

THE WHITE HOUSE

WASHINGTON

June 21, 2005

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security & Governmental Affairs
United States Senate
Washington, D.C. 20510

The Honorable Joseph I. Lieberman
Ranking Member
Committee on Homeland Security & Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Collins and Senator Lieberman:

Thank you for your letter to Secretary Card of June 10, 2005, regarding the implementation of various provisions of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) (IRTPA). He has asked us to respond on his behalf.

As you know, President Bush has no higher priority than protecting America from future attack, and he appreciates Congress' support of this effort. He is pleased, in particular, that the Administration and Congress were able to work together in a bipartisan way to reform our Nation's Intelligence Community.

You will recall that the President had taken significant steps to bring about reform to the Intelligence Community prior to passage of the IRTPA. The President acted on his own authority to implement recommendations of the 9/11 Commission that did not require new legislation. On August 27, 2004, he issued Executive Orders creating the National Counterterrorism Center, strengthening the management of the intelligence community, enhancing the sharing of terrorism information, and establishing the President's Board for Safeguarding Americans' Civil Liberties. At the same time, he signed two Homeland Security Presidential Directives on terrorist-related screening procedures and common identification standards for federal employees and contractors. On November 18, 2004, the President issued additional Directives responding to further 9/11 Commission recommendations concerning the capabilities of the CIA and FBI.

Not surprisingly, therefore, the President strongly supports the IRTPA. As called for by IRTPA, the President has appointed, after Senate confirmation, two highly distinguished public servants to lead the Office of the Director of National Intelligence (ODNI), Ambassador John Negroponte and General Michael Hayden. They have rapidly taken on critical roles in reforming the Intelligence Community and ensuring that America has the best intelligence possible to meet ongoing threats. As the principal adviser to the President on intelligence matters, Ambassador

Negroponte has assumed responsibility for the daily intelligence briefings of the President and generally meets every morning with the President to review current intelligence. He has made several personnel appointments to senior positions within the ODNI and set up his organizational structure for leading the Intelligence Community.

Each of the officials working within the ODNI or elsewhere in the Administration to implement IRTPA shares the President's commitment to improving our Nation's defenses. We have sent copies of your letter to the relevant officials, and they have assisted in preparing this response.

We are glad to have the opportunity to update you on the status of the Administration's implementation of that Act and have provided detailed information below.

* * *

One important tool necessary for success is information sharing within the government and between the government and other appropriate entities. As you point out, successful implementation requires effective leadership across the government and sufficient resources. The WMD Commission, in its report (Chapter 9), studied the issues discussed in your letter and stated that "[t]he confused lines of authority over information sharing created by the intelligence reform act should be resolved." To that end, the Commission recommended that "[t]he overlapping authorities of the [Director of National Intelligence (DNI)] and the Program Manager should be reconciled and coordinated -- a result most likely to be achieved by requiring the Program Manager to report to the DNI." The President accepted that recommendation in his Memorandum for the Heads of Executive Departments and Agencies, Subject: "Strengthening Information Sharing, Access, and Integration -- Organizational, Management, and Policy Development Structures for Creating the Terrorism Information Sharing Environment," and organized the Program Manager (PM) to report to the DNI. Notwithstanding, the Memorandum directed that the "[h]eads of executive departments and agencies shall . . . provide assistance and information to the DNI and the PM in the implementation of this memorandum." The President also directed that the PM include in his office, to the maximum extent possible, personnel with substantial information sharing experience relating to homeland security, national defense, law enforcement, and State and local governments. Importantly, however, although the PM will report to the DNI, the interagency Information Sharing Council will advise the Program Manager directly, and there are policy coordination processes in place at the National Security Council and the Homeland Security Council to help ensure that information sharing is a truly interagency endeavor. It should be noted that, consistent with Section 1016(c) of IRTPA, the preliminary report of the PM mentioned in your letter relating to the Information Sharing Environment was submitted to Congress on June 15, 2005, and contains additional discussion of this issue.

