

116TH CONGRESS
2D SESSION

H. R. 7028

To establish a national commission on United States counterterrorism policy,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2020

Mr. ENGEL (for himself, Mr. THOMPSON of Mississippi, Mr. DEUTCH, and
Mr. ROSE of New York) introduced the following bill; which was referred
to the Committee on Homeland Security

A BILL

To establish a national commission on United States
counterterrorism policy, 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.**

4 This Act may be cited as the “National Commission
5 on U.S. Counterterrorism Policy Act of 2020”.

6 **SEC. 2. NATIONAL COMMISSION ON U.S. COUNTERTER-**
7 **RORISM POLICY.**

8 (a) ESTABLISHMENT.—There is established an inde-
9 pendent commission within the legislative branch to be
10 known as the “National Commission on U.S. Counterter-

1 rorism Policy” (in this section referred to as the “Commis-
2 sion”).

3 (b) PURPOSE.—The Commission shall—

4 (1) review United States counterterrorism ob-
5 jectives, priorities, capabilities, policies, programs,
6 and activities; and

7 (2) assess how to adapt and prioritize such poli-
8 cies, programs, and activities to ensure they employ
9 an appropriate mix of available instruments of na-
10 tional power, comply with the rule of law and respect
11 for civil rights, civil liberties, and human rights, ap-
12 propriately focus on existing and emerging terrorism
13 risks, and are appropriately balanced relative to the
14 pursuit of other United States interests in an era
15 when the United States faces a diverse range of
16 threats from domestic and international terrorism, a
17 dynamic number of political, economic, and military
18 competitions around the world, and challenges at
19 home.

20 (c) STUDY AREAS.—In carrying out subsection (b),
21 the Commission shall study the following:

22 (1) The evolution of threats to the United
23 States since September 11, 2001, from international
24 and domestic terrorism, including an assessment of
25 potential connections between such threats, and the

1 risks such threats pose relative to other threats to
2 the United States and United States national inter-
3 ests.

4 (2) Major lessons learned from United States
5 counterterrorism objectives, priorities, capabilities,
6 policies, programs, and activities since September
7 11, 2001, and the relevance of such lessons for on-
8 going and future counterterrorism objectives, prior-
9 ities, policies, programs, and activities.

10 (3) Ongoing United States counterterrorism ob-
11 jectives, priorities, capabilities, policies, programs,
12 and activities, including an assessment of the fol-
13 lowing:

14 (A) Any tradeoffs that exist between them.

15 (B) Their integration, programatically and
16 organizationally, into wider United States for-
17 eign and domestic policy.

18 (C) The instruments used to advance
19 counterterrorism objectives and identification of
20 new or modified instruments, if appropriate.

21 (D) Any impacts on civil rights and civil
22 liberties in the United States and internation-
23 ally recognized human rights abroad.

24 (E) Any impacts on the counterterrorism
25 policies of partner countries.

1 (F) Congressional oversight of such objec-
2 tives, priorities, capabilities, policies, programs,
3 and activities.

4 (4) The legal and policy frameworks for
5 counterterrorism programs and activities in the
6 United States and abroad, including adherence to
7 such frameworks.

8 (5) The tradeoffs the United States may face as
9 it seeks to balance counterterrorism objectives and
10 priorities with a growing number of political, eco-
11 nomic, and military competitions around the world
12 and challenges at home, and how to mitigate any
13 risks such tradeoffs might pose.

14 (6) Potential new or emerging challenges of
15 conducting counterterrorism operations in contested
16 environments, where strategic state competitors such
17 as Russia, China, or Iran operate.

18 (7) The state of United States counterterrorism
19 partnerships, including the willingness, capacity, and
20 capability of United States counterterrorism part-
21 ners to combat shared threats.

22 (8) The policies and operations of private enti-
23 ties, including the defense industry and technology
24 and media entities, that have implications for domes-
25 tic terrorism and international terrorism, including

1 implications of involvement of private entities in
2 United States counterterrorism policies, programs,
3 and activities.

