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*Issue Brief*

## Consolidating the House's homeland security efforts: The time to act is now

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With the creation of the Department of Homeland Security came a consolidated approach to homeland security. No longer do 22 separate agencies myopically view homeland security. Instead, they work together as a unified whole, addressing the pressing homeland security needs in the best interests of the nation, rather than in the interests of a particular agency. While many take comfort in the Department and its organizational holism, the reality is that the executive branch is only half the problem. When the President consolidated homeland security efforts under a new department, Congress failed to act in a similar fashion.

In what only could be described as a stopgap measure, the House Select Committee on Homeland Security was stood up at the beginning of the 108<sup>th</sup> Congress with virtually no legislative or oversight authority. At the time, questions of authority and jurisdiction were postponed, to the detriment of the Department, the Select Committee, the Congress and the nation. The Select Committee, while led by a committed Member and staffed by seasoned Hill veterans, became mired in jurisdictional conflict and was unable to provide effective oversight of the department, much less spearhead important legislation. Now at the conclusion of the two-year long “experiment” the House leadership must see the shortcomings of the Select Committee and the urgent need for a single committee to have jurisdictional primacy over the Department of Homeland Security.

It should not have taken two years for Congressional leaders to realize that a more aggressive consolidation strategy was required, since numerous commissions (that Congress itself chartered) and independent think tanks had previously reached this conclusion. The 9/11 Commission as well as the Gilmore Commission, Hart-Rudman Commission, and multiple efforts at the Heritage Foundation and Center for Strategic and International Studies have unanimously called for a single homeland security committee in each house.<sup>1</sup> In fact, several recommended this prior to the creation of the department itself.<sup>2</sup>

Today, 79 committees continue to claim jurisdiction over the Department, leading to duplicative and wasteful efforts in Congress and at the Department. Infinite referrals prevent the enactment of important legislation and constant reporting and testifying paralyzes DHS. For example, the Select Committee took the laudable step of writing a homeland security authorizations bill despite the roadblocks thrown in its path by those who favor the status

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<sup>1</sup> See: The 9-11 Commission, *Final Report*, 7-22-04: <http://www.9-11commission.gov/>; Gilmore Commission, *Annual Reports I-V, 1999-2003*: <http://www.rand.org/nsrd/terrpanel/>; Center for Strategic and International Studies-Business Executives for National Security, *Untangling the Web: Congressional Oversight and DHS*, 12-10-04: [http://www.csis.org/hs/041210\\_DHS\\_TF\\_WhitePaper.pdf](http://www.csis.org/hs/041210_DHS_TF_WhitePaper.pdf); Heritage Foundation/CSIS, *DHS 2.0*, 12-13-04: <http://www.heritage.org/Research/HomelandDefense/sr02.cfm>; Edward L. Rowny, *Defense Lessons*, *The Wall Street Journal*, 12-20-04: [http://online.wsj.com/public/page/0\\_public\\_home\\_search.00.html](http://online.wsj.com/public/page/0_public_home_search.00.html); Hart-Rudman Commission, *Report III*, 2001: <http://www.911investigations.net/IMG/pdf/doc-118.pdf>; Frank J. Cilluffo, *Combating Chemical, Biological, Radiological, and Nuclear Terrorism: A Comprehensive Strategy*, Center for Strategic and International Studies, 2000: <http://www.911investigations.net/document334.html>; Frank J. Cilluffo and Daniel J. Kaniewski, *Commission's Proposals Fall on Deaf Ears*, *Roll Call* 8-16-04: [http://www.rollcall.com/issues/50\\_18/guest/6521-1.html](http://www.rollcall.com/issues/50_18/guest/6521-1.html); Kaniewski, *House Homeland Panel Needs Own Jurisdiction*, *Roll Call*, 3-9-04: [http://www.rollcall.com/issues/49\\_89/guest/4668-1.html](http://www.rollcall.com/issues/49_89/guest/4668-1.html); Kaniewski, *Create a House Select Committee on Homeland Security*, *Journal of Homeland Security*, 2-02: <http://www.homelandsecurity.org/journal/Articles/kaniewskilegislative.htm>

<sup>2</sup> Gilmore Commission (1999), Cilluffo (2000), Hart-Rudman Commission (2001), Kaniewski (2002)

quo. Despite Chairman Cox's best efforts, however, the Select Committee was unable to discharge the bill because the other committee chairmen with seats on the Select Committee staged a coup during the mark-up of the bill. Such a situation is hardly in the best interests of the nation's homeland security efforts.

