities and persons as the Director considers appro-
16 priate;
17 (13) develop and implement, in consultation
18 with the heads of the other elements of the intel-
19 ligence community, policies and programs within the
20 intelligence community for the rotation of personnel
21 among the elements of the intelligence community in
22 a manner that—
23 (A) makes service in more than one ele-
24 ment of the intelligence community pursuant to
25 such rotation a condition of promotion to such

1 positions within the intelligence community as
2 the Director shall specify;
3 (B) ensures the effective management of
4 intelligence community personnel who are spe-
5 cially training in intelligence community-wide
6 matters; and
7 (C) establishes standards for education
8 and training that will facilitate assignments to
9 the national intelligence centers under section
10 114;
11 (14) consolidate and manage a common per-
12 sonnel security system for the Department;
13 (15) develop and implement, as necessary, a
14 common personnel system and common retirement
15 and disability system for the Department;
16 (16) ensure that the composition of the per-
17 sonnel of the intelligence community is sufficiently
18 diverse for purposes of the collection and analysis of
19 intelligence by recruiting and training for service in
20 the intelligence community women, minorities, and
21 individuals with diverse ethnic, cultural, and lin-
22 guistic backgrounds;
23 (17) appoint officers or employees of the De-
24 partment of Homeland Security, the Central Intel-
25 ligence Agency, the National Security Agency, the

1 National Geospatial-Intelligence Agency, the Na-
2 tional Reconnaissance Office, and other elements of
3 the Department of Intelligence to serve as tasking
4 directors to assist in the tasking of collection, anal-
5 ysis, and dissemination of information for all ele-
6 ments of the intelligence community under the Na-
7 tional Foreign Intelligence Program;
8 (18) in accordance with the provisions of sec-
9 tion 106 of the National Security Act of 1947 (50
10 U.S.C. 403–6), make recommendations to the Presi-
11 dent regarding the appointment of certain heads of
12 elements of the intelligence community;
13 (19) develop such objectives and guidance for
14 the intelligence community as, in the judgment of
15 the Director, are necessary to ensure the timely and
16 effective collection, processing, analysis, and dissemi-
17 nation of intelligence, of whatever nature and from
18 whatever source derived, concerning current and po-
19 tential threats to the security of the United States
20 and its interests, and to ensure that the National
21 Foreign Intelligence Program is structured ade-
22 quately to achieve such objectives;
23 (20) work with the elements of the intelligence
24 community to ensure that the intelligence collection

1 activities of the United States Government are inte-
2 grated in—
3 (A) collecting against enduring and emerg-
4 ing threats to the national security of the
5 United States;
6 (B) maximizing the value of such intel-
7 ligence collection to the national security of the
8 United States; and
9 (C) ensuring that all collected data is
10 available, to the maximum extent practicable,
11 for integration, analysis, and dissemination to
12 those who can act on, add value to, or otherwise
13 apply it to mission needs;
14 (21) ensure that appropriate departments,
15 agencies, and elements of the United States Govern-
16 ment have access to, and receive, all-source intel-
17 ligence support needed to perform independent, al-
18 ternative analysis;
19 (22) establish policies, procedures, and mecha-
20 nisms that translate intelligence objectives and prior-
21 ities approved by the President into specific guid-
22 ance for the intelligence community;
23 (23) receive access to all foreign intelligence,
24 counterintelligence, and national intelligence, includ-
25 ing intelligence derived from activities of any depart-

1 ment, agency, or element of the United States Gov-
2 ernment, and to all other information that is related
3 to the national security or is otherwise required for
4 the performance of the duties of the Director, except
5 in cases in which the access of the Director to such
6 information is expressly prohibited by law, by the
7 President, or by the Attorney General acting at the
8 direction of the President;
9 (24) consistent with section 133, review, and
10 approve or disapprove, any proposal to—
11 (A) reprogram funds within an appropria-
12 tion for the National Foreign Intelligence Pro-
13 gram;
14 (B) transfer funds from an appropriation
15 for the National Foreign Intelligence Program
16 to an appropriation that is not for the National
17 Foreign Intelligence Program within the intel-
18 ligence community; or
19 (C) transfer funds from an appropriation
20 that is not for the National Foreign Intelligence
21 Program within the intelligence community to
22 an appropriation for the National Foreign In-
23 telligence Program;
24 (25) ensure that any intelligence and oper-
25 ational systems and architectures of the depart-

1 ments, agencies, and elements of the United States
2 Government are consistent with national intelligence
3 requirements set by the Director and all applicable
4 information sharing and security guidelines and in-
5 formation privacy requirements;
6 (26) in consultation with the Attorney General,
7 set forth common standards, through written re-
8 quirements, procedures, and guidelines, for the col-
9 lection and sharing of information collected abroad
10 and in the United States by the elements of the in-
11 telligence community, and with State and local gov-
12 ernments in consultation with the Secretary of
13 Homeland Security, while to the maximum extent
14 practicable, protecting the privacy and civil liberties
15 of United States persons and ensuring that relevant
16 officers of the United States Government are pro-
17 vided with clear, understandable, consistent, effec-
18 tive, and lawful procedures and guidelines for the
19 collection, handling, distribution, and retention of in-
20 formation;
21 (27) require, at the outset of the intelligence
22 collection and analysis process, the creation of
23 records and reporting, for both raw and processed
24 information, in such a manner that sources and
25 methods are protected so that the information can

be distributed at lower classification levels, and by creating unclassified versions for distribution whenever possible;

(28) require information to be shared free of originator controls, including controls requiring the consent of the originating agency prior to the dissemination of the information outside any other agency to which it has been made available, and otherwise minimizing the applicability of information compartmentalization systems to information while holding personnel accountable for increased sharing of intelligence related to the national security;

(29) direct, supervise, and control all aspects of national intelligence, including the programs, projects, and activities of the national intelligence centers; and

(30) perform such other functions as the President may direct.

(b) PROTECTION OF INTELLIGENCE SOURCES AND METHODS.—(1) In order to protect intelligence sources and methods from unauthorized disclosure and, consistent with that protection, to maximize the dissemination of intelligence, the Director shall establish and implement guidelines for the following purposes:

(A) The classification of information.

1 (B) Access to and dissemination of intelligence,
2 both in final form and in the form when initially
3 gathered.
4 (C) The preparation of intelligence reports to
5 ensure that, to the maximum extent practicable, in-
6 formation contained in such reports is also available
7 in unclassified form.
8 (2) The Director may not delegate a duty or author-
9 ity under this subsection.
10 (c) UNIFORM PROCEDURES FOR SENSITIVE COM-
11 PARTMENTED INFORMATION.—The President, acting
12 through the Director, shall—
13 (1) establish uniform standards and procedures
14 for the grant of access to sensitive compartmented
15 information to any officer or employee of any de-
16 partment, agency, or element of the United States
17 Government and to employees of contractors of the
18 departments, agencies, and elements of the United
19 States Government;
20 (2) ensure the consistent implementation of
21 those standards and procedures throughout the de-
22 partments, agencies, and elements of the United
23 States Government; and
24 (3) ensure that security clearances granted by
25 individual elements of the intelligence community

1 are recognized by all elements of the intelligence
2 community, and under contracts entered into by
3 such elements.

4 **SEC. 133. AUTHORITIES OF DIRECTOR OF INTELLIGENCE.**

5 (a) ACCESS TO INTELLIGENCE.—To the extent ap-
6 proved by the President, the Director shall have access
7 to all intelligence related to the national security which
8 is collected by any department, agency, or other element
9 of the United States Government.

10 (b) DETERMINATION OF BUDGETS FOR NFIP AND
11 OTHER INTELLIGENCE ACTIVITIES.—The Director shall
12 determine, as appropriate, the annual budget for intel-
13 ligence and intelligence-related activities of the United
14 States under section 102(d)(3) by—

15 (1) developing and presenting to the President
16 an annual budget for the National Foreign Intel-
17 ligence Program, including, in furtherance of such
18 budget—

19 (A) the preparation, review, modification,
20 and approval of budgets of the elements of the
21 intelligence community; and

22 (B) the preparation, review, modification,
23 and approval of personnel and resource alloca-
24 tions by the elements of the intelligence commu-
25 nity;

1 (2) participating in the development by the Sec-
2 retary of Defense of the annual budget for the Joint
3 Military Intelligence Program and the Tactical Intel-
4 ligence and Related Activities Program;
5 (3) having direct jurisdiction of amounts appro-
6 priated or otherwise made available for the National
7 Foreign Intelligence Program as specified in sub-
8 section (e); and
9 (4) managing and overseeing the execution,
10 and, if necessary, the modification of the annual
11 budget for the National Foreign Intelligence Pro-
12 gram, including directing the reprogramming and re-
13 allocation of funds, and the transfer of personnel,
14 among and between elements of the intelligence com-
15 munity in accordance with subsection (f).
16 (c) BUDGET AUTHORITIES.—(1) For purposes of
17 subsection (b)—
18 (A) the Director shall, acting through the Dep-
19 uty Director of Intelligence, direct, coordinate, and
20 prepare the annual budgets of the elements of the
21 intelligence community within the National Foreign
22 Intelligence Program, in consultation with the heads
23 of such elements;
24 (B) the Director shall provide guidance for the
25 development of the annual budgets for such other

1 elements of the intelligence community as are not
2 within the National Foreign Intelligence Program;
3 (C) the heads of the elements referred to in
4 subparagraph (B), shall coordinate closely with the
5 Deputy Director of Intelligence in the development
6 of the budgets of those elements, before the submis-
7 sion of their recommendations to the Director for
8 approval; and
9 (D) the budget of any element of the intel-
10 ligence community within the National Foreign In-
11 telligence Program may not be provided to the Presi-
12 dent for transmission to Congress unless the Direc-
13 tor has approved such budget.
14 (2)(A) In preparing and presenting an annual budget
15 under subsection (b)(1), the Director shall develop the an-
16 nual budget for the elements of the intelligence community
17 within the National Foreign Intelligence Program.
18 (B) If any portion of the budget for an element of
19 the intelligence community is prepared outside the Office
20 of the Director of Intelligence, the Director—
21 (i) shall approve such budget before submission
22 to the President; and
23 (ii) may require modifications of such budget to
24 meet the requirements and priorities of the Director
25 before approving such budget under clause (i).

