

CRS Report for Congress

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Comparison of 9/11 Commission Recommended Intelligence Reforms, Roberts Draft Bill, H.R. 4104, S. 190, S. 1520, S. 6, H.R. 4584, and Current Law

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Summary

On July 22, 2004, the National Commission on Terrorist Attacks Upon the United States (also known as the 9/11 Commission) released its bipartisan, unanimous final report containing recommendations for far-reaching and fundamental changes to the United States Intelligence Community (IC). Almost 20 months after its creation by P.L. 107-306, the commission, as mandated by its founding legislation, attempted to present a full and complete accounting of the facts and circumstances surrounding the terrorist attacks of September 11, 2001, as well as recommendations for corrective measures that can be taken to help prevent acts of terrorism.

Several Members of Congress also have proposed legislation to reform the IC. Senators Feinstein (S. 190), Bob Graham (S. 1520), Daschle (S. 6) and Roberts (draft bill of August 23, 2004) have introduced or proposed legislation that either directly, or as part of broader security proposals, contain a variety of IC reforms. Representative Harman (H.R. 4104) has introduced comprehensive intelligence reform legislation as did Representative Goss (H.R. 4584), before he was confirmed by the U.S. Senate as Director of Central Intelligence.

This report, the first of two reports, presents side-by-side comparisons of the 9/11 Commission recommendations and legislation proposed by Senators Feinstein, Bob Graham, Daschle, and Roberts; and Representatives Harman and Goss, and relevant provisions of current law.

A second report (CRS Report RL32601) presents a side-by-side comparison of the 9/11 Commission recommendations and legislation proposed by Senators Collins, Lieberman, and McCain; President Bush; and relevant provisions of current law.

This report will be updated.

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Comparison of 9/11 Commission Recommended Intelligence Reforms, Roberts Draft Bill, H.R. 4104, S. 190, S. 1520, S. 6, H.R. 4584, and Current Law

Side-by-Side Comparison of Selected Intelligence Community Reform Proposals

9/11 Commission	Roberts (S. draft bill of August 23, 2004)	Harman (H.R. 4104)	Feinstein (S. 190), Bob Graham (S. 1520), Daschle (S. 6)	Goss (H.R. 4584)	Current Law
National Intelligence Director (NID)					
<p>Replace current position of Director of Central Intelligence with a Presidentially - appointed, Senate-confirmed NID. The NID located in the Executive Office of the President. A separate Director would head the Central Intelligence Agency (CIA).</p>	<p>Creates a NID, who is Presidentially appointed and Senate confirmed. Will head a fully restructured Intelligence Community to be called the National Intelligence Service.</p>	<p>Comparable provision, except NID would be named Director of National Intelligence (DNI). Not located in the Executive Office of the President.</p>	<p>Comparable provision, except NID would be named Director of National Intelligence (DNI). Not located in the Executive Office of the President. [S. 6, unlike S. 190 and S. 1520, establishes a ten-year term for the DNI.]</p>	<p>Establishes Presidentially-appointed, Senate-confirmed position Director of Central Intelligence (DCI) who would also head CIA.</p>	<p>Stipulates that there is a Director of Central Intelligence who also heads CIA.</p>

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Cabinet Member					
NID should not be cabinet member.	No provision.	No provision.	Sense of Congress that DNI should be cabinet-level officer.	No provision.	No provision.
General NID Responsibilities					
<ul style="list-style-type: none"> — Oversee national intelligence centers, on specific subjects of interest, including the proposed National Counterterrorism Center (NCTC). — Oversee the Intelligence Community (IC). — President’s principal intelligence advisor. 	Under the direction of the National Security Council, to provide national intelligence to the President; to heads of departments and agencies of the executive branch; to Chairman JCS and service military commanders; and, where appropriate, to the Senate, House, and other committees.	<ul style="list-style-type: none"> — Head IC. — President’s principal intelligence advisor. 	<ul style="list-style-type: none"> — Head IC. — President’s principal intelligence advisor. 	<ul style="list-style-type: none"> — Head CIA. — Head IC. — President’s principal intelligence advisor. 	<ul style="list-style-type: none"> — Head IC. — President’s principal intelligence advisor. — Head CIA.
NID Tasking Responsibilities					
No provision.	NID shall establish requirements and priorities to govern collection, analysis and dissemination of national intelligence.	NID will direct the tasking of collection, analysis and dissemination of national intelligence.	NID will establish requirements and priorities to govern national intelligence collection.	DCI will collect, coordinate and direct the collection of intelligence.	DCI will provide overall direction for intelligence collection.