4 (9) The effects of United States counterter-
5 rorism objectives, priorities, capabilities, policies,
6 programs, and activities on threats from domestic
7 terrorism and international terrorism.

8 (10) Ongoing efforts by the executive branch to
9 measure the effectiveness of counterterrorism poli-
10 cies, programs, and activities through net assess-
11 ments and evaluations of lessons learned, including
12 an assessment of efforts to address factors that con-
13 tribute to terrorist recruitment and radicalization.

14 (11) Recommendations on how best to adapt
15 United States counterterrorism objectives, priorities,
16 capabilities, policies, programs, and activities to ad-
17 dress existing and emerging terrorism risks on the
18 basis of the areas of study specified in this sub-
19 section and any other findings the Commission de-
20 termines relevant.

21 (d) COMPOSITION.—

22 (1) MEMBERS.—The Commission shall be com-
23 posed of 12 commissioners, to be appointed as fol-
24 lows:

1 (A) One commissioner appointed by the
2 chair, with the concurrence of the ranking
3 member, of each of the appropriate congressional
4 committees.

5 (B) A chairperson, appointed by the
6 Speaker of the House of Representatives, with
7 the concurrence of the minority leader of the
8 House of Representatives.

9 (C) A vice-chairperson, appointed by the
10 majority leader of the Senate, with the concurrence
11 of the minority leader of the Senate.

12 (2) QUALIFICATIONS.—Individuals appointed to
13 the Commission shall be United States persons with
14 relevant counterterrorism experience in diplomacy,
15 law enforcement, the Armed Forces, law, public administration,
16 intelligence, academia, human rights,
17 civil rights, or civil liberties. The appointment of individuals
18 to the Commission shall, to the extent possible, be coordinated
19 among nominations to ensure
20 Commission membership represents a variety of expertise
21 in such fields. At least one of the commissioners
22 shall possess a civil rights or civil liberties
23 background, and one commissioner shall possess an
24 international human rights background.

1 (3) PROHIBITIONS.—An individual appointed to
2 the Commission may not be—

3 (A) a Member of Congress, including a
4 Delegate or Resident Commissioner, an em-
5 ployee or official of any other branch of the
6 Federal Government, or an employee or official
7 of any State, territory, county, or municipality
8 in the United States; or

9 (B) a registered lobbyist.

10 (4) CONFLICTS OF INTEREST.—An individual
11 appointed to the Commission shall disclose any fi-
12 nancial gains from private sector employment con-
13 ducted in support of United States counterterrorism
14 policies, programs, or activities at any time since the
15 September 11 attacks.

16 (5) DEADLINE FOR APPOINTMENT OF COMMIS-
17 SIONERS.—Individuals appointed to the Commission
18 shall be appointed not later than 30 days after the
19 date of the enactment of this Act.

20 (6) PERIOD OF APPOINTMENT.—Each commis-
21 sioner and the chairperson and vice-chairperson shall
22 be appointed for the life of the Commission.

23 (7) VACANCIES.—Any vacancy in the Commis-
24 sion shall not affect its powers and duties and shall

1 be filled in the same manner as the original appoint-
2 ment within 30 days of such vacancy occurring.

3 (8) COMPENSATION.—Commissioners and the
4 chairperson and vice-chairperson shall serve without
5 pay.

6 (9) TRAVEL EXPENSES.—Commissioners and
7 the chairperson and vice-chairperson shall receive
8 travel expenses, including per diem in lieu of subsist-
9 ence, in accordance with sections 5702 and 5703 of
10 title 5, United States Code, while away from their
11 homes or regular places of business in performance
12 of services for the Commission.

13 (e) MEETINGS.—

14 (1) INITIAL MEETING.—Not later than 30 days
15 after the appointment of two-thirds of the members
16 of the Commission, including the chairperson or
17 vice-chairperson, the Commission shall hold an ini-
18 tial meeting to develop and implement a schedule for
19 completion of the review and report required under
20 paragraph.