1 (d) MANAGEMENT AND OVERSIGHT OF NATIONAL
2 FOREIGN INTELLIGENCE PROGRAM.—(1) The Director
3 shall manage and oversee the execution by each element
4 of the intelligence community of any amounts appro-
5 priated or otherwise made available to such element under
6 the National Foreign Intelligence Program.
7 (2) Consistent with subsections (e) and (f), the Direc-
8 tor may modify the resource and personnel allocations of
9 any element of the intelligence community.
10 (e) JURISDICTION OF FUNDS UNDER NFIP.—Not-
11 withstanding any other provision of law and consistent
12 with section 504 of the National Security Act of 1947 (50
13 U.S.C. 414), any amounts appropriated or otherwise made
14 available for the National Foreign Intelligence Program
15 shall be considered to be appropriated or otherwise made
16 available to, and under the direct jurisdiction, manage-
17 ment, and oversight of, the Director.
18 (f) REPROGRAMMING AND REALLOCATION OF FUNDS
19 AND TRANSFER OF PERSONNEL UNDER NFIP.—(1)(A)
20 Consistent with section 504 of the National Security Act
21 of 1947, the Director of Intelligence may, with the ap-
22 proval of the Director of the Office of Management and
23 Budget and in accordance with procedures developed by
24 the Director of Intelligence, reprogram funds appropriated
25 or otherwise made available for a program within the Na-

1 tional Foreign Intelligence Program to another such pro-
2 gram.
3 (B) Consistent with section 504 of the National Secu-
4 rity Act of 1947, no funds appropriated or otherwise made
5 available under the National Foreign Intelligence Program
6 may be reprogrammed by any element of the intelligence
7 community without the prior approval of the Director ex-
8 cept in accordance with procedures issued by the Director.
9 (2) Consistent with section 504 of the National Secu-
10 rity Act of 1947, the Director may reallocate funds appro-
11 priated or otherwise made available for a program within
12 the National Foreign Intelligence Program for other pur-
13 poses under such program.
14 (3) Consistent with section 504 of the National Secu-
15 rity Act of 1947, the Director may, in accordance with
16 procedures developed by the Director, transfer personnel
17 authorized for an element of the intelligence community
18 to another element of the intelligence community for a pe-
19 riod of up to a year.
20 (4) Consistent with section 504 of the National Secu-
21 rity Act of 1947, the Secretary of Defense shall consult
22 with the Director before reprogramming funds available
23 under the Joint Military Intelligence Program or the Tac-
24 tical Intelligence and Related Activities Program.

1 (5) The Director may not delegate a responsibility or
2 authority of the Director under this subsection.
3 (6) A reprogramming of funds or a transfer of funds
4 or personnel may be made under this subsection only if—
5 (A) the funds or personnel are being repro-
6 grammed or transferred, as the case may be, to an
7 activity that is a higher priority intelligence activity;
8 (B) the need for funds or personnel for such ac-
9 tivity is based on unforeseen requirements; and
10 (C) in the case of a reprogramming of funds,
11 the reprogramming of funds does not involve a re-
12 programming of funds to the Reserve for Contin-
13 gencies of the Central Intelligence Agency.
14 (7) Funds reprogrammed or transferred under this
15 subsection shall remain available for the same period as
16 the account or subaccount to which reprogrammed or
17 transferred, as the case may be.
18 (8)(A) Any reprogramming of funds under this sub-
19 section shall be carried out in accordance with existing
20 procedures applicable to reprogramming notifications for
21 the appropriate congressional committees.
22 (B) Any proposed reprogramming of funds for which
23 notice is given to the appropriate congressional commit-
24 tees shall be accompanied by a report explaining the na-

1 ture of the proposed reprogramming and how it satisfies
2 the requirements of this subsection.

3 (C) The congressional intelligence committees shall
4 be promptly notified of any reprogramming of funds under
5 this subsection in any case in which the reprogramming
6 of such funds would not have otherwise required re-
7 programming notification under procedures in effect as of
8 October 24, 1992.

9 (9)(A) The Director shall promptly submit to the con-
10 gressional intelligence committees and, in the case of the
11 transfer of personnel to or from the Department of De-
12 fense, the Committee on Armed Services of the Senate and
13 the Committee on Armed Services of the House of Rep-
14 resentatives, a report on any transfer of personnel made
15 pursuant to this subsection.

16 (B) The Director shall include in any report under
17 subparagraph (A) an explanation of the nature of the
18 transfer concerned and how it satisfies the requirements
19 of this subsection.

20 (g) DELEGATION OF CERTAIN ADMINISTRATIVE AU-
21 THORITIES.—(1) Notwithstanding any other provision of
22 law, the Director may delegate to the head of any other
23 element of the intelligence community any authority of the
24 Director of the Central Intelligence Agency with respect

1 to the Central Intelligence Agency under a provision of
2 the Central Intelligence Agency Act of 1949 as follows:
3 (A) Section 3 (50 U.S.C. 403c), relating to pro-
4 curement.
5 (B) Section 4 (50 U.S.C. 403e), relating to
6 travel allowances and related expenses.
7 (C) Section 5 (50 U.S.C. 403f), relating to ad-
8 ministration of funds.
9 (D) Section 6 (50 U.S.C. 403g), relating to ex-
10 emptions from certain information disclosure re-
11 quirements.
12 (E) Section 8 (50 U.S.C. 403j), relating to
13 availability of appropriations.
14 (F) Section 11 (50 U.S.C. 403k), relating to
15 payment of death gratuities.
16 (G) Section 12 (50 U.S.C. 403l), relating to ac-
17 ceptance of gifts, devises, and bequests.
18 (H) Section 21 (50 U.S.C. 403u), relating to
19 operation of a central services program.
20 (2) Notwithstanding any other provision of law, the
21 head of an element of the intelligence community dele-
22 gated an authority under paragraph (1) with respect to
23 such element may exercise such authority with respect to
24 such element to the same extent that the Director of the

1 Central Intelligence Agency may exercise such authority
2 with respect to the Central Intelligence Agency.
3 (h) TERMINATION OF EMPLOYEES OF DEPART-
4 MENT.—(1) Notwithstanding any other provision of law,
5 the Director may, at the discretion of the Director, termi-
6 nate the employment of any officer or employee of the De-
7 partment whenever the Director considers the termination
8 of employment of such officer or employee necessary or
9 advisable in the interests of the United States.
10 (2) Any such termination of employment shall not af-
11 fect the right of the officer or employee terminated to seek
12 or accept employment in any other department or agency
13 of the United States Government if declared eligible for
14 such employment by the Office of Personnel Management.
15 (i) COORDINATION WITH FOREIGN GOVERN-
16 MENTS.—Under the direction of the National Security
17 Council and in a manner consistent with section 207 of
18 the Foreign Service Act of 1980 (22 U.S.C. 3927), the
19 Director shall coordinate the relationships between ele-
20 ments of the intelligence community and the intelligence
21 or security services of foreign governments on all matters
22 involving intelligence related to the national security or in-
23 volving intelligence acquired through clandestine means.
24 (j) STANDARDS AND QUALIFICATIONS FOR PER-
25 FORMANCE OF INTELLIGENCE ACTIVITIES.—The Director

1 shall develop standards and qualifications for persons en-
2 gaged in the performance of intelligence activities within
3 the intelligence community.

4 (k) PERSONAL SERVICES.—The Director may—

5 (1) procure the temporary or intermittent serv-
6 ices of experts or consultants (or organizations
7 thereof) in accordance with section 3109 of title 5,
8 United States Code; and

9 (2) whenever necessary due to a need related to
10 intelligence functions of the Department, procure
11 temporary (not to exceed 1 year) or intermittent
12 personal services, including the services of experts or
13 consultants (or organizations thereof), without re-
14 gard to the pay limitations of such section 3109.

15 TITLE II—ELEMENTS OF DE-
16 PARTMENT OF INTEL-
17 LIGENCE

18 Subtitle A—Central Intelligence
19 Agency

20 **SEC. 201. CENTRAL INTELLIGENCE AGENCY.**

21 (a) ELEMENT OF DEPARTMENT OF INTEL-
22 LIGENCE.—The Central Intelligence Agency is an element
23 of the Department.

24 (b) HEAD OF AGENCY.—The Director of the Central
25 Intelligence Agency is the head of the Central Intelligence

1 Agency as provided for in the National Security Act of
2 1947 (50 U.S.C. 401 et seq.), the Central Intelligence
3 Agency Act of 1949 (50 U.S.C. 403a et seq.), and other
4 applicable provisions of law.

5 (c) SUPERVISION AND CONTROL.—(1) The Central
6 Intelligence Agency shall be under the supervision, direc-
7 tion, and control of the Director of Intelligence.

8 (2) The Director of the Central Intelligence Agency
9 shall report directly to the Director of Intelligence.

10 **SEC. 202. MISSION; POWER AND AUTHORITIES.**

11 (a) MISSION.—The Central Intelligence Agency shall
12 have the mission provided for the Agency under the Na-
13 tional Security Act of 1947 (50 U.S.C. 401 et seq.) and
14 the Central Intelligence Agency Act of 1949 (50 U.S.C.
15 403a et seq.) and as otherwise provided by law or directed
16 by the President.

17 (b) POWER AND AUTHORITIES.—Except as otherwise
18 provided by this Act, the Director of the Central Intel-
19 ligence Agency shall have such powers and authorities as
20 are provided the Director in the National Security Act of
21 1947 and Central Intelligence Agency Act of 1949 and
22 as are otherwise provided by law or directed by the Presi-
23 dent or the Director.

Subtitle B—National Security Agency

SEC. 211. NATIONAL SECURITY AGENCY.

(a) ELEMENT OF DEPARTMENT OF INTELLIGENCE.—The National Security Agency is an element of the Department.

(b) HEAD OF AGENCY.—The Director of the National Security Agency is the head of the National Security Agency.

(c) SUPERVISION AND CONTROL.—(1) The National Security Agency shall be under the supervision, direction, and control of the Director of Intelligence.