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Internal Security Responsibilities — CIA Director					
NID should directly oversee intelligence collection inside the United States.	No authority to direct, manage or undertake electronic surveillance or physical search operations unless authorized by statute or executive order.	Retains current statutory prohibition preventing CIA director from exercising internal security functions.	Retains current statutory provision preventing CIA director from exercising internal security functions.	Repeals prohibition preventing DCI as CIA head from exercising internal security functions.	Prohibits the DCI as CIA head from exercising internal security functions.
NID Budget Responsibilities					
Budget Submission					
NID should submit a unified budget for national intelligence.	NID would prepare the annual budget for intelligence and intelligence-related activities of the United States.	DNI would develop an annual intelligence budget.	DNI would develop an annual intelligence budget.	DCI would determine the annual intelligence budget.	DCI facilitates the development of an annual intelligence budget.
Budget Development					
No recommendation.	Provides budget guidance to each element of the National Intelligence Service; participates 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.	No provision.	The DNI's budget development would include review, approval, and modification of the execution of IC budgets, and personnel and resource allocation.	No provision.	No provision.

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NID Specific Authority for Budget Execution					
No recommendation.	Manages and oversees the execution of the National Intelligence Program; eliminates waste and unnecessary duplication within the National Intelligence Service.	No provision.	DNI's budget development includes managing and overseeing the execution and, if necessary, the modification of the annual National Foreign Intelligence Program (NFIP), including directing the transfer of funds or personnel within the IC.	No provision.	No provision.
NID Budget Authorities					
Budget Approval					
NID should approve all IC budgets.	NID approves budgets of the new National Intelligence Service. NID provides guidance to elements of the National Intelligence Service in preparing their budgets included in the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Programs.	Adheres to current statute — DNI approves budgets of all IC elements before incorporation into NFIP.	Adheres to current statute — DNI approves budgets of all IC elements before incorporation into NFIP.	DCI approves budgets of all IC elements before provided to President for transmission to Congress.	DCI approves budgets of all IC elements before incorporation into NFIP.

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Budget Reprogramming					
<p>NID should have reprogramming authority.</p>	<p>NID has reprogramming authority for the National Intelligence Program. The Secretary of Defense must “consult with” the NID before reprogramming funds appropriated or otherwise made available under the Joint Military Intelligence Program.</p>	<p>Adheres to current statute — No NFIP funds may be reprogrammed without DNI prior approval, except in accordance with DCI-issued procedures.</p>	<p>Adheres to current statute — No NFIP funds may be reprogrammed without DNI prior approval, except in accordance with DCI-issued procedures.</p>	<p>Adheres to current statute, except eliminates: “except in accordance with DCI-issued procedures.”</p>	<p>No NFIP funds may be reprogrammed without DNI prior approval, except in accordance with DCI-issued procedures.</p>

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Funds and Personnel Transfer					
No recommendation.	With OMB Director's approval, the NID may transfer funds under specified guidelines, particularly funds for an activity that is a higher priority intelligence activity. Personnel may be transferred by the NID to a higher priority intelligence activity. Transfers of Defense Department personnel require a report to the Intelligence and Armed Services Committee of Congress.	Would require approval of Director of Office of Management and Budget (OMB), and transfers could occur for periods up to a year .	Would require approval from Director of OMB, and transfers could occur for periods up to a year .	Requires that DCI coordinate with OMB director before proceeding with a funds or personnel transfer. No limit on period of transfer.	Requires approval from Director OMB, and could occur for periods up to a year .