21 (2) SUBSEQUENT MEETINGS.—The Commission
22 shall meet at the call of the chairperson or a major-
23 ity of commissioners.

1 (3) QUORUM.—Eight members shall constitute
2 a quorum and members shall have the option to vote
3 by proxy.

4 (f) CONSULTATION.—In conducting the review, as-
5 sessment, and study required under this section, the Com-
6 mission shall consult with relevant experts in the Federal
7 Government, academia, law, civil society, and the private
8 sector.

9 (g) POWERS OF THE COMMISSION.—

10 (1) HEARINGS AND EVIDENCE.—For the pur-
11 poses of carrying out this section, the Commission
12 may—

13 (A) hold classified or unclassified hearings,
14 take testimony, receive evidence, and administer
15 oaths; and

16 (B) require, by subpoena authorized by
17 majority vote of the Commission and issued
18 under the signature of the chairperson or any
19 member designated by a majority of the Com-
20 mission, the attendance and testimony of such
21 witnesses and the production of such books,
22 records, correspondence, memoranda, papers,
23 and documents, as the Commission may deter-
24 mine advisable.

25 (2) SUBPOENA ENFORCEMENT.—

1 (A) IN GENERAL.—In the case of contu-
2 macy or failure to obey a subpoena issued
3 under subsection (c), the United States district
4 court for the judicial district in which the sub-
5 poenaed person resides, is served, or may be
6 found, or where the subpoena is returnable,
7 may issue an order requiring such person to ap-
8 pear at any designated place to testify or to
9 produce documentary or other evidence. Any
10 failure to obey the order of the court may be
11 punished by the court as a contempt of that
12 court.

13 (B) ADDITIONAL ENFORCEMENT.—In the
14 case of any failure of any witness to comply
15 with any subpoena or to testify when sum-
16 moned under authority of this section, the Com-
17 mission may, by majority vote, certify a state-
18 ment of fact constituting such failure to the ap-
19 propriate United States attorney, who may
20 bring the matter before the grand jury for its
21 action, under the same statutory authority and
22 procedures as if the United States attorney had
23 received a certification under sections 102
24 through 104 of the Revised Statutes of the
25 United States (2 U.S.C. 192 through 194).

1 (3) LIMITATIONS ON SUBPOENA AUTHORITY.—

2 With respect to the subpoena authority under para-
3 graph (1)(B), the Commission—

4 (A) may only issue a subpoena to a mem-
5 ber of Federal, State, local, Tribal, or territorial
6 government;

7 (B) may reference unclassified documents
8 and information obtained through a subpoena
9 when conducting interviews to further the Com-
10 mission’s objectives and may include such docu-
11 ments and information in the final report, but
12 may not otherwise share, disclose, publish, or
13 transmit in any way any information obtained
14 through a subpoena to another Federal depart-
15 ment or agency, any agency of a State, local,
16 Tribal, or territorial government, or any inter-
17 national body; and

18 (C) shall comply with requirements for the
19 issuance of a subpoena issued by a United
20 States district court under the Federal Rules of
21 Civil Procedure.

22 (4) MEETINGS.—The Commission shall—

23 (A) hold public hearings and meetings;

1 (B) hold classified hearings or meetings, if
2 necessary to discuss classified material or infor-
3 mation; and

4 (C) provide an opportunity for public com-
5 ment, including sharing of research and policy
6 analysis, through publication in the Federal
7 Register of a solicitation for public comments
8 during a period to last not fewer than 45 days.

9 (h) RESOURCES.—

10 (1) AUTHORITY TO USE THE UNITED STATES
11 MAILS.—The Commission may use the United States
12 mails in the same manner and under the same con-
13 ditions as other Federal agencies.