(2) The Director of the National Security Agency shall report directly to the Director of Intelligence.

SEC. 212. MISSION; POWER AND AUTHORITIES.

(a) MISSION.—The National Security Agency shall have the mission provided for the Agency under the National Security Agency Act of 1959 (50 U.S.C. 402 note) or as otherwise provided by law or directed by the President.

(b) POWER AND AUTHORITIES.—The Director of the National Security Agency shall have such powers and authorities as are provided the Director in the National Security Act of 1959 or as are otherwise provided by law or directed by the President.

Subtitle C—National Geospatial-Intelligence Agency

SEC. 221. NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) ELEMENT OF DEPARTMENT OF INTELLIGENCE.—The National Geospatial-Intelligence Agency is an element of the Department.

(b) HEAD OF AGENCY.—(1) The Director of the National Geospatial-Intelligence Agency is the head of the National Geospatial-Intelligence Agency.

(2) If an officer of the Armed Forces on active duty is appointed to the position of Director of the National Geospatial-Intelligence Agency, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of title 10, United States Code, and shall carry the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

(c) SUPERVISION AND CONTROL.—(1) The National Geospatial-Intelligence Agency shall be under the supervision, direction, and control of the Director of Intelligence.

(2) The Director of the National Geospatial-Intelligence Agency shall report directly to the Director of Intelligence.

1 **SEC. 222. MISSION; POWER AND AUTHORITIES.**

2 (a) MISSION.—The National Geospatial-Intelligence
3 Agency shall have the mission provided for the Agency
4 under subtitle B of title III or as otherwise provided by
5 law or directed by the President.

6 (b) POWER AND AUTHORITIES.—The Director of the
7 National Geospatial-Intelligence Agency shall have such
8 powers and authorities as are provided the Agency under
9 subtitle B of title III or as otherwise provided by law or
10 directed by the President.

11 (c) AVAILABILITY AND CONTINUED IMPROVEMENT
12 OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE
13 ANALYSIS AND PRODUCTION FUNCTION.—The Director
14 of Intelligence shall take all necessary steps to ensure the
15 full availability and continued improvement of imagery in-
16 telligence support for all-source analysis and production.

17 Subtitle D—National
18 Reconnaissance Office

19 **SEC. 231. NATIONAL RECONNAISSANCE OFFICE.**

20 (a) ELEMENT OF DEPARTMENT OF INTEL-
21 LIGENCE.—The National Reconnaissance Office is an ele-
22 ment of the Department.

23 (b) HEAD OF OFFICE.—The Director of the National
24 Reconnaissance Office is the head of the National Recon-
25 naissance Office.

1 (c) SUPERVISION AND CONTROL.—(1) The National
2 Reconnaissance Office shall be under the supervision, di-
3 rection, and control of the Director of Intelligence.
4 (2) The Director of the National Reconnaissance Of-
5 fice shall report directly to the Director of Intelligence.

6 **SEC. 232. MISSION; POWER AND AUTHORITIES.**

7 (a) MISSION.—The National Reconnaissance Office
8 shall have the mission provided by law or as directed by
9 the President.
10 (b) POWER AND AUTHORITIES.—The National Re-
11 connaissance Office shall have such powers and authorities
12 as are provided by law or as directed by the President.

13 **Subtitle E—Other Offices**

14 **SEC. 241. INTELLIGENCE, COUNTERTERRORISM, AND**
15 **COUNTERINTELLIGENCE OFFICES.**

16 (a) ELEMENTS OF DEPARTMENT OF INTEL-
17 LIGENCE.—Each element of the Federal Bureau of Inves-
18 tigation specified in subsection (b) shall, after the date of
19 the enactment of this Act, be an element of the Depart-
20 ment.
21 (b) SPECIFIED ELEMENTS.—The elements of the
22 Federal Bureau of Investigation specified in this sub-
23 section are as follows:
24 (1) The Office of Intelligence.

1 (2) The Counterterrorism Division personnel
2 under the National Foreign Intelligence Program.
3 (3) The Counterintelligence Division personnel
4 under the National Foreign Intelligence Program.
5 (c) SUPERVISION AND CONTROL.—(1) Each element
6 of the Department under subsection (a) shall be under the
7 supervision, direction, and control of the Director of Intel-
8 ligence.
9 (2)(A) Each element of the Department under sub-
10 section (a) shall remain at all times subject to applicable
11 guidelines on investigations of the Attorney General and
12 the Department of Justice in effect as of September 1,
13 2004, and any successor guidelines to such guidelines,
14 particularly the provisions of such guidelines relating to
15 investigations within the United States and investigations
16 of United States persons.
17 (B) A copy of any guidelines covered by subpara-
18 graph (A) shall be made available to congressional intel-
19 ligence committees and the public before their implemen-
20 tation or utilization by the elements of the Department
21 under subsection (a). In making guidelines available to the
22 public under this subparagraph, the Director of Intel-
23 ligence may redact any portions of such guidelines that
24 are classified for reasons of national security.

1 (3) The Attorney General shall review, and approve
2 prior to execution, the tasking of, or requests for, domestic
3 collection against United States persons, collection against
4 United States persons, domestic intelligence operations,
5 and assignment of operational responsibilities by the Ad-
6 ministrator of the National Counterterrorism Center.

7 (d) MISSION.—Each element of the Department
8 under subsection (a) shall have the mission provided for
9 such element by law or as directed by the President.

10 (e) POWER AND AUTHORITIES.—Each element of the
11 Department under subsection (a) shall have such powers
12 and authorities as are provided such element by law or
13 as directed by the President.

14 (f) SUPPORT.—(1) The Director of the Federal Bu-
15 reau of Investigation shall, in coordination with the Direc-
16 tor of Intelligence, ensure that each element of the De-
17 partment under subsection (a) is provided all administra-
18 tive resources necessary to perform its intelligence and in-
19 telligence-related functions.

20 (2) The Attorney General shall ensure through the
21 Director of Intelligence that the domestic intelligence op-
22 erations of the elements of the Department under sub-
23 section (a), and any intelligence operations of such ele-
24 ments directed against United States persons, comply with
25 the Constitution and all laws, regulations, Executive or-

1 ders, and implementing guidelines of the United States
2 applicable to such operations.

3 **SEC. 242. OFFICE OF CIVIL LIBERTIES AND PRIVACY.**

4 (a) OFFICE OF CIVIL LIBERTIES AND PRIVACY.—
5 There is within the Department an Office of Civil Lib-
6 erties and Privacy.

7 (b) HEAD OF OFFICE.—The Assistant Director of In-
8 telligence for Civil Liberties and Privacy is the head of
9 the Office of Civil Liberties and Privacy.

10 (c) SUPERVISION.—The Assistant Director of Intel-
11 ligence for Civil Liberties and Privacy shall report directly
12 to the Director.

13 (d) DUTIES RELATING TO CIVIL LIBERTIES.—The
14 Assistant Director of Intelligence for Civil Liberties and
15 Privacy shall, with respect to matters of the Department
16 relating to civil liberties—

17 (1) assist the Director in ensuring that the pro-
18 tection of civil rights and civil liberties is appro-
19 priately incorporated in the policies and procedures
20 developed for and implemented by the Department;

21 (2) oversee compliance by the Department with
22 requirements under the Constitution and all laws,
23 regulations, Executive orders, and implementing
24 guidelines relating to civil rights and civil liberties;

1 (3) review, investigate, and assess complaints
2 and other information indicating possible abuses of
3 civil rights or civil liberties in the administration of
4 the programs and operations of the Department un-
5 less, in the determination of the Inspector General
6 of the Department of Intelligence, the review, inves-
7 tigation, or assessment of a particular complaint or
8 information can better be conducted by the Inspec-
9 tor General;
10 (4) issue guidance on civil liberties concerns
11 with, or civil liberties objections to, any policy or
12 practice of the Department; and
13 (5) perform such other duties as may be pre-
14 scribed by the Director or specified by law.
15 (e) DUTIES RELATING TO PRIVACY.—The Assistant
16 Director of Intelligence for Civil Liberties and Privacy
17 shall, with respect to matters of the Department relating
18 to privacy—
19 (1) assure that the use of technologies sustain,
20 and do not erode, privacy protections relating to the
21 use, collection, and disclosure of personal informa-
22 tion;
23 (2) assure that personal information contained
24 in Privacy Act systems of records is handled in full

compliance with fair information practices as set out in the Privacy Act of 1974;

(3) conduct a privacy impact assessment of proposed rules of the Department or that of the Department on the privacy of personal information, including the type of personal information collected and the number of people affected; and

(4) conduct privacy impact assessments when appropriate or as required by law.

TITLE III—OTHER INTELLIGENCE MATTERS

Subtitle A—Modifications and Improvements of Intelligence Authorities

SEC. 301. SENSE OF CONGRESS ON AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should, for each fiscal year after fiscal year 2005, make available to the public the information described in subsection (b) unless the President certifies that public disclosure of such information would cause damage to the national security of the United States.

1 (b) COVERED INFORMATION.—The information de-
2 scribed in this subsection is as follows:
3 (1) The aggregate amount of appropriations re-
4 quested in the budget of the President for the fiscal
5 year concerned for the intelligence and intelligence-
6 related activities of the United States Government.
7 (2) The aggregate amount of funds authorized
8 to be appropriated, and the aggregate amount of
9 funds appropriated, by Congress for the fiscal year
10 concerned for the intelligence and intelligence-related
11 activities of the United States Government.

12 **SEC. 302. COORDINATION BETWEEN DIRECTOR OF INTEL-**
13 **LIGENCE AND SECRETARY OF DEFENSE IN**
14 **PERFORMANCE OF SPECIFIC FUNCTIONS**
15 **PERTAINING TO NATIONAL FOREIGN INTEL-**
16 **LIGENCE PROGRAM.**

17 Section 105(b) of the National Security Act of 1947
18 (50 U.S.C. 403–5(b)) is amended—
19 (1) in the matter preceding paragraph (1), by
20 striking "Consistent with sections 103 and 104, the
21 Secretary of Defense shall" and inserting "Con-
22 sistent with sections 132 and 133 of the Intelligence
23 Reformation Act of 2004, the Secretary of Defense
24 shall, in coordination with the Director of Intel-
25 ligence"; and

1 (2) in paragraph (2)(D), by striking "notwith-
2 standing any other provision of law,".

