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House Select Committee on Homeland Security: Possible Questions Raised If the Panel Were to Be Reconstituted as a Standing Committee

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Summary

On January 7, 2003, the House created a Select Committee on Homeland Security with legislative and oversight jurisdiction over the Department of Homeland Security. The Select Committee is also charged with reviewing the rules of the House, including Rule X, as they relate to homeland security, and to report to the Committee on Rules any recommendations by September 30, 2004.

The 9/11 Commission has recommended that Congress create a “permanent standing committee” in each chamber to serve as a “single, principal point of oversight and review for homeland security.”

This report poses a series of questions that the House might want to consider as it debates the effect on the House generally, and on the Members specifically, of reconstituting the Select Committee as a standing committee. This report will be updated if events warrant.

Jurisdiction

The Select Committee on Homeland Security is charged with reviewing the rules of the House, including Rule X, as they relate to homeland security, and to report to the Committee on Rules any recommendations by September 30, 2004. Rule X pertains to committee jurisdiction. The Rules Committee is generally responsible for drafting changes to House rules at the beginning of a new Congress and embodying them in H.Res. 5. The Homeland Security Committee’s Subcommittee on Rules is studying

possible jurisdictional realignment. If the House decides to create a permanent committee on homeland security:

- Will House Rule X be amended to include specific jurisdictional terms for a new standing committee?
- If so, will changes be effected pursuant to H.Res. 5 at the start of the 109th Congress? Will they be effected prior to the conclusion of the 108th Congress? Will they be phased in over several Congresses?
- Will other committees' jurisdiction be changed to accommodate the jurisdiction of the new panel?
- Will jurisdictional changes affect only homeland security, or is a more extensive realignment anticipated?
- Will jurisdictional changes be made in concert with possible changes in referral procedures?
- Will legislative jurisdictional changes also reflect possible changes in oversight responsibilities? Can a standing committee be authorized to conduct only oversight?

Referral

The Speaker has the authority to refer measures to a committee with primary jurisdiction, as well as to additional committees sequentially. Further, he can impose time limitations on committees receiving referrals. In the 108th Congress, the Speaker was granted the authority to refer measures without designation of a primary committee "under exceptional circumstances." To date, the Select Committee has received measures as the primary committee, as well as in a sequential manner. However, several measures defined by some as relating to homeland security issues were not referred to the select committee. If the House decides to create a permanent committee on homeland security:

- Will referral rules and procedures need to be changed?
- Will the homeland security panel always be the primary panel on measures affecting homeland security? If not, will it always receive a sequential referral?
- Will "exceptional circumstances" be clarified to mean homeland security in its broadest definition?
- Will referral changes be made in concert with possible jurisdictional changes?

Assignments

Both parties make committee assignments pursuant to House rules and respective party caucus or conference rules, and generally limit the number and type of panels on which a Member can serve. Although waivers are granted, such waivers must be approved by the party caucus or conference. To serve on the Select Committee, several Members in each party (three Republicans and 13 Democrats) took a leave-of-absence from other committees in order to conform with their respective party assignment limits. Simultaneously, several Members were granted temporary assignments to serve on panels

from which they had taken a leave of absence. If the House decides to create a permanent committee on homeland security:

- How will the panel be categorized by each party, i.e., exclusive or non-exclusive? Will the categorization of committees need to be changed? What impact will the decision have on current committee members?
- Will assignment be subject to limitations? If so, what effect will limitations have on attracting Members to serve on the panel? What effect will that have on committees, especially if numerous senior Members seek assignment to a new committee?
- Will membership be limited to a specific number of terms, or will the panel be treated like other standing committees?
- Will assignments be made through the regular Steering Committee process or will the Speaker (and Minority Leader) make assignments? Might a new selection process be created, e.g., each committee would select its representative to serve on a homeland security committee?
- Will assignment limitations, if imposed, be immediately in force, or phased in over time? Will exemptions be allowed?
- Will membership reflect rank-and-file Members or committee or subcommittee leaders?
- Will membership be drawn from all committees of the House, or from only those with jurisdiction over homeland security issues, or from those committees with no or limited jurisdiction over homeland security issues?
- Will party leaders serve on the committee in an *ex officio* capacity?
- Will assignment decisions be affected by possible changes in jurisdictions among committees?

Chairmanship/Ranking Minority Member

The Republican Conference and Democratic Caucus each have rules related to the selection of committee leaders. The Republican Conference allows its Steering Committee to vote on committee chairs, except for those panels where the Speaker selects the chair. The Democratic Caucus designates committee leaders. The Republicans also limit the service of some committee chairs. Nine current committee chairs serve on the Select Committee. If the House decides to create a permanent committee on homeland security:

- Will the chair be subject to term limits?
- Will the committee leader be allowed to serve on other standing committees? If yes, will the committee leader be allowed to lead a subcommittee on the other committee? Will the committee leader be allowed to hold a position in the party leadership?
- How will the committee leader be chosen, e.g., by the Steering Committee, by party leadership, or by seniority among existing members of the committee?

Subcommittees

Most standing committees create subcommittees. The Select Committee created subcommittees that generally parallel the structure of the new department (an additional subcommittee is reviewing the rules of the House related to homeland security). If the House decides to create a permanent committee on homeland security:

- Will the existing homeland security subcommittee structure change?
- Will subcommittees have specified jurisdiction?
- Will the number of subcommittees comply with chamber rules? Will House rules need to be changed to allow for the creation of additional subcommittees?
- How will subcommittee leaders be selected? Will they be subject to assignment and leadership position limitations?
- How will subcommittee members be determined?

Resources (Staff, Funding, Space)

The Select Committee currently borrows space for committee meetings from other panels, and its staff is generally housed in the offices of the chair and ranking member, and the Library of Congress. (Borrowing committee space has caused the committee to hold many meetings on Mondays and Fridays when space is generally available.) Startup funding was provided by resolution; additional funding was granted pursuant to the traditional funding mechanism. If the House decides to create a permanent committee on homeland security:

- Will the committee receive its own committee room and space for its staff? Will committee space need special facilities, e.g., as the Intelligence Committee does? Will committee staff require unique security clearances?
- How much will the committee require in funding, and how many staff are anticipated?
- Will the staff and funding be allocated between the parties and if so, how? (The 9/11 Commission has recommended a non-partisan staff).
- Will subcommittees, if created, be provided autonomous staff?

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