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Agency Heads Objections to Fund and Personnel Transfers					
DNI should be permitted to transfer funds and personnel within the IC over the objection of agency heads.	No provision.	Would withhold from DNI unilateral fund and personnel transfer authority, but would provide for objection by affected agency head to such transfer, provided objection made in writing to the President.	Would permit DNI to transfer funds and personnel within the IC over the objection of agency heads.	Would permit DCI transfer authority. Agency heads could object in writing to the intelligence committees, but could not prevent such transfers.	Would allow agency heads to stop DCI-initiated transfers, so long as they state objection in writing to the DCI.
Personnel Transfer Procedures					
No recommendation.	Personnel may be transferred by the NID to a higher priority intelligence activity. Transfers of Defense Department personnel require a report to the Intelligence and Armed Services Committees of Congress.	Would not require the DCI to develop personnel transfer procedures with affected agency heads.	Would not require the DCI to develop personnel transfer procedures with affected agency heads.	Would require the DCI to develop transfer procedures with affected agency heads.	Would require the DCI to develop transfer procedures with affected agency heads.

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FBI Funds & Personnel Transfers					
NID should be authorized to transfer funds/personnel from the FBI.	The Assistant National Intelligence Director for Collection is given direct line control over the FBI's Counter-intelligence/Counter-terrorism units, but they continue to operate within the FBI for administrative and support purposes, and subject to Attorney General guidelines.	DNI authorized to transfer funds/personnel from the FBI.	DNI authorized to transfer funds/personnel from the FBI.	DCI is not authorized to transfer funds/personnel from the FBI.	DCI is not authorized to transfer funds/personnel from the FBI.
Direct Appropriation					
NID Receives Direct Appropriation					
NID should receive direct appropriation. Currently the Sec Def receives the appropriation and disburses to CIA and national intelligence agencies.	NID prepares budget for National Intelligence Program and is responsible for management and expenditure of funds. Receives direct appropriation for these activities.	NDI would not receive direct appropriation.	NDI would not receive direct appropriation.	DCI receives direct appropriation.	DCI does not receive direct appropriation.

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Budget Disclosure					
Overall national intelligence budget and budgets of component agencies should be publicly disclosed.	States Sense of Congress that the aggregate amount of appropriations in the budget for intelligence and intelligence-related activities should be made available to the public for each fiscal year after FY2005, unless the President certifies doing so would damage U.S. National Security.	No provision.	No provision.	No provision.	No provision.
Hire and Fire Authority					
NID should have hire/fire...authority to approve and submit nominations to the President for CIA, Defense Intelligence Agency (DIA), FBI Intelligence Office, National Security Agency (NSA), National Reconnaissance Office (NRO), and Homeland Security Information Analysis and	NID can terminate the employment of any civilian officer or employee of any element of the National Intelligence Service. Heads of National Intelligence Centers are appointed by the NID. NID appoints the General Counsel of the National Intelligence Service. NID appoints the Chief Information Office of the National	No direct NDI hire/fire authority; However, provision does strengthen NDI's personnel selection authorities. <i>Joint Recommendations</i> NDI/SecDef joint recommendation to the President on heads of NSA, NRO and NGA. <i>Concurrence</i>	No NDI hiring/firing authority... would maintain current statute authorities.	No NDI hire/fire authority; However, provision would strengthen personnel authority by maintaining current statute requirement for DCI/Secretary concurrence, but adding several agency head positions to which this would apply. Secretaries in affected agencies could still over-ride DNI non-	No DCI hire/fire authority within the IC; However, provision calls for concurrence and consultation on personnel selections. <i>Concurrence</i> DCI/SecDef concurrence on heads of NSA, NRO and NGA, but SecDef can override.

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Infrastructure Protection (IAIP).	Intelligence Service. NID appoints the Chief Financial Officer of the National Intelligence Service. NID can direct the Secretary of Defense to reassign any member of the Armed forces within the National Intelligence Service to a position outside of it.	DNI/agency head concurrency on other IC appointments, but agency head can override DNI. <i>Mandatory Concurrence on FBI Appointments</i> DNI/FBI Director mandatory concurrence on FBI intelligence appointments.		concurrence. <i>FBI Discretionary Consultation</i> DNI/FBI Director make joint recommendation on FBI intelligence appointments. AG determines.	<i>Consultation</i> Dept. Heads consult with DCI on directors of DIA INR, and DOE intelligence units, but agency head decides. <i>FBI Timely Notice</i> FBI director gives DCI timely notice of FBI intelligence appointments.