3 **SEC. 303. ROLE OF DIRECTOR OF INTELLIGENCE IN CER-**
4 **TAIN RECOMMENDATIONS TO THE PRESI-**
5 **DENT ON APPOINTMENTS TO INTELLIGENCE**
6 **COMMUNITY.**

7 The text of section 106 of the National Security Act
8 of 1947 (50 U.S.C. 403–6) is amended to read as follows:
9 "(a) RECOMMENDATIONS OF DIRECTOR OF INTEL-
10 LIGENCE IN CERTAIN APPOINTMENTS.—(1) In the event
11 of a vacancy in a position referred to in paragraph (2),
12 the Director of Intelligence shall recommend to the Presi-
13 dent an individual for appointment to the position.
14 "(2) Paragraph (1) applies to the following positions:
15 "(A) The Deputy Director of Intelligence.
16 "(B) The Director of the Central Intelligence
17 Agency.
18 "(C) The Director of the National Security
19 Agency.
20 "(D) The Director of the National Geospatial-
21 Intelligence Agency.
22 "(E) The Director of the National Reconnais-
23 sance Office.
24 "(F) The Administrator of the National
25 Counterterrorism Center.

1 "(b) CONCURRENCE OF DIRECTOR OF INTEL-
2 LIGENCE IN CERTAIN APPOINTMENTS.—(1) In the event
3 of a vacancy in a position referred to in paragraph (2),
4 the head of the department or agency having jurisdiction
5 over the position shall obtain the concurrence of the Direc-
6 tor of Intelligence before recommending to the President
7 an individual for appointment to the position. If the Direc-
8 tor does not concur in the recommendation, the head of
9 the department or agency having jurisdiction over the po-
10 sition may make the recommendation to the President
11 without the Director's concurrence, but shall include in
12 the recommendation a statement that the Director does
13 not concur in the recommendation.
14 "(2) Paragraph (1) applies to the following positions:
15 "(A) The Under Secretary for Information
16 Analysis and Infrastructure Protection of the De-
17 partment of Homeland Security.
18 "(B) The Assistant Secretary of State for Intel-
19 ligence and Research.
20 "(C) The Director of the Defense Intelligence
21 Agency.
22 "(D) The Assistant Secretary for Intelligence
23 and Analysis of the Department of the Treasury.
24 "(E) The Assistant Secretary for Terrorist Fi-
25 nancing of the Department of the Treasury.

1 "(F) The Director of the Office of Intelligence
2 of the Department of Energy.
3 "(G) The Director of the Office of Counterintel-
4 ligence of the Department of Energy.".

5 **SEC. 304. COLLECTION TASKING AUTHORITY.**

6 Section 111 of the National Security Act of 1947 (50
7 U.S.C. 404f) is amended by striking "(except as otherwise
8 agreed by the Director and the Secretary of Defense)".

9 **SEC. 305. OVERSIGHT OF COMBAT SUPPORT AGENCIES OF**
10 **THE INTELLIGENCE COMMUNITY.**

11 (a) OVERSIGHT.—(1) Chapter 8 of title 10, United
12 States Code, is amended by inserting after section 193 the
13 following new section:

14 **"§ 193a. Combat support agencies of the intelligence**
15 **community: oversight**

16 "(a) COMBAT READINESS.—(1) Every two years (or
17 sooner, if approved by the Director of Intelligence), the
18 Chairman of the Joint Chiefs of Staff shall, in consulta-
19 tion with the Secretary of Defense, submit to the Director
20 of Intelligence a report on the combat support agencies
21 of the intelligence community. Each report shall include—
22 "(A) a determination with respect to the re-
23 sponsiveness and readiness of each such agency to
24 support operating forces in the event of a war or
25 threat to national security; and

1 "(B) any recommendations that the Chairman
2 considers appropriate.
3 "(2) In preparing each report, the Chairman shall re-
4 view the plans of each combat support agency of the intel-
5 ligence community with respect to its support of operating
6 forces in the event of a war or threat to national security.
7 After consultation with the Secretaries of the military de-
8 partments and the commanders of the unified and speci-
9 fied combatant commands, as appropriate, the Chairman
10 may, with the approval of the Secretary of Defense, pro-
11 vide the Director of Intelligence any recommendations for
12 modifications of such plans that the Chairman considers
13 appropriate.
14 "(b) PARTICIPATION IN JOINT TRAINING EXER-
15 CISES.—The Chairman shall, with the cooperation of the
16 Director of Intelligence—
17 "(1) provide for the participation of the combat
18 support agencies of the intelligence community in
19 joint training exercises to the extent necessary to en-
20 sure that such agencies are capable of performing
21 their support missions with respect to a war or
22 threat to national security; and
23 "(2) assess the performance in joint training
24 exercises of each combat support agency of the intel-
25 ligence community and, in accordance with guide-

1 lines established by the Secretary of Defense, take
2 steps to provide the Director of Intelligence rec-
3 ommendations for any change that the Chairman
4 considers appropriate to improve that performance.
5 "(c) READINESS REPORTING SYSTEM.—The Chair-
6 man shall develop, in consultation with the director of each
7 combat support agency of the intelligence community, a
8 uniform system for reporting to the Secretary of Defense,
9 the commanders of the unified and specified combatant
10 commands, and the Secretaries of the military depart-
11 ments concerning the readiness of each combat support
12 agency of the intelligence community to perform with re-
13 spect to a war or threat to national security.
14 "(d) REVIEW OF NSA, NGA, AND NRO.—(1) Sub-
15 sections (a), (b), and (c) shall apply to the National Secu-
16 rity Agency, the National Geospatial-Intelligence Agency,
17 and the National Reconnaissance Office, but only with re-
18 spect to combat support functions that such agencies per-
19 form for the Department of Defense.
20 "(2) The Secretary of Defense shall, in coordination
21 with the Director of Intelligence, establish policies and
22 procedures with respect to the application of subsections
23 (a), (b), and (c) to the National Security Agency, the Na-
24 tional Geospatial-Intelligence Agency, and the National
25 Reconnaissance Office.

1 "(e) COMBAT SUPPORT CAPABILITIES OF DIA, NSA,
2 NGA, AND NRO.—The Director of Intelligence shall de-
3 velop and implement such policies and programs as the
4 Director determines necessary to correct such deficiencies
5 as the Chairman of the Joint Chiefs of Staff and other
6 officials of the Department of Defense may identify in the
7 capabilities of the Defense Intelligence Agency, the Na-
8 tional Security Agency, the National Geospatial-Intel-
9 ligence Agency, and the National Reconnaissance Office
10 to accomplish assigned missions in support of military
11 combat operations.

12 "(f) COMBAT SUPPORT AGENCY OF THE INTEL-
13 LIGENCE COMMUNITY DEFINED.—In this section, the
14 term 'combat support agency of the intelligence commu-
15 nity' means any of the following agencies:

16 "(1) The National Security Agency.

17 "(2) The Defense Intelligence Agency.

18 "(3) The National Geospatial-Intelligence Agen-
19 cy.

20 "(4) The National Reconnaissance Office.".

21 (2) The table of sections at the beginning of sub-
22 chapter I of chapter 8 of such title is amended by inserting
23 after the item relating to section 193 the following new
24 item:

"193a. Combat support agencies of the intelligence community: oversight.".

1 (b) CONFORMING AMENDMENT.—Section 193(f) of
2 such title is amended—
3 (1) by striking paragraphs (2) and (4); and
4 (2) by redesignating paragraphs (3) and (5) as
5 paragraphs (2) and (3), respectively.

6 **SEC. 306. IMPROVEMENT OF INTELLIGENCE CAPABILITIES**
7 **OF THE FEDERAL BUREAU OF INVESTIGA-**
8 **TION.**

9 (a) FINDINGS.—Congress makes the following find-
10 ings:
11 (1) The National Commission on Terrorist At-
12 tacks Upon the United States in its final report
13 stated that the Federal Bureau of Investigation,
14 under the current Director of the Federal Bureau of
15 Investigation, has made significant progress in im-
16 proving its intelligence capabilities.
17 (2) In the report, the members of the Commis-
18 sion also urged that the Federal Bureau of Inves-
19 tigation fully institutionalize the shift of the Bureau
20 to a preventive counterterrorism posture.
21 (b) NATIONAL SECURITY WORKFORCE.—(1) The Di-
22 rector of the Federal Bureau of Investigation shall con-
23 tinue efforts to develop and maintain within the Federal
24 Bureau of Investigation a national security workforce.

1 (2) In a developing and maintaining a national secu-
2 rity workforce under paragraph (1), the Director of the
3 Federal Bureau of Investigation shall, subject to the direc-
4 tion and control of the President, develop and maintain
5 a specialized and integrated national security workforce
6 who are recruited, trained, rewarded in a manner which
7 ensures the existence within the Bureau of an institutional
8 culture with substantial expertise in, and commitment to,
9 the intelligence and national security missions of the Bu-
10 reau.

11 (3) Each agent employed by the Bureau after the
12 date of the enactment of this Act shall receive basic train-
13 ing in both criminal justice matters and national security
14 matters.

15 (4) Each agent employed by the Bureau after the
16 date of the enactment of this Act shall, to the maximum
17 extent practicable, be given the opportunity to undergo,
18 during such agent's early service with the Bureau, mean-
19 ingful assignments in criminal justice matters and in na-
20 tional security matters.