From the Department's perspective, the situation is equally troubling. Hundreds of members of Congress sitting on the dozens of committees inundate DHS with testimony requests and reporting requirements and tug at the bureaucracy, often in opposite directions. To this point, DHS officials testified at 160 hearings this year. Consider that if DHS were a corporation, it would report to 79 boards of directors! Such a corporation would quickly find itself frustrated (and probably bankrupt).

Amidst all the chaos in Congress's homeland security efforts, there is one example of success; but it's not the result of the Select Committee. Both houses took the wise step of creating a Subcommittee on Homeland Security Appropriations at the beginning of the 108<sup>th</sup> Congress and a consolidated approach to homeland security funding resulted. Indeed, it has been so successful that earmarks—the *sine qua non* of the appropriators—have been absent from the homeland security appropriations bill, making it a model in the eyes of many good government advocates. But since Congressional leaders were less decisive on the authorizations, Congress is left with a Byzantine structure that must be replaced.

#### **The Senate: A decision made**

To address its equally vexing homeland security authorizations and oversight efforts, the Senate recently empanelled a working group. Led by Senators Mitch McConnell and Harry Reid, the outcome of the working group was S. Res. 445, which the Senate passed on October 9, 2004. While it quietly slipped under the radar screen of many outside observers, the measure represents the most significant overhaul of Senate committee operations since 1977. S. Res. 445 provides much needed reforms to the intelligence committee as well as formally placing homeland security under the Senate Governmental Affairs Committee. The Senate's action is good for intelligence (e.g., it lifts term limits for members on the Select Committee on Intelligence and adds an Appropriations Subcommittee on Intelligence), but it falls short for homeland security. Left out of the committee's jurisdiction are critical components of the Department including the Transportation Security Administration and added in are all of the existing responsibilities of the Governmental Affairs Committee (i.e., the Postal Service, the U.S. Archives, the Census, budget and accounting measures). With the new Homeland Security and Governmental Affairs committee hamstrung from the beginning with a narrow scope of oversight and significant existing responsibilities, the committee's oversight over the Department will be limited. Consequently, the committee will be unable to allocate adequate time and resources required for its homeland security oversight responsibilities since the committee must balance its homeland security responsibilities with its responsibilities to the rest of the executive branch.

#### **The House: Need for a committee with *real* authority**

Though the Senate has taken its action for the 109<sup>th</sup> Congress, the House still has time to get it right. The Committee needs to be empowered as the appropriators were at the beginning of the last Congress. Thus the House should act swiftly to:

- **Make the Select Committee a permanent, standing Committee**  
The Select Committee model falls short of providing the robust oversight the Department requires, whereas the standing committee model best suits the Department's needs. The permanent standing committee should have no problem drawing qualified Members, who can serve there without term limits or requirements to represent other committees. Members should be expected to have (or to gain during their tenure) policy expertise within their subcommittees and participate in all committee matters.
  
- **Provide the Committee with primary jurisdiction over all matters related to DHS, *with few exceptions***  
Primary legislative authority and oversight of the Department of Homeland Security must rest with the committee. Just as the Armed Services Committee has primary jurisdiction over the Department of Defense, so too should the Homeland Security Committee have jurisdiction over the Department of Homeland Security. Exceptions include FEMA's management of natural disasters, the U.S. Coast Guard and the non-homeland security aspects of immigration and naturalization. These are consistent with the Committee's published recommendations.<sup>3</sup>
  
- **Reduce number of Committee members**  
The number of committee members must be reduced if the homeland security committee is to be effective. Today the Select Committee is unwieldy due to its size and unworkable due to its membership. With 49 members, the committee is among the House's largest. Particularly troubling is that chairs from other committees sit on the homeland security committee. With the committee chairs viewing the issues through their particular lenses, rather than through the prism of a consolidated committee, the effectiveness of oversight is imperiled. Further, the committee chairs simply do not have the time to invest in the oversight and policy functions the Department requires. Thus the Select Committee's recommendation to reduce from 49-29 is reasonable and should be embraced by the House.

Now is the time to act. Congress must not let its homeland security efforts remain unfocused and dispersed. Consolidation of authority under a single permanent standing committee is the best answer to a problem that has already persisted two years too long.

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<sup>3</sup> *Recommendations of the Select Committee on Homeland Security on Changes to the Rules of the House of Representatives with Respect to Homeland Security Issues*, September 30, 2004:  
<http://www.hsc.house.gov/release.cfm?id=257>