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Personnel Policy					
<p>NID should set IC-wide personnel education and training standards and facilitate assignments across agency lines and at national intelligence centers.</p>	<p>NID to develop and implement, as necessary, a common personnel system and a common retirement and disability system for the elements of the National Intelligence Service. NID, in coordination with heads of departments and agencies with elements in the National Intelligence Service, institute policies and programs for rotation of personnel, setting standards for qualifications, performance, and promotions.</p>	<p>NDI would set IC-wide personnel education and training standards and require for senior promotion service in more than two positions outside home element.</p>	<p>Maintains current statute requiring NDI to consult agency heads in developing personnel standards and qualifications.</p>	<p>DCI not required to consult agency heads in developing IC standards and qualifications.</p>	<p>DCI required to consult agency heads in developing IC personnel standards and qualifications. Where appropriate, DCI should consider rotated service in IC elements a factor to consider in senior promotions.</p>

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Information Sharing Technology Policies					
NID should establish information technology standards to maximize info sharing and info security.	NID to ensure that intelligence (including unevaluated intelligence), its source, and method of collection are disseminated in a timely manner, to promote comprehensive all-source analysis by cleared personnel of the USG, regardless of the collecting element.	DNI/Secretary of Defense develop integrated communications network and maximize state/local information sharing.	No provision.	Newly created Assoc. Dir. for info management would recommend to DCI info and technology standards to maximize info sharing.	The National Security Council will develop procedures for effective information sharing.
Advisory Council on Information Sharing					
No provision.	No provision.	No provision.	No provision.	No provision.	No provision.

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IC Structure					
National Counterterrorism Center (NCTC)					
<p>Should establish NCTC, housed in the Executive Office of the President, and overseen by the NID. Build on existing Terrorist Threat Integration Center (TTIC).</p> <p>Center for joint operational planning and joint intelligence, staffed by personnel from various agencies.</p> <p><i>Intelligence Aspects</i></p> <p>Pool all-source analysis; perform strategic analysis and net assessment.</p> <p><i>Operations Aspects</i></p> <p>Perform joint planning; assign operations to lead agencies (State, CIA, FBI, Defense). Track plan implementation.</p>	<p>A National Counterterrorism Center, which assumes the responsibilities of the Terrorist Threat Integration Center, is created as one of the National Intelligence Centers envisioned in the bill. The National Counterterrorism Center is to have its own budget account. National Counterterrorism Center has counterterrorism as its substantive intelligence mission. It is to conduct strategic analysis of terrorist threats.</p>	<p>No provision.</p>	<p>No provision.</p>	<p>No provision.</p>	<p>No provision.</p>

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National Intelligence Centers					
Should establish centers on Weapons of Mass Destruction (WMD), int'l crime and narcotics, China/East Asia, Middle East, Russia/Eurasia. To be overseen by NID.	NID is authorized to establish within his office a National Intelligence Center for each substantive intelligence mission of the National Intelligence Service. National intelligence centers will be established by law, at the President's direction, or upon the initiative of the NID.	Establishes WMD center. To be overseen by NDI.	No provision.	No provision.	No provision.
Director of CIA					
CIA director should focus on rebuilding Agency's analytic and human intelligence collection capabilities.	The NID replaces the position of CIA director.	CIA director heads CIA. Ten-year term. Simultaneous service as DNI prohibited.	CIA director heads CIA. Simultaneous service as DNI prohibited.	DCI heads the CIA, and acting through the CIA, heads the IC.	DCI heads the IC and CIA.

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Paramilitary Operations					
DOD should assume from the CIA responsibility for directing and executing paramilitary operations, clandestine or covert.	The newly created National Clandestine Service retains the authorities and responsibilities presently held by the CIA's Directorate of Operations.	No provision.	No provision.	No provision.	No provision.
Information Sharing					
Establish incentives for sharing; restore better balance between security and shared knowledge.	The Chief Information Office, appointed by the NID, is to develop an integrated information technology network for the efficient and secure exchange of intelligence information among the elements of the National Intelligence Service, and, as directed by the President, other departments and agencies of the U.S. Government, and of state and local governments.	No provision, per se, but DNI/Sec Def to develop integrated communications network and maximize state/local info sharing.	No provision.	No provision, per se, but newly created Assoc. Dir. for info management would recommend to DCI info and technology standards to maximize info sharing.	No provision, per se, but the National Security Council will develop procedures for effective information sharing.