Your letter raises concerns over several reports the Department of Homeland Security (DHS) is required to provide to Congress. We have shared your letter with Secretary Chertoff, who has a strong commitment to meeting congressional reporting deadlines. He has conducted a department-wide review of all outstanding congressional reports in order to eliminate any backlog and ensure timely reporting going forward.

Secretary Chertoff initiated shortly after his confirmation a comprehensive process to review the programmatic structure and strategic priorities of DHS. This review process will be pivotal in ensuring DHS's ability to meet our common goal of securing our nation from international terrorism, but is likely to affect the content and timing of some of the congressional reports referenced in your letter. DHS is working to ensure that Congress is provided with the most up-to-date information regarding DHS activities in a timely manner.

With regard to the specific reports you cited:

- The report regarding the development of standards for aviation security staffing has been completed. DHS anticipates transmittal within the next week.
- Deputy Secretary Jackson wrote to Congress on April 4, 2005, requesting additional time to reassess and strengthen the transportation strategy report. This additional review is critical to ensure that the final product meets the intent of IRTPA, is helpful to your committee, and is appropriately coordinated with other federal agencies. We understand that DHS expects to complete and transmit that report in the next 5 weeks.
- With respect to the report on the Transportation Worker Identification Credential (TWIC) management plan, we understand from DHS that this report was due before the information Congress sought became available. The prototype phase of the TWIC development program was not scheduled to be completed until the end of June 2005. Lessons learned from the prototype will inform a number of key policy decisions that will impact the timing for further program development and implementation. TSA is in the process of briefing DHS leadership on its policy recommendations and rollout plans. These policy recommendations are essential elements that will form the basis of the substantive report that the Congress has requested. We look to have the report to you by September 30, 2005.

Your letter also raised Section 4019(d), concerning a cost-sharing study relating to in-line baggage screening equipment. DHS is working on the development of the optimal checked baggage screening solutions for those airports that generate 99% of checked baggage carried on commercial flights. Once approved, the plan will include prioritization criteria and innovative cost sharing ideas for deploying Explosive Detection Systems (EDS), Explosive Trace Detection (ETD) systems, and Next Generation Systems. This plan will form the basis of the Department's compliance with the requirements of Section 4019 of IRTPA. We anticipate that this plan will be submitted by September 30, 2005.

Your letter also inquires about certain reports related to Afghanistan. The United States is making significant efforts to encourage other countries to participate in peacekeeping and security operations in Afghanistan. U.S. government efforts to expand international contributions of personnel for combat and stability operations in Afghanistan have resulted in approximately 40 countries contributing either to the Operation Enduring Freedom (OEF) coalition or the NATO-led International Security Assistance Force (ISAF) as of June 2005. We understand from the Department of Defense that ISAF has approximately 9,000 foreign troops in Afghanistan, up from approximately 5,800 in January 2004. In addition, approximately 2,000 Coalition troops, up from 1,700 in January 2004, have joined the roughly 19,000 U.S. forces in OEF.

The U.S. government has succeeded in getting other countries to establish Provincial Reconstruction Teams (PRTs) in Afghanistan. According to the Department of Defense, Germany has established PRTs in Konduz and Feyzabad, the United Kingdom has established PRTs in Mazar-e-Sharif and Meymaneh, and the Netherlands has established a PRT in Baghlan. As of May 2005, NATO has officially expanded its PRT presence into western Afghanistan. Italy has assumed command of the PRT in Herat. Lithuania and Spain are establishing two more PRTs in Afghanistan in Chagcharan and Qal-e-Noye, respectively. The Department of Defense is compiling additional information as specified in Section 7104(i) of IRTPA and will submit that information to Congress no later than July 15, 2005.