21 (5) The Director of the Federal Bureau of Investiga-
22 tion shall carry out a program to enhance the capacity
23 of the Bureau to recruit and retain individuals with back-
24 grounds in intelligence, international relations, language,

1 technology, and other skills relevant to the intelligence and
2 national security missions of the Bureau.
3 (6) Commencing as soon as practicable after the date
4 of the enactment of this Act, each senior manager of the
5 Bureau shall be a certified intelligence officer.
6 (7) It is the sense of Congress that the successful
7 discharge of advanced training courses, and of one or more
8 assignments to another element of the intelligence commu-
9 nity, should be a precondition to advancement to higher
10 level national security assignments within the Bureau.
11 (c) FIELD OFFICE MATTERS.—(1) The Director of
12 the Federal Bureau of Investigation shall ensure that each
13 field office of the Federal Bureau of Investigation has an
14 official at the deputy level or higher with responsibility for
15 national security matters.
16 (2) The Director of the Federal Bureau of Investiga-
17 tion shall provide for such expansion of the secure facili-
18 ties in the field offices of the Bureau as is necessary to
19 ensure the discharge by the field offices of the intelligence
20 and national security missions of the Bureau.
21 (d) REPORTS.—(1) Not later than 180 days after the
22 date of the enactment of this Act, the Director of the Fed-
23 eral Bureau of Investigation shall submit to Congress a
24 report on the progress made as of the date of such report
25 in carrying out the requirements of this section.

(2) The Director of the Federal Bureau of Investigation shall include in each semiannual program review of the Bureau that is submitted to Congress a report on the progress made by each field office of the Bureau during the period covered by such review in addressing Bureau and national program priorities.

(3) Not later than 180 days after the date of the enactment of this Act and every six months thereafter, the Director of the Federal Bureau of Investigation shall submit to Congress a report on the progress of the Bureau in implementing information-sharing principles.

Subtitle B—Restatement of Authorities on National Geospatial-Intelligence Agency

PART I—MISSIONS

SEC. 311. MISSIONS.

(a) NATIONAL SECURITY MISSIONS.—(1) The National Geospatial-Intelligence Agency shall, in support of the national security objectives of the United States, provide geospatial intelligence consisting of the following:

(A) Imagery.

(B) Imagery intelligence.

(C) Geospatial information.

(2) Geospatial intelligence provided in carrying out paragraph (1) shall be timely, relevant, and accurate.

1 (b) NAVIGATION INFORMATION.—The National
2 Geospatial-Intelligence Agency shall improve means of
3 navigating vessels of the Navy and the merchant marine
4 by providing, under the authority of the Director of Intel-
5 ligence, accurate and inexpensive nautical charts, sailing
6 directions, books on navigation, and manuals of instruc-
7 tions for the use of all vessels of the United States and
8 of navigators generally.

9 (c) MAPS, CHARTS, ETC.—The National Geospatial-
10 Intelligence Agency shall prepare and distribute maps,
11 charts, books, and geodetic products as authorized under
12 part II of this subtitle.

13 (d) NATIONAL MISSIONS.—The National Geospatial-
14 Intelligence Agency also has national missions as specified
15 in section 110(a) of the National Security Act of 1947
16 (50 U.S.C. 404e(a)).

17 (e) SYSTEMS.—The National Geospatial-Intelligence
18 Agency may, in furtherance of a mission of the Agency,
19 design, develop, deploy, operate, and maintain systems re-
20 lated to the processing and dissemination of imagery intel-
21 ligence and geospatial information that may be transferred
22 to, accepted or used by, or used on behalf of—

23 (1) the Armed Forces, including any combatant
24 command, component of a combatant command,
25 joint task force, or tactical unit; or

1 (2) any other department or agency of the
2 United States.

3 **SEC. 312. SUPPORT FOR FOREIGN COUNTRIES ON IMAGERY**
4 **INTELLIGENCE AND GEOSPATIAL INFORMA-**
5 **TION.**

6 (a) USE OF APPROPRIATED FUNDS.—The Director
7 of the National Geospatial-Intelligence Agency may use
8 appropriated funds available to the National Geospatial-
9 Intelligence Agency to provide foreign countries with im-
10 agery intelligence and geospatial information support.

11 (b) USE OF FUNDS OTHER THAN APPROPRIATED
12 FUNDS.—The Director of the National Geospatial-Intel-
13 ligence Agency may use funds other than appropriated
14 funds to provide foreign countries with imagery intel-
15 ligence and geospatial information support, notwith-
16 standing provisions of law relating to the expenditure of
17 funds of the United States, except that—

18 (1) no such funds may be expended, in whole
19 or in part, by or for the benefit of the National
20 Geospatial-Intelligence Agency for a purpose for
21 which Congress had previously denied funds;

22 (2) proceeds from the sale of imagery intel-
23 ligence or geospatial information items may be used
24 only to purchase replacement items similar to the
25 items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) ACCOMMODATION PROCUREMENTS.—The authority under this section may be exercised to conduct accommodation procurements on behalf of foreign countries.

PART II—MAPS, CHARTS, AND GEODETIC PRODUCTS

SEC. 321. MAPS, CHARTS, AND BOOKS.

The Director of Intelligence may—

(1) have the National Geospatial-Intelligence Agency prepare maps, charts, and nautical books required in navigation and have those materials published and furnished to navigators; and

(2) buy the plates and copyrights of existing maps, charts, books on navigation, and sailing directions and instructions.

SEC. 322. PILOT CHARTS.

(a) NOTICE ON PREPARATION BY AGENCY.—There shall be conspicuously printed on pilot charts prepared in the National Geospatial-Intelligence Agency the following: "Prepared from data furnished by the National Geospatial-Intelligence Agency of the Department of Intelligence and by the Department of Commerce, and pub-

1 lished at the National Geospatial-Intelligence Agency
2 under the authority of the Director of Intelligence".

3 (b) INFORMATION FROM DEPARTMENT OF COM-
4 MERCE.—The Secretary of Commerce shall furnish to the
5 National Geospatial-Intelligence Agency, as quickly as
6 possible, all meteorological information received by the
7 Secretary of Commerce that is necessary for, and of the
8 character used in, preparing pilot charts.

9 **SEC. 323. SALE OF MAPS, CHARTS, AND NAVIGATIONAL**
10 **PUBLICATIONS.**

11 (a) PRICES.—All maps, charts, and other publica-
12 tions offered for sale by the National Geospatial-Intel-
13 ligence Agency shall be sold at prices and under regula-
14 tions that may be prescribed by the Director of Intel-
15 ligence.

16 (b) USE OF PROCEEDS TO PAY FOREIGN LICENSING
17 FEES.—(1) The Director of Intelligence may pay any
18 NGA foreign data acquisition fee out of the proceeds of
19 the sale of maps, charts, and other publications of the
20 Agency, and those proceeds are hereby made available for
21 that purpose.

22 (2) In this subsection, the term "NGA foreign data
23 acquisition fee" means any licensing or other fee imposed
24 by a foreign country or international organization for the

1 acquisition or use of data or products by the National
2 Geospatial-Intelligence Agency.

3 **SEC. 324. EXCHANGE OF MAPPING, CHARTING, AND GEO-**
4 **DETIC DATA WITH FOREIGN COUNTRIES AND**
5 **INTERNATIONAL ORGANIZATIONS.**

6 The Director of Intelligence may authorize the Na-
7 tional Geospatial-Intelligence Agency to exchange or fur-
8 nish mapping, charting, and geodetic data, supplies and
9 services to a foreign country or international organization
10 pursuant to an agreement for the production or exchange
11 of such data.

12 **SEC. 325. PUBLIC AVAILABILITY OF MAPS, CHARTS, AND**
13 **GEODETIC DATA.**

14 (a) SALE OF MAPS AND CHARTS.—The National
15 Geospatial-Intelligence Agency shall offer for sale maps
16 and charts at scales of 1:500,000 and smaller, except
17 those withheld in accordance with subsection (b) or those
18 specifically authorized under criteria established by Execu-
19 tive order to be kept secret in the interest of national de-
20 fense or foreign policy and in fact properly classified pur-
21 suant to such Executive order.

22 (b) EXCEPTION.—(1) Notwithstanding any other
23 provision of law, the Director of Intelligence may withhold
24 from public disclosure any geodetic product in the posses-

1 sion of, or under the control of, the Department of Intel-
2 ligence—
3 (A) that was obtained or produced, or that con-
4 tains information that was provided, pursuant to an
5 international agreement that restricts disclosure of
6 such product or information to government officials
7 of the agreeing parties or that restricts use of such
8 product or information to Government purposes
9 only;
10 (B) that contains information that the Director
11 of Intelligence has determined in writing would, if
12 disclosed, reveal sources and methods, or capabili-
13 ties, used to obtain source material for production of
14 the geodetic product; or
15 (C) that contains information that the Director
16 of the National Geospatial-Intelligence Agency has
17 determined in writing would, if disclosed, jeopardize
18 or interfere with ongoing military or intelligence op-
19 erations, reveal military operational or contingency
20 plans, or reveal, jeopardize, or compromise military
21 or intelligence capabilities.
22 (2) In this subsection, the term "geodetic product"
23 means imagery, imagery intelligence, or geospatial infor-
24 mation.

1 (c) REGULATIONS.—(1) Regulations to implement
2 this section (including any amendments to such regula-
3 tions) shall be published in the Federal Register for public
4 comment for a period of not less than 30 days before they
5 take effect.

6 (2) Regulations under this section shall address the
7 conditions under which release of geodetic products au-
8 thorized under subsection (b) to be withheld from public
9 disclosure would be appropriate—

10 (A) in the case of allies of the United States;
11 and

12 (B) in the case of qualified United States con-
13 tractors (including contractors that are small busi-
14 ness concerns) who need such products for use in
15 the performance of contracts with the United States.

16 **SEC. 326. CIVIL ACTIONS BARRED.**

17 (a) CLAIMS BARRED.—No civil action may be
18 brought against the United States on the basis of the con-
19 tent of a navigational aid prepared or disseminated by the
20 National Geospatial-Intelligence Agency.

21 (b) NAVIGATIONAL AIDS COVERED.—Subsection (a)
22 applies with respect to a navigational aid in the form of
23 a map, a chart, or a publication and any other form or
24 medium of product or information in which the National

1 Geospatial-Intelligence Agency prepares or disseminates
2 navigational aids.

3 **SEC. 327. TREATMENT OF CERTAIN OPERATIONAL FILES.**

4 (a) AUTHORITY.—The Director of Intelligence may
5 withhold from public disclosure operational files described
6 in subsection (b) to the same extent that operational files
7 may be withheld under section 701 of the National Secu-
8 rity Act of 1947 (50 U.S.C. 431).