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Information Revolution					
President should lead effort to bring national security institutions into information revolution.	Chief Information Officer of the NIS to ensure elements of the NIS have direct and continuous electronic access to all information, and to ensure interoperability of information technology and national security systems throughout the National Intelligence Service.	No provision.	No provision.	No provision.	No provision.
Congressional Oversight					
Congress should consider joint intelligence committee, or single committee in each house, combining authorizing and appropriating.	No provision on committee structure. Amends S.Res. 400 to eliminate limitation on length of service on the Senate Select Committee on Intelligence.	No provision.	No provision.	No provision.	No provision. S.Res. 400 — still in effect today — created the Senate Select Committee on Intelligence. H.Res. 658 — still in effect today — created the House Permanent Select Committee on Intelligence.

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<i>Homeland Security</i>					
Congress should create a single, principal point of oversight for homeland security. Should be permanent standing committee with bipartisan staff.	No provision.	No provision.	No provision.	No provision.	No provision.
FBI					
The FBI should create a specialized and integrated national security workforce consisting of agents, analysts, linguists, and surveillance specialists with a deep expertise in intelligence and national security.	No general provision. But elements of FBI performing intelligence and intelligence-related functions are directed and controlled by the new Assistant National Intelligence Director for Collection.	No provision.	No provision.	No provision.	No provision.

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Homeland Defense					
<i>DOD Aspects</i>					
DOD and its oversight committees should regularly assess adequacy of Northern Command strategies and planning to defend the U.S. against military threats.	No provision.	No provision.	No provision.	No provision.	No provision.
<i>Dept. of Homeland Security Aspects</i>					
The Dept. of Homeland Security and its oversight committees should regularly assess types of threats to U.S. and determine adequacy of protection plans and response readiness.	No provision.	No provision.	No provision.	No provision.	No provision.

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IC Management Structure					
<i>NID Deputies</i>					
The NID should have three deputies — foreign intelligence (CIA head); defense intelligence (under secretary of defense for intelligence);and homeland intelligence (FBI’s exec. asst. dir. or under secretary. of homeland security for info. analysis and infrastructure protection)	Establishes a Deputy NID, nominated by the President, and confirmed by the Senate.	Establishes Presidentially-nominated, Senate-confirmed Deputy DNI, who also would serve as Under Secretary of Defense for Intelligence.	Establishes Presidentially-nominated, Senate-confirmed Deputy DNI.	Establishes Presidentially-nominated, Senate-confirmed Deputy DCI.	Establishes Presidentially-nominated, Senate-confirmed Deputy DCI.
<i>Deputy Director of Central Intelligence For Community Management</i>					
Recommends eliminating the position.	No provision.	Eliminates position.	Renames this position Deputy Director of National Intelligence for Community Management.	Eliminates position.	There is the position for Deputy Director of Central Intelligence for Community Management.

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<i>Deputy DNIs for Operations & Resources</i>					
No recommendation.	No provision.	Establishes deputy DNIs for Operations and for Resources	No provision.	No provision.	No provision.
<i>Associate Directors of Central Intelligence</i>					
No recommendation.	No provision.	No provision.	No provision.	Would establish eight associate directors for operations; analysis; information management; language and education; military support; space; science & technology; resources.	No provision.
<i>Assistant Directors of Central Intelligence</i>					
No recommendation	No provision.	No proposal.	No proposal.	Would establish five assistant directors for central intelligence for: counterterrorism; counterintelligence; counterproliferation; counternarcotics; foreign intelligence.	
<i>Assistant Directors of National Intelligence</i>					
No recommendation	Creates an Assistant NID for Analysis and Production; an Assistant NID for Collection; an Assistant NID for Research, Development, and Acquisition, all	No provision.	Would establish assistant directors for national intelligence for collection; analysis and production; administration.	No provision.	There are assistant directors of central intelligence for collection; analysis and production; administration.