14 (2) DOCUMENTS, STATISTICAL DATA AND
15 OTHER SUCH INFORMATION.—

16 (A) IN GENERAL.—The Library of Con-
17 gress, the Office of National Drug Control Pol-
18 icy, the Department of State, and any other
19 Federal agency shall provide reasonable access
20 to documents, statistical data, and other such
21 information the Commission determines nec-
22 essary to carry out its duties.

23 (B) OBTAINING INFORMATION.—When de-
24 termined necessary, the chairperson and vice-
25 chairperson of the Commission shall submit to

1 the head of a Federal agency specified in sub-
2 paragraph (A) a request in writing for access to
3 documents, statistical data, or other such infor-
4 mation described in such subparagraph that is
5 under the control of such agency.

6 (3) INFORMATION FROM FEDERAL AGENCIES.—

7 The Commission is authorized to secure directly
8 from any executive department, bureau, agency,
9 board, commission, office, independent establish-
10 ment, or instrumentality of the Federal Government
11 information, suggestions, estimates, and statistics
12 for the purpose of carrying out its duties. Each such
13 department, bureau, agency, board, commission, of-
14 fice, independent establishment, or instrumentality
15 shall, to the extent authorized by law, furnish such
16 information, suggestions, estimates, and statistics di-
17 rectly to the Commission, upon request made by the
18 chairperson, vice-chairperson, or any commissioner
19 designated by a majority of the Commission.

20 (4) AUTHORITY TO ACCEPT GIFTS.—The Com-

21 mission may accept, use, and dispose of gifts or do-
22 nations of services, goods, and property from non-
23 Federal entities for the purposes of aiding and facili-
24 tating the work of the Commission. The authority
25 provided in this paragraph does not extend to gifts

1 of money in any form, or any gifts from private sec-
2 tor entities with a financial interest in counterter-
3 rorism products or services, as determined by the
4 Commission.

5 (5) AUTHORITY TO CONTRACT.—

6 (A) IN GENERAL.—The Commission is au-
7 thorized to enter into contracts, leases, or other
8 legal agreements with Federal and State agen-
9 cies, Indian tribes, Tribal entities, private enti-
10 ties, and individuals for the conduct of activities
11 necessary to the discharge of its duties.

12 (B) TERMINATION.—A contract, lease, or
13 other legal agreement entered into by the Com-
14 mission under this paragraph may not extend
15 beyond the date of termination of the Commis-
16 sion.

17 (6) INAPPLICABILITY OF FACA.—The Federal
18 Advisory Committee Act (5 U.S.C. App.) shall not
19 apply to the activities of the Commission under this
20 section.

21 (7) OFFICE SPACE AND ADMINISTRATIVE SUP-
22 PORT.—The Architect of the Capitol shall make of-
23 fice space available for day-to-day activities of the
24 Commission and for scheduled meetings of the Com-
25 mission. Upon request, the Architect of the Capitol

1 shall provide, on a reimbursable basis, such adminis-
2 trative support as the Commission requests to carry
3 out its duties.

4 (8) ASSISTANCE FROM FEDERAL AGENCIES.—

5 (A) GENERAL SERVICES ADMINISTRA-
6 TION.—The Administrator of General Services
7 shall provide to the Commission on a reimburs-
8 able basis administrative support and other
9 services as the Commission requests to carry
10 out its duties.

11 (B) FEDERAL AGENCIES.—Federal agen-
12 cies may provide to the Commission such serv-
13 ices, funds, facilities, staff, and other support
14 services as may be determined advisable.

15 (i) STAFF.—

16 (1) DIRECTOR.—The chairperson, in consulta-
17 tion with the vice-chairperson, and in accordance
18 with rules agreed upon by the Commission, may ap-
19 point a staff director who shall be paid at a rate not
20 to exceed the rate of basic pay for level IV of the
21 Executive Schedule.

22 (2) STAFF.—With the approval of the Commis-
23 sion, the staff director may appoint such personnel
24 as the staff director determines necessary to enable
25 the Commission to carry out its duties. Such per-

sonnel shall be paid at a rate not to exceed the rate of basic pay for level IV of the Executive Schedule.