9 (b) COVERED OPERATIONAL FILES.—The authority
10 under subsection (a) applies to operational files in the pos-
11 session of the National Geospatial-Intelligence Agency
12 that—

13 (1) as of September 22, 1996, were maintained
14 by the National Photographic Interpretation Center;
15 or

16 (2) concern the activities of the Agency that, as
17 of such date, were performed by the National Photo-
18 graphic Interpretation Center.

19 (c) OPERATIONAL FILES DEFINED.—In this section,
20 the term "operational files" has the meaning given that
21 term in section 701(b) of the National Security Act of
22 1947 (50 U.S.C. 431(b)).

1 **PART III—PERSONNEL MANAGEMENT**

2 **SEC. 331. MANAGEMENT RIGHTS.**

3 (a) SCOPE.—If there is no obligation under the provi-
4 sions of chapter 71 of title 5, United States Code, for the
5 head of an agency of the United States to consult or nego-
6 tiate with a labor organization on a particular matter by
7 reason of that matter being covered by a provision of law
8 or a Governmentwide regulation, the Director of the Na-
9 tional Geospatial-Intelligence Agency is not obligated to
10 consult or negotiate with a labor organization on that mat-
11 ter even if that provision of law or regulation is inappli-
12 cable to the National Geospatial-Intelligence Agency.

13 (b) BARGAINING UNITS.—The Director of the Na-
14 tional Geospatial-Intelligence Agency shall accord exclu-
15 sive recognition to a labor organization under section 7111
16 of title 5, United States Code, only for a bargaining unit
17 that was recognized as appropriate for the Defense Map-
18 ping Agency on September 30, 1996.

19 (c) TERMINATION OF BARGAINING UNIT COVERAGE
20 OF POSITION MODIFIED TO AFFECT NATIONAL SECU-
21 RITY DIRECTLY.—(1) If the Director of the National
22 Geospatial-Intelligence Agency determines that the re-
23 sponsibilities of a position within a collective bargaining
24 unit should be modified to include intelligence, counter-
25 intelligence, investigative, or security duties not previously
26 assigned to that position and that the performance of the

1 newly assigned duties directly affects the national security
2 of the United States, then, upon such a modification of
3 the responsibilities of that position, the position shall cease
4 to be covered by the collective bargaining unit and the em-
5 ployee in that position shall cease to be entitled to rep-
6 resentation by a labor organization accorded exclusive rec-
7 ognition for that collective bargaining unit.

8 (2) A determination described in paragraph (1) that
9 is made by the Director of the National Geospatial-Intel-
10 ligence Agency may not be reviewed by the Federal Labor
11 Relations Authority or any court of the United States.

12 **SEC. 332. FINANCIAL ASSISTANCE TO CERTAIN EMPLOYEES**
13 **IN ACQUISITION OF CRITICAL SKILLS.**

14 The Director of Intelligence may establish an under-
15 graduate training program with respect to civilian employ-
16 ees of the National Geospatial-Intelligence Agency that is
17 similar in purpose, conditions, content, and administration
18 to the program established by the Secretary of Defense
19 under section 16 of the National Security Agency Act of
20 1959 (50 U.S.C. 402 note) for civilian employees of the
21 National Security Agency.

22 **PART IV—DEFINITIONS**

23 **SEC. 341. DEFINITIONS.**

24 In this subtitle:

1 (1) IMAGERY.—(A) The term "imagery" means,
2 except as provided in subparagraph (B), a likeness
3 or presentation of any natural or manmade feature
4 or related object or activity and the positional data
5 acquired at the same time the likeness or represen-
6 tation was acquired, including—
7 (i) products produced by space-based na-
8 tional intelligence reconnaissance systems; and
9 (ii) likenesses or presentations produced by
10 satellites, airborne platforms, unmanned aerial
11 vehicles, or other similar means.
12 (B) Such term does not include handheld or
13 clandestine photography taken by or on behalf of
14 human intelligence collection organizations.
15 (2) IMAGERY INTELLIGENCE.—The term "im-
16 agery intelligence" means the technical, geographic,
17 and intelligence information derived through the in-
18 terpretation or analysis of imagery and collateral
19 materials.
20 (3) GEOSPATIAL INFORMATION.—The term
21 "geospatial information" means information that
22 identifies the geographic location and characteristics
23 of natural or constructed features and boundaries on
24 the earth and includes—

(A) statistical data and information derived from, among other things, remote sensing, mapping, and surveying technologies; and

(B) mapping, charting, geodetic data, and related products.

(4) GEOSPATIAL INTELLIGENCE.—The term "geospatial intelligence" means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on the earth. Geospatial intelligence consists of imagery, imagery intelligence, and geospatial information.

TITLE IV—TRANSITION MATTERS

Subtitle A—Modification of Authorities on Elements of Intelligence Community

SEC. 401. CONFORMING MODIFICATION OF AUTHORITIES ON CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking sections 102 through 104 and inserting the following new sections:

"CENTRAL INTELLIGENCE AGENCY

"SEC. 102. (a) IN GENERAL.—There is a Central Intelligence Agency.

1 "(b) FUNCTION.—The function of the Agency shall
2 be to assist the Director of the Central Intelligence Agency
3 in carrying out the responsibilities of the Director under
4 section 103.

5 "DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

6 "SEC. 103. (a) DIRECTOR OF CENTRAL INTEL-
7 LIGENCE AGENCY.—There is a Director of the Central In-
8 telligence Agency who shall be appointed by the President,
9 by and with the advice and consent of the Senate.

10 "(b) HEAD OF CENTRAL INTELLIGENCE AGENCY.—
11 The Director of the Central Intelligence Agency shall be
12 the head of the Central Intelligence Agency.

13 "(c) PROHIBITION ON SIMULTANEOUS SERVICE AS
14 DIRECTOR OF INTELLIGENCE.—The individual serving in
15 the position of Director of the Central Intelligence Agency
16 shall not, while so serving, also serve as the Director of
17 Intelligence.

18 "(d) GENERAL RESPONSIBILITIES.—As head of the
19 Central Intelligence Agency, the Director of the Central
20 Intelligence Agency shall—

21 "(1) provide capabilities for the collection of in-
22 telligence through human sources and by other ap-
23 propriate means and provide for the analysis of such
24 intelligence, except that the Agency shall have no po-
25 lice, subpoena, or law enforcement powers or inter-
26 nal security functions;

1 "(2) correlate, evaluate, and analyze intelligence
2 related to the national security and provide appro-
3 priate dissemination of such intelligence;
4 "(3) perform such additional services as are of
5 common concern to the elements of the intelligence
6 community, which services the Director of Intel-
7 ligence determines can be more efficiently accom-
8 plished by the Agency;
9 "(4) notwithstanding any other provision of
10 law, report directly to the Director of Intelligence
11 concerning all functions and duties of the Agency;
12 and
13 "(5) perform such other functions and duties
14 concerning intelligence related to the national secu-
15 rity as the Director of Intelligence shall prescribe.".
16 (b) CLERICAL AMENDMENT.—The table of contents
17 for such Act is amended by striking the items relating to
18 sections 102 through 104 and inserting the following new
19 items:

"Sec. 102. Central Intelligence Agency.
"Sec. 103. Director of the Central Intelligence Agency.".

1 **SEC. 402. OTHER CONFORMING MODIFICATIONS OF LAW**
2 **RELATING TO MISSIONS, RESPONSIBILITIES,**
3 **AND AUTHORITIES OF DIRECTOR OF INTEL-**
4 **LIGENCE AND DIRECTOR OF CENTRAL INTEL-**
5 **LIGENCE AGENCY.**

6 (a) NATIONAL SECURITY ACT OF 1947.—(1) The
7 National Security Act of 1947 (50 U.S.C. 401 et seq.)
8 is amended by striking "Director of Central Intelligence"
9 and inserting "Director of Intelligence" each place it ap-
10 pears in the following provisions:

11 (A) Section 3(4)(J) (50 U.S.C. 401a(4)(J)).
12 (B) Section 3(5)(B) (50 U.S.C. 401a(5)(B)).
13 (C) Section 3(6) (50 U.S.C. 401a(6)).
14 (D) Section 101(h)(2)(A) (50 U.S.C.
15 402(h)(2)(A)).
16 (E) Section 101(h)(5) (50 U.S.C. 402(h)(5)).
17 (F) Section 101(i)(2)(A) (50 U.S.C.
18 402(i)(2)(A)).
19 (G) Section 101(j) (50 U.S.C. 402(j)), both
20 places it appears.
21 (H) Section 105(a) (50 U.S.C. 403–5(a)).
22 (I) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).
23 (J) Section 105(b)(6)(A) (50 U.S.C. 403–
24 5(b)(6)(A)).
25 (K) Section 105(d) (50 U.S.C. 403–5(d)).

1 (L) Section 105B(a)(1) (50 U.S.C. 403–
2 5b(a)(1)).
3 (M) Section 105B(a)(2) (50 U.S.C. 403–
4 5b(a)(2)).
5 (N) Section 105B(b) (50 U.S.C. 403–5b(b)),
6 both places it appears.
7 (O) Section 110(b) (50 U.S.C. 404e(b)).
8 (P) Section 110(c) (50 U.S.C. 404e(c)).
9 (Q) Section 111 (50 U.S.C. 404f).
10 (R) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).
11 (S) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).
12 (T) Section 113(b)(2)(A) (50 U.S.C.
13 404h(b)(2)(A)).
14 (U) Section 113(c) (50 U.S.C. 404h(c)).
15 (V) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).
16 (W) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).
17 (X) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).
18 (Y) Section 115(b) (50 U.S.C. 404j(b)).
19 (Z) Section 115(c)(1)(B) (50 U.S.C.
20 404j(c)(1)(B)).
21 (AA) Section 116(a) (50 U.S.C. 404k(a)).
22 (BB) Section 116(b) (50 U.S.C. 404k(b)).
23 (CC) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).
24 (DD) Section 303(a) (50 U.S.C. 405(a)), both
25 places it appears.

1 (EE) Section 501(d) (50 U.S.C. 413(d)).