Although the general political and economic situation in Afghanistan has seen important improvements in the past year, the drug situation has remained problematic. While the extent to which terrorists and extremist groups are involved in and benefit from the drug trade is difficult to judge, it is clear that the drug trade networks do pose a major challenge to our efforts in Afghanistan. In response, the Department of Defense and the Department of State are coordinating with the United Kingdom, the international lead nation for counternarcotics, to provide vigorous support to the Government of Afghanistan's counternarcotics efforts. The strategy is based on five pillars: law enforcement, interdiction, eradication, public information, and alternative livelihoods. There are some indications that cultivation levels may drop in 2005, based in part on public information efforts led by the Government of Afghanistan. Afghan interdiction capacity is improving. We have made progress in our five-pillar strategy and have learned important lessons that will help us to refine our strategy. Challenges remain, however, and success against the drug trade will require a long-term effort. We will go into further depth on this issue in the report specified by Section 7104(j) that will be submitted to Congress within the next 4 weeks.

The Department of State report concerning stolen passport information coordination with other countries is not yet complete. However, we understand from the Department of State that a study conducted by Sandia Labs will form the basis for a final report that is expected to be transmitted to Congress shortly.

Your letter also references Section 3001(b) of the Act, which concerns the security clearance process. Consistent with the responsibilities entrusted by the Constitution to the President to control access to national security information, the agencies at the forefront of this effort have been meeting to work through the issues surrounding background investigations and the grant of security clearances. As part of this process, the Administration recently transferred the background investigation functions of the Defense Security Service from the Department of Defense to the Office of Personnel Management to consolidate the government's security clearance process. The Administration has under consideration what further steps it will take to address issues affecting the Executive Branch security clearance process in light of the views expressed by Congress in section 3001(b) of the Act.

You also raise concerns regarding the budget of the Privacy and Civil Liberties Oversight Board (Board) established by the Act. OMB recently responded to a similar inquiry during an OMB Appropriations Hearing. The Administration's proposal for funding the Board envisions that its members would carry out their functions for the government on a part-time basis, with a full-

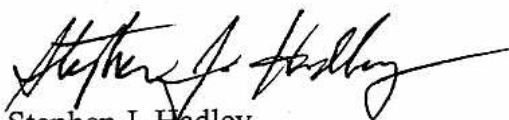
time Executive Director. This is exactly what was envisioned in the Act. In addition, the Act authorizes the use of agency detailees on a non-reimbursable basis. Agency staff would carry out the day-to-day activities and research for the Board, while leaving the results of that research, and advising and counseling on development and implementation of policy, to Board members. The funding level in the Administration's proposal is very similar to that provided historically for the President's Foreign Intelligence Advisory Board, which, as you may know, operates with a modest budget and whose members serve without compensation. We will ensure the Board has the necessary resources to fulfill its mission.

While the Administration's proposal envisions that this arrangement will be most beneficial to the Federal government – drawing on the right type of expertise and promoting efficient use of existing government resources – as always, once the Board is up and running, we will reexamine its progress and performance to determine whether this model continues to be appropriate.

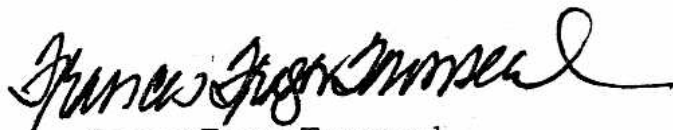
As for the additional reporting requirements contained in IRTPA and referenced in your letter, we have shared your concerns with the relevant agencies, and they understand the priority and importance of completing the many reports called for by IRTPA.

We should note that the 9/11 Commission Report stated that the reforms they suggested “will not work if congressional oversight does not change too.” The WMD Commission report, noted that the Congress had not yet adopted the 9/11 Commission recommendations, and made its own proposals for changes to congressional oversight. We urge your close attention to this issue as well as the ones you raised, and look forward to working with you to pursue congressional action consistent with these important recommendations.

Sincerely,



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