

FOREWORD

“Liberty and Security: Recommendations for the Next Administration and Congress” reflects the ongoing, collaborative efforts of a coalition of more than twenty leading organizations and over seventy five people in the human rights and liberty and security communities. The recommendations, at the intersection of national security and civil liberties, address a wide variety of issues including privacy, secrecy and surveillance; detention, interrogation, and trials of so-called “enemy combatants,” and discrimination in immigration and charities policy. They demonstrate resoundingly that a restoration of the rule of law strengthens national security.

This coalition indexed and summarized thousands of pages of individual transition and other documents written by organizations, academics, and policy experts, creating practical and straightforward 5-7 page chapters on discrete issue areas. Each of the 20 chapters includes:

- 1-2 paragraph introductions to the problems identified in the issue area;
- Lists of possible solutions, identifying areas of consensus in the community;
- Identification of allies who support the principles for reform described in the chapters, including organizations from across the ideological spectrum¹[1];
- A description of likely counter-arguments to the policy proposals as well as a rebuttal to those counter-arguments;
- The names and contact information of advocates who can provide additional information about the proposals;
- Hyperlinks to specific transition proposals prepared by individual organizations as well as other materials that provide additional information and research in support of the proposals;
- A separate appendix with information about the Congressional committees and Executive branch agencies with jurisdiction over the issues as well as a history of legislative, executive, and judicial action to date.

The index includes the following sections and chapters:

Charities, Foundations and National Security:

Chapter 1: Eliminate unnecessary and counterproductive barriers to legitimate charitable work

Detention, Interrogation, and Trials of Suspected Terrorists

Chapter 2: Closing Guantanamo Bay

¹[1] “Likely allies” sign on to a specific chapter to indicate that they support the general principles expressed in the policy proposals described in that chapter. The allies listed do not necessarily endorse the specific language in every proposal in that chapter, but they do agree that the proposals reflect the general principles that should govern policy in the area. A likely ally signing on to one chapter is only signing on to that chapter and does not necessarily support the principles expressed in other chapters. Furthermore, the decision of a group not to sign on as a likely ally does not necessarily indicate an opposition to the policies proposed.

Chapter 3: End Illegal Detention, Torture, and Rendition
Chapter 4: Prosecute Terrorist Suspects in Accordance with the Law

Immigration and National Security

Chapter 5: Failing to Protect Refugees and Asylum Seekers: Overly Broad Definition of Material Support for Terrorism
Chapter 6: Ending Immigration Enforcement Based on Ethnicity and Religion
Chapter 7: Misuse of Immigration Laws to Detain Possible Terrorist Suspects

Secrecy, Surveillance, and Privacy

Chapter 8: Revising Attorney General Guidelines on FBI Investigations
Chapter 9: Updating the Law Governing the Privacy of Electronic Communications
Chapter 10: Fusion Centers and the Expansion of Domestic Intelligence
Chapter 11: Promoting Government Transparency
Chapter 12: National Security Letters and Section 215 of the USA PATRIOT Act
Chapter 13: Reform of the National Security Surveillance Laws and Procedures
Chapter 14: Preventing Over-Classification and Retroactive Classification, and Promoting Declassification of Government Documents
Chapter 15: Reforming the State Secrets Privilege
Chapter 16: Reforming Watch Lists

Separation of Powers and Executive Authority

Chapter 17: Assertion of Executive Authority in National Security Matters
Chapter 18: Executive Privilege and Congressional Oversight
Chapter 19: Signing Statements
Chapter 20: War Powers Authority

For policy questions, please contact the individuals or organizations identified as allies in each chapter. However, please direct general questions to the Constitution Project, which coordinated this collaborative effort. Contact Daniel Schuman at 202-580-6920.

The catalogue is available online at <http://2009transition.org/security-liberty>, at www.constitutionproject.org, and at the websites of many of the participating organizations.