2 (FF) Section 502(a) (50 U.S.C. 413a(a)).

3 (GG) Section 502(c) (50 U.S.C. 413a(c)).

4 (HH) Section 503(b) (50 U.S.C. 413b(b)).

5 (II) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

6 (JJ) Section 603(a) (50 U.S.C. 423(a)).

7 (KK) Section 702(a)(6)(B)(viii) (50 U.S.C.
8 432(a)(6)(B)(viii)).

9 (LL) Section 702(b) (50 U.S.C. 432(b)), both
10 places it appears.

11 (2) That Act is further amended by striking "Direc-
12 tor of Central Intelligence" and inserting "Director of the
13 Central Intelligence Agency" each place it appears in the
14 following provisions:

15 (A) Section 504(a)(2) (50 U.S.C. 414(a)(2)).

16 (B) Section 504(a)(3)(C) (50 U.S.C.
17 414(a)(3)(C)).

18 (C) Section 701(a) (50 U.S.C. 431(a)).

19 (D) Section 702(a) (50 U.S.C. 432(a)).

20 (3) Section 701(c)(3) of that Act (50 U.S.C.
21 431(c)(3)) is amended by striking "or the Office of the
22 Director of Central Intelligence" and inserting "the Office
23 of the Director of Intelligence, or the Office of the Direc-
24 tor of the Central Intelligence Agency".

1 (4)(A) The heading for section 114 of that Act (50
2 U.S.C. 404i) is amended to read as follows:
3 "ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF
4 INTELLIGENCE".
5 (B) The table of contents for that Act is further
6 amended by striking the item relating to section 114 and
7 inserting the following new item:

"Sec. 114. Additional annual reports from the Director of Intelligence.".

8 (b) CENTRAL INTELLIGENCE AGENCY ACT OF
9 1949.—(1) Section 1 of the Central Intelligence Agency
10 Act of 1949 (50 U.S.C. 403a) is amended—
11 (A) by redesignating paragraphs (a) and (c) as
12 paragraphs (1) and (3), respectively; and
13 (B) by striking paragraph (b) and inserting the
14 following new paragraph (2):
15 "(2) 'Director' means the Director of the Cen-
16 tral Intelligence Agency; and".
17 (2) Section 6 of that Act (50 U.S.C. 403g) is amend-
18 ed—
19 (A) by striking "Director of Central Intel-
20 ligence" and inserting "Director of Intelligence";
21 and
22 (B) by striking "section 103(c)(6) of the Na-
23 tional Security Act of 1947 (50 U.S.C. 403–
24 3(c)(6))" and inserting "section 103(b)(7) of the
25 National Security Act of 1947".

1 (3) Section 17(f) of that Act (50 U.S.C. 403q(f)) is
2 amended—
3 (A) by striking "Director of Central Intel-
4 ligence" the first place it appears and inserting "Di-
5 rector of Intelligence"; and
6 (B) by striking "Director of Central Intel-
7 ligence" the second place it appears and inserting
8 "Director of Intelligence".
9 (4) That Act is further amended by striking "Direc-
10 tor of Central Intelligence" each place it appears in the
11 following provisions and inserting "Director of the Central
12 Intelligence Agency":
13 (A) Section 14(b) (50 U.S.C. 403n(b)).
14 (B) Section 16(b)(2) (50 U.S.C. 403p(b)(2)).
15 (C) Section 16(b)(3) (50 U.S.C. 403p(b)(3)),
16 both places it appears.
17 (D) Section 21(h)(1) (50 U.S.C. 403u(h)(1)).
18 (E) Section 21(h)(2) (50 U.S.C. 403u(h)(2)).
19 (5) That Act is further amended by striking "of Cen-
20 tral Intelligence" in each of the following provisions:
21 (A) Section 16(c)(1)(B) (50 U.S.C.
22 403p(c)(1)(B)).
23 (B) Section 17(d)(1) (50 U.S.C. 403q(d)(1)).
24 (C) Section 20(c) (50 U.S.C. 403t(c)).

1 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
2 ACT.—(1) Section 101 of the Central Intelligence Agency
3 Retirement Act (50 U.S.C. 2001) is amended by striking
4 paragraph (2) and inserting the following new paragraph
5 (2):

6 "(2) DIRECTOR.—The term 'Director' means
7 the Director of the Central Intelligence Agency.".

8 (2) Section 201(c) of that Act (50 U.S.C. 2011) is
9 amended by striking "paragraph (6) of section 103(c) of
10 the National Security Act of 1947 (50 U.S.C. 403–3(c))
11 that the Director of Central Intelligence" and inserting
12 "section 103(b)(7) of the National Security Act of 1947
13 that the Director of Intelligence".

14 (d) CIA VOLUNTARY SEPARATION PAY ACT.—Sub-
15 section (a)(1) of section 2 of the Central Intelligence
16 Agency Voluntary Separation Pay Act (50 U.S.C. 2001
17 note) is amended to read as follows:

18 "(1) the term 'Director' means the Director of
19 the Central Intelligence Agency;".

20 (e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF
21 1978.—(1) The Foreign Intelligence Surveillance Act of
22 1978 (50 U.S.C. 1801 et seq.) is amended by striking "Di-
23 rector of Central Intelligence" each place it appears and
24 inserting "Director of Intelligence".

(f) CLASSIFIED INFORMATION PROCEDURES ACT.—Section 9(a) of the Classified Information Procedures Act (5 U.S.C. App.) is amended by striking "Director of Central Intelligence" and inserting "Director of Intelligence".

SEC. 403. CONFORMING MODIFICATION OF AUTHORITIES ON CERTAIN CENTRAL INTELLIGENCE AGENCY OFFICERS.

(a) INSPECTOR GENERAL ACT OF 1978.—Section 8H(a)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App. 8H(a)(1)(C)) is amended by inserting before the period at the end the following: "or to the Inspector General of the Department of Intelligence".

(b) OTHER OFFICERS.—(1) Section 528 of title 10, United States Code, is amended—

(A) in subsection (a), by striking "Associate Director of Central Intelligence for Military Support" and inserting "Assistant Deputy Administrator of the National Counterterrorism Center for Operations"; and

(B) in the heading, by striking "**ASSOCIATE DIRECTOR OF CENTRAL INTELLIGENCE FOR MILITARY SUPPORT**" and inserting "**ASSISTANT DEPUTY ADMINISTRATOR OF THE NATIONAL COUNTERTERRORISM CENTER FOR OPERATIONS**".

1 (2) The item relating to section 528 in the table of
2 sections at the beginning of chapter 32 of such title is
3 amended by striking "Associate Director of Central Intel-
4 ligence for Military Support" and inserting "Assistant
5 Deputy Administration of the National Counterterrorism
6 Center for Operations".

7 **SEC. 404. CONFORMING MODIFICATION OF AUTHORITIES**
8 **ON NATIONAL SECURITY AGENCY.**

9 The National Security Agency Act of 1959 (50
10 U.S.C. 402 note) is amended—

11 (1) by inserting before section 5 the following
12 new sections:

13 "SEC. 2. (a) The National Security Agency is an ele-
14 ment of the Department of Intelligence.

15 "(b) The National Security Agency is an element of
16 the intelligence community under the National Security
17 Act of 1947 (50 U.S.C. 401 et seq.).

18 "SEC. 3. (a) The Director of the National Security
19 Agency is the head of the National Security Agency.

20 "(b) The Director of the National Security Agency
21 is subject to the direction and control of the Director of
22 Intelligence.

23 "(c) The Director of the National Security Agency
24 shall report directly to the Director of Intelligence on mat-
25 ters relating to the National Security Agency.";

(2) by striking "Secretary of Defense" each place it appears (other than the second place it appears in section 9(b), section 9(d), and section 10(c)(1)) and inserting "Director of Intelligence"; and

(3) in section 9(d), by striking "Secretary of Defense shall" and inserting "Director of Intelligence and the Secretary of Defense shall jointly".

SEC. 405. INCLUSION OF DEPARTMENT OF INTELLIGENCE IN INTELLIGENCE COMMUNITY.

Subparagraph (A) of section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended to read as follows:

"(A) the Department of Intelligence, which shall include the Office of the Director of Intelligence, the National Intelligence Council, and such other offices as the Director of Intelligence may designate;".

SEC. 406. REPEAL OF SUPERSEDED AUTHORITIES ON NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) REPEAL.—Chapter 22 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—The table of chapters at the beginning of subtitle A, and part I of subtitle

1 A, of such title are each amended by striking the item
2 relating to chapter 22.

3 **SEC. 407. OTHER CONFORMING AMENDMENT.**

4 Section 110(a) of the National Security Act of 1947
5 is amended by striking "section 442 of title 10, United
6 States Code," and inserting "section 232 of the Intel-
7 ligence Reformation Act of 2004".

8 Subtitle B—Other Transition 9 Matters Relating to Intelligence

10 **SEC. 411. PRESERVATION OF INTELLIGENCE CAPABILITIES.**

11 The Director of Intelligence, the Director of the Cen-
12 tral Intelligence Agency, the Attorney General, the Sec-
13 retary of Defense, and the heads of other appropriate de-
14 partments and agencies of the United States Government
15 shall jointly take such actions as are appropriate to pre-
16 serve the intelligence capabilities of the United States dur-
17 ing the transfer of agencies, offices, and functions to the
18 Department under this Act.

19 **SEC. 412. GENERAL REFERENCES TO INTELLIGENCE OFFI-**
20 **CIALS.**

21 (a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD
22 OF INTELLIGENCE COMMUNITY.—Any reference to the
23 Director of Central Intelligence in the Director's capacity
24 as the head of the intelligence community in any law, reg-
25 ulation, document, paper, or other record of the United

1 States shall be deemed to be a reference to the Director
2 of Intelligence.

3 (b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD
4 OF CENTRAL INTELLIGENCE AGENCY.—Any reference to
5 the Director of Central Intelligence in the Director's ca-
6 pacity as the head of the Central Intelligence Agency in
7 any law, regulation, document, paper, or other record of
8 the United States shall be deemed to be a reference to
9 the Director of the Central Intelligence Agency.