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	Presidentially nominated, and Senate confirmed. Creates an Assistant NID for Military Support, who also serves as Under Secretary of Defense for Intelligence. Creates a General Counsel of the National Intelligence Service appointed by the NID.				
<i>Senior Advisor to the DNI for Homeland Security</i>					
No recommendation.		Establishes a senior advisor to the DNI for Homeland Security.	No provision.	No provision.	No provision.
<i>General Counsel and Inspector General</i>					
No recommendation.	Creates an Inspector General of the National Intelligence Service, Presidentially appointed and Senate confirmed.	Establishes General Counsel to the DNI; and Inspector General of the IC.	Establishes General Counsel to the DNI; and Inspector General of the IC.	Establishes General Counsel and Inspector General of the IC.	There is a General Counsel and Inspector General for the CIA.
Privacy and Civil Liberties Oversight Board/Officer for Civil Rights and Civil Liberties/Privacy and Civil Liberties Officers					
Recommends the establishment of a board within the executive branch to ensure adherence to civil liberties guidelines.	No provision.	No provision.	No provision.	No provision.	No provision.

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Privacy Officer Of the National Intelligence Authority					
No recommendation.	No provision.	No provision.	No provision.	No provision.	No provision.
Chief Human Capital Officer Of the National Intelligence Authority					
No recommendation.	No Provision.	No provision.	No provision.	No provision.	No provision.
National Counterintelligence Executive					
No provision.	No provision.	No provision.	No provision.	No provision.	No provision.

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Ombudsman of the National Intelligence Authority					
No recommendation.	No provision.	No provision.	No provision.	No provision.	No provision.
National Intelligence Council for Alternative Analysis					
No recommendation.	Establishes within the Office of the NID a National Intelligence Council, headed by the Assistant NID for Analysis and Production. The NIC is to produce national intelligence estimates for the U.S. Government, and to evaluate community-wide collection and production by the National Intelligence Service, and the requirements and resources of such collection and production.	Establishes a National Intelligence Council Alternative Analysis Unit to review each national intelligence estimate produced by the National Intelligence Council.	No provision.	No provision.	No provision.

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Joint Tasking Organization					
No recommendation	No recommendation.	Establishes a joint tasking organization within the DNI's office which would task IC collection. The DNI would appoint tasking directors from CIA, NSA, and NGA.	No provision.	No provision.	No provision.
Joint Intelligence Comptroller					
No recommendation.	Establishes a Chief Financial Officer of the National Intelligence Service, who must be a civilian. Assists NID in budget preparation under the National Intelligence Program. Assists the Secretary of Defense in preparation of the budget related to the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program.	Would establish joint intelligence comptroller appointed jointly by DNI and Sec. Def. Comptroller would report directly to the Under Secretary of Defense and provide both the Sec. Def. and the DNI NFIP financial information insofar as that information would relate to elements of the IC under the jurisdiction of DOD.	No provision.	No provision.	No provision.
Joint Acquisition Office					
	No recommendation.	Would establish a joint IC acquisition office headed by a director jointly appointed by the	No provision.	No provision.	No provision.

9/11 Commission	Roberts (S. draft bill of August 23, 2004)	Harman (H.R. 4104)	Feinstein (S. 190), Bob Graham (S. 1520), Daschle (S. 6)	Goss (H.R. 4584)	Current Law
		DNI and Sec. Def.			
National Intelligence Reserve Corps					
No recommendation.	No provision.	No provision.	No provision.	No provision.	No provision.
Joint Military Intelligence Program (JMIP)					
No recommendation.	No provision.	No provision.	No provision.	No provision.	No provision.
Chief Financial Officer					
No recommendation.	Establishes a Chief Financial Officer.	No provision.	No provision.	No provision.	No provision.
GAO Report Requirement					
No recommendation.	No provision.	No provision.	No provision.	No provision.	No provision.
Language					
CIA Director should build a stronger language program.	No provision.	No provision.	No provision.	Establishes Associate Director of Intelligence for Intelligence and Education.	No provision.

9/11 Commission	Roberts (S. draft bill of August 23, 2004)	Harman (H.R. 4104)	Feinstein (S. 190), Bob Graham (S. 1520), Daschle (S. 6)	Goss (H.R. 4584)	Current Law
National Intelligence Definition					
No recommendation.	No provision.	No provision.	No provision.	No provision.	No provision.