(3) APPOINTMENTS AND COMPENSATION.—The Commission may appoint and fix the compensation of the staff director and staff without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule.

(4) EXPERTS AND CONSULTANTS.—With the approval of the chairperson, the staff director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of such personnel.

1 (6) VOLUNTEER SERVICES.—Notwithstanding
2 section 1342 of title 31, United States Code, the
3 Commission may accept and use voluntary and un-
4 compensated services as the Commission determines
5 necessary.

6 (j) SECURITY CLEARANCES FOR COMMISSION MEM-
7 BERS AND STAFF.—The appropriate Federal agencies or
8 departments shall cooperate with the Commission in expe-
9 ditiously providing to the commissioners, including the
10 chairperson and vice-chairperson, and the staff director
11 and staff appropriate security clearances to the extent pos-
12 sible pursuant to existing procedures and requirements,
13 except that no person shall be provided with access to clas-
14 sified information without the appropriate security clear-
15 ances.

16 (k) FUNDING.—There is authorized to be appro-
17 priated \$4,000,000 to the Commission, to remain available
18 until the date of termination, to carry out this Act. Of
19 the amounts authorized to be appropriated under this sub-
20 section, 50 percent shall be derived from the applicable
21 accounts of the House of Representatives and 50 percent
22 shall be derived from the contingent fund of the Senate.

23 (l) TERMINATION.—The Commission shall terminate
24 on the date that is 90 days after the date on which the

1 Commission submits the report required by subsection
2 (m).

3 (m) REPORT.—

4 (1) REPORT.—Not later than 540 days after
5 the initial meeting of the Commission under sub-
6 section (e), the Commission shall submit to the ap-
7 propriate congressional committees an unclassified
8 report that includes the following:

9 (A) The findings, conclusions, and rec-
10 ommendations of the Commission pursuant to
11 the review and assessment under subsection (b)
12 and areas of study specified in subsection (c).

13 (B) Summaries of the input and rec-
14 ommendations of each individual with whom the
15 Commission consulted in accordance with sub-
16 section (f), attributed in accordance with the
17 preference expressed by such individual.

18 (2) CLASSIFIED ANNEX.—The report required
19 under this subsection may include a classified annex.

20 (3) PUBLIC RELEASE.—With the exception of
21 any classified annex under paragraph (2), the Com-
22 mission shall make the report required under this
23 subsection publicly available within seven days of
24 submission to the appropriate congressional commit-
25 tees.

1 (n) DEFINITIONS.—In this section:

2 (1) APPROPRIATE CONGRESSIONAL COMMIT-
3 TEES.—The term “appropriate congressional com-
4 mittees” means the Committee on Foreign Affairs,
5 the Permanent Select Committee on Intelligence, the
6 Committee on Armed Services, the Committee on
7 Homeland Security, and the Committee on the Judi-
8 ciary of the House of Representatives; and the Com-
9 mittee on Foreign Relations, the Select Committee
10 on Intelligence, the Committee on Armed Services,
11 the Committee on Homeland Security and Govern-
12 mental Affairs, and the Committee on the Judiciary
13 of the Senate.

14 (2) DOMESTIC TERRORISM.—The term “domes-
15 tic terrorism” has the meaning given such term in
16 section 2331 of title 18, United States Code.

17 (3) INDIAN TRIBE.—The term “Indian tribe”
18 has the meaning given such term in section 4 of the
19 Indian Self-Determination and Education Assistance
20 Act of 1975 (25 U.S.C. 5304).

21 (4) INTERNATIONAL TERRORISM.—The term
22 “international terrorism” has the meaning given
23 such term in section 2331 of title 18, United States
24 Code.

1 (5) REGISTERED LOBBYIST.—The term “reg-
2 istered lobbyist” means a lobbyist described in sec-
3 tion 3 of the Lobbying Disclosure Act of 1995 (2
4 U.S.C. 1603).

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