10 (c) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE
11 AS DEPUTY TO HEAD OF INTELLIGENCE COMMUNITY.—
12 Any reference to the Deputy Director of Central Intel-
13 ligence in the Deputy Director's capacity as deputy to the
14 head of the intelligence community in any law, regulation,
15 document, paper, or other record of the United States
16 shall be deemed to be a reference to the Deputy Director
17 of Intelligence.

18 Subtitle C—Transfer of Elements

19 SEC. 421. TRANSFER OF TERRORIST THREAT INTEGRATION 20 CENTER.

21 (a) TRANSFER.—The Director of the Central Intel-
22 ligence Agency shall transfer to the Director of Intel-
23 ligence administrative jurisdiction and control of the Ter-
24 rorist Threat Integration Center (TTIC).

1 (b) ADMINISTRATION.—The Director of Intelligence
2 shall administer the Terrorist Threat Integration Center
3 as a component of the National Counterterrorism Center
4 under section 113.

5 **SEC. 422. TRANSFER OF COMMUNITY MANAGEMENT STAFF.**

6 (a) TRANSFER.—The Director of the Central Intel-
7 ligence Agency shall transfer to the Director of Intel-
8 ligence administrative jurisdiction and control of the Com-
9 munity Management Staff.

10 (b) ADMINISTRATION.—The Director of Intelligence
11 shall administer the Community Management Staff as a
12 component of the Office of the Director of Intelligence
13 under section 111.

14 **SEC. 423. TRANSFER OF CERTAIN ELEMENTS OF FEDERAL**
15 **BUREAU OF INVESTIGATION.**

16 (a) TRANSFER.—The Director of the Federal Bureau
17 of Investigation shall transfer to the Director Intelligence
18 administrative jurisdiction and control of the elements of
19 the Federal Bureau of Investigation as follows:

20 (1) The Office of Intelligence.

21 (2) The Counterterrorism Division personnel
22 under the National Foreign Intelligence Program.

23 (3) The Counterintelligence Division personnel
24 under the National Foreign Intelligence Program.

1 (b) ADMINISTRATION.—The Director of Intelligence
2 shall administer each element transferred to the Director
3 under subsection (a) as an element of the Department
4 under subtitle E of title II.

5 Subtitle D—Transfer of Functions

6 **SEC. 431. TRANSFER OF FUNCTIONS.**

7 In accordance with the provisions of this subtitle,
8 there shall be transferred to the Director of Intelligence
9 the functions, personnel, assets, and liabilities of each of
10 the following:

11 (1) The Central Intelligence Agency.
12 (2) The National Security Agency.
13 (3) The National Geospatial-Intelligence Agen-
14 cy.
15 (4) The National Reconnaissance Office.
16 (5) The Office of Intelligence.
17 (6) The elements of the Counterterrorism Divi-
18 sion of the Federal Bureau of Investigation specified
19 in section 241(b).
20 (7) The elements of the Counterintelligence Di-
21 vision of the Federal Bureau of Investigation speci-
22 fied in section 241(b).
23 (8) The Terrorist Threat Integration Center.
24 (9) The Community Management Staff.

1 **SEC. 432. TRANSITIONAL AUTHORITIES.**

2 (a) PROVISION OF ASSISTANCE BY OFFICIALS.—
3 Until the transfer of an agency or office to the Depart-
4 ment under this Act, any official having authority over or
5 functions relating to the agency or office immediately be-
6 fore the date of the enactment of this Act shall provide
7 to the Director such assistance, including the use of per-
8 sonnel and assets, as the Director may request in pre-
9 paring for the transfer and integration of the agency or
10 office into the Department.

11 (b) SERVICES AND PERSONNEL.—Upon the request
12 of the Director, the head of any department or agency of
13 the United States may, on a reimbursable basis, provide
14 services or detail personnel to assist with the transition
15 of an agency or office to the Department under this Act.

16 (c) TRANSFER OF PERSONNEL, ASSETS, OBLIGA-
17 TIONS, AND FUNCTIONS.—Upon the transfer of an agency
18 or office to the Department under this Act—

19 (1) the personnel, assets, and obligations held
20 by or available in connection with the agency or of-
21 fice shall be transferred to the Director of Intel-
22 ligence for appropriate allocation, subject to the ap-
23 proval of the Director of the Office of Management
24 and Budget and in accordance with the provisions of
25 section 1531(a)(2) of title 31, United States Code;
26 and

1 (2) the Director of Intelligence shall have all
2 functions relating to the agency or office that any
3 other official could by law exercise in relation to the
4 agency immediately before such transfer, and shall
5 have in addition all functions vested in the Director
6 by this Act or other law.

7 **SEC. 433. SAVINGS PROVISIONS.**

8 (a) COMPLETED ADMINISTRATIVE ACTIONS.—(1)
9 Completed administrative actions of an agency or office
10 shall not be affected by the enactment of this Act or the
11 transfer of such agency or office to the Department, but
12 shall continue in effect according to their terms until
13 amended, modified, superseded, terminated, set aside, or
14 revoked in accordance with law by an officer of the United
15 States or a court of competent jurisdiction, or by operation
16 of law.

17 (2) For purposes of paragraph (1), the term "com-
18 pleted administrative action" includes orders, determina-
19 tions, rules, regulations, personnel actions, permits, agree-
20 ments, grants, contracts, certificates, licenses, registra-
21 tions, and privileges.

22 (b) PENDING PROCEEDINGS.—Subject to the author-
23 ity of the Director—

24 (1) pending proceedings in an agency or office,
25 including notices of proposed rulemaking, and appli-

1 cations for licenses, permits, certificates, grants, and
2 financial assistance, shall continue notwithstanding
3 the enactment of this Act or the transfer of the
4 agency or office to the Department, unless discon-
5 tinued or modified under the same terms and condi-
6 tions and to the same extent that such discontinu-
7 ance could have occurred if such enactment or trans-
8 fer had not occurred; and
9 (2) orders issued in such proceedings, and ap-
10 peals therefrom, and payments made pursuant to
11 such orders, shall issue in the same manner and on
12 the same terms as if this Act had not been enacted
13 or the agency or office had not been transferred, and
14 any such orders shall continue in effect until amend-
15 ed, modified, superseded, terminated, set aside, or
16 revoked by an officer of the United States or a court
17 of competent jurisdiction, or by operation of law.
18 (c) PENDING CIVIL ACTIONS.—Subject to the author-
19 ity of the Director, pending civil actions shall continue
20 notwithstanding the enactment of this Act or the transfer
21 of an agency or office to the Department, and in such civil
22 actions, proceedings shall be had, appeals taken, and judg-
23 ments rendered and enforced in the same manner and with
24 the same effect as if such enactment or transfer had not
25 occurred.

1 (d) REFERENCES.—References relating to an agency
2 or office that is transferred to the Department in statutes,
3 Executive orders, rules, regulations, directives, or delega-
4 tions of authority that precede such transfer or the date
5 of the enactment of this Act shall be deemed to refer, as
6 appropriate, to the Department, to its officers, employees,
7 or agents, or to its corresponding organizational units or
8 functions. Statutory reporting requirements that applied
9 in relation to such an agency or office immediately before
10 the date of the enactment of this Act shall continue to
11 apply following such transfer if they refer to the agency
12 or office by name.

13 (e) EMPLOYMENT PROVISIONS.—(1) Notwith-
14 standing the generality of the foregoing (including sub-
15 sections (a) and (d)), in and for the Department the Di-
16 rector of Intelligence may, in regulations prescribed jointly
17 with the Director of the Office of Personnel Management,
18 adopt the rules, procedures, terms, and conditions, estab-
19 lished by statute, rule, or regulation before the date of
20 the enactment of this Act, relating to employment in any
21 agency or office transferred to the Department pursuant
22 to this Act; and

23 (2) except as otherwise provided in this Act, or under
24 authority granted by this Act, the transfer pursuant to
25 this Act of personnel shall not alter the terms and condi-

1 tions of employment, including compensation, of any em-
2 ployee so transferred.
3 (f) STATUTORY REPORTING REQUIREMENTS.—Any
4 statutory reporting requirement that applied to an agency
5 or office transferred to the Department under this Act,
6 immediately before the date of the enactment of this Act
7 shall continue to apply following that transfer if the statu-
8 tory requirement refers to the agency or office by name.

9 Subtitle E—Other Matters

10 SEC. 441. TREATMENT OF DEPARTMENT OF INTELLIGENCE 11 AS EXECUTIVE DEPARTMENT.

12 Section 101 of title 5, United States Code, is amend-
13 ed by adding at the end the following:
14 "The Department of Intelligence.".

15 SEC. 442. EXECUTIVE SCHEDULE MATTERS.

16 (a) EXECUTIVE SCHEDULE LEVEL I.—Section 5312
17 of title 5, United States Code, is amended by adding at
18 the end the following new item:
19 "Director of Intelligence.".
20 (b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313
21 of title 5, United States Code, is amended by striking the
22 item relating to the Director of Central Intelligence and
23 inserting the following new items:
24 "Director of Central Intelligence Agency.

1 "Administrator of the National
2 Counterterrorism Center.".
3 (c) EXECUTIVE SCHEDULE LEVEL III.—Section
4 5314 of title 5, United States Code, is amended by strik-
5 ing the item relating to the Deputy Directors of Central
6 Intelligence and inserting the following new item:
7 "Deputy Director of Intelligence.".
8 (d) EXECUTIVE SCHEDULE LEVEL IV.—Section
9 5315 of title 5, United States Code, is amended—
10 (1) by striking the item relating to the Assist-
11 ant Directors of Central Intelligence;
12 (2) by striking the item relating to the Inspec-
13 tor General of the Central Intelligence Agency and
14 inserting the following new items:
15 "Inspector General, Central Intelligence Agen-
16 cy.
17 "Inspector General, Department of Intel-
18 ligence.";
19 (3) by inserting after the item relating to the
20 General Counsel of the Central Intelligence Agency
21 the following new item:
22 "General Counsel of the Department of Intel-
23 ligence."; and
24 (4) by adding at the end the following new
25 items:

1 "Assistant Directors of Intelligence (2).

2 "Deputy Administrators of the National

3 Counterterrorism Center (2).".

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