

Chart: Comparing Pelosi's Draft Legislation on Jan. 6 Commission to Other Bills and Prior Commissions
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On Monday, House Speaker Nancy Pelosi publicly released a [discussion draft](#) of legislation to establish a [“9/11-type Commission”](#) to investigate the Jan. 6, 2021 Capitol attack. Speaker Pelosi’s [Dear Colleague letter](#) confirmed [reports](#) that this draft was sent to Republican leadership for feedback last month.

Just Security [previously compared](#) two bills already introduced in the House of Representatives that would create an independent commission to investigate the attack on the Capitol. Drawing heavily on the [legislation](#) that established the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission), existing bills and Speaker Pelosi’s discussion draft would all establish a bipartisan commission with a broad mandate to inquire into the circumstances and causes of the Jan. 6 attack, official responses, and government preparedness. In mid to late January, Rep. Rodney Davis (R-IL) introduced [H.R. 275](#), and Rep. Eleanor Holmes Norton (D-DC) introduced [H.R. 410](#). The former currently has 30 cosponsors; the latter has 12. Remarkably, half of the Republican cosponsors of H.R. 275 [voted against certifying election results](#) on Jan. 6, 2021. Neither bill is cosponsored by a member of the opposite political party.

Appointment provisions have been a sticking point in discussions surrounding the Jan. 6 Commission. Like the 9/11 Commission, both House bills provide for the equal appointment of commissioners by Democratic and Republican Members of Congress. Under these proposals, no more than five of the ten commissioners can be members of the same political party. Speaker Pelosi’s draft differs significantly from this approach. It calls for an 11-member commission with three commissioners, including the Chair, appointed by the President. The eight remaining appointments would be evenly split between House and Senate leaders of both parties, with the Vice Chair selected by the Republican leaders of the House and Senate. The three appointments that would be filled by President Biden, however, would result in a seven-four breakdown of members appointed by Democrats and Republicans, respectively. One model for an uneven partisan split is the [commission](#) created to investigate the 2008 financial crisis.

All proposals give the Commission power to hear testimony, collect evidence, and subpoena witnesses and documents. However, Speaker Pelosi’s proposal specifically limits subpoena enforcement to civil contempt, whereas the earlier bills and the 9/11 Commission simply state that failure to comply may be punished as “contempt of court.” Speaker Pelosi’s proposal also does not include additional enforcement mechanisms – specifically, referral to a U.S. Attorney – that are common to both House bills and the 9/11 Commission. Moreover, Speaker Pelosi’s draft gives subpoena power to the Chair of the Commission, whereas the House bills and 9/11 Commission require the agreement of the Chair and Vice-Chair. In all cases, a subpoena could also be issued following a vote by a majority of the members of the Commission. Notably, under the membership provisions included in Speaker Pelosi’s discussion draft, this means that Democrat-appointed members would always be able to exercise control over the Commission’s subpoena power.

Also similar to the 9/11 Commission, the bills provide for a final report detailing the findings, conclusions, and recommendations for corrective measures that have been agreed to by a majority of the Commission. Both require the final report to be submitted to Congress and the President 18 months after enactment of the legislation. Speaker Pelosi’s proposal instead imposes a deadline of December 31, 2021.

Speaker Pelosi's proposal is also unique in its inclusion of "congressional findings." Among other findings, the draft highlights a Department of Homeland Security Bulletin that stated: "[S]ome ideologically-motivated violent extremists with objections to the exercise of governmental authority and the presidential transition, as well as other perceived grievances fueled by false narratives, could continue to mobilize to incite or commit violence." The addition of this language has been [controversial](#) in early discussions of the legislation.

Both Speaker Pelosi's draft and H.R. 410 include more detail on the facts and circumstances relevant to the investigation. H.R. 410 directs the Commission to consider the "impact, if any, of the race of the attackers on the response of law enforcement," and "the flow of assets to insurrectionist and domestic terrorist organizations." Speaker Pelosi's proposal includes even more specificity, directing the Commission to investigate forces that led to the motivation and organization of the insurrectionists, including technology, online platforms, and foreign influence campaigns. Speaker Pelosi's draft also details the Commission's authority to review intelligence, Federal, State, and local law enforcement agency policies for sharing information. Compared to the House bills already introduced, Speaker Pelosi's proposal includes additional detail with respect to the Commission's power to obtain official data. It specifically says that the Commission may secure information from any Federal department or agency, "including any underlying information that [may be in the possession of] the intelligence [or law enforcement] community."

All bills also provide the view of Congress on the experiences and professional backgrounds that appointees to the Commission should possess. While H.R. 410 includes a depth of experience in racial justice as a valuable qualification, H.R. 275 does not. In contrast, H.R. 275 includes expertise in online disinformation, but H.R. 410 does not. Speaker Pelosi's discussion draft does not explicitly include the terms "racial justice" nor "online disinformation," but it includes a broader range of experiences than either bill and notes that commissioners should have experience in at least two of the desired areas. As noted above, the draft also provides elsewhere that the Commission will investigate the role of online platforms in "the motivation, organization, and execution" of the attack. In addition to the categories common to existing House bills, Speaker Pelosi's draft lists civil rights, civil liberties, and privacy; counterterrorism; cybersecurity; and technology. Speaker Pelosi's draft also dropped "public administration," which was included in 9/11 Commission legislation and both House bills. H.R. 275, unlike H.R. 410 and Speaker Pelosi's proposal, would also allow up to two Members of Congress or other officers or employees of the federal government to serve on the Commission. Lastly, the language used to describe the attack differs among the proposals, with H.R. 275 calling the events a "domestic terrorist attack" and H.R. 410 using the phrase "insurrectionist attack." Speaker Pelosi's draft adopts the "domestic terrorist attack" language.

The chart below (also available as PDF) details the major provisions of all three 1/6 Commission proposals and the 9/11 Commission legislation. Key differences are in **bold**.

9/11 Commission Legislation	H.R. _____ "Speaker Pelosi Proposal"	H.R. 275 Proposed 1/6 Commission Introduced January 12, 2021	H.R. 410 Proposed 1/6 Commission Introduced January 21, 2021
"There is established in the legislative branch the National Commission on Terrorist Attacks Upon the United States"	"There is established in the legislative branch the National Commission to Investigate the January 6 Attack on the United States Capitol Complex"	"There is established in the legislative branch the National Commission on the Domestic Terrorist Attack Upon the United States Capitol"	"There is established in the legislative branch the National Commission on the Insurrectionist Attack Upon the United States Capitol"
<p>Commission member appointment 10 members, with Chair appointed by President and Vice-Chair appointed by Senate Democratic leader, in consultation with House of Representatives Democratic leader</p> <p>Equal appointments by Democratic and Republican Members of Congress:</p> <ul style="list-style-type: none"> ● 2 members appointed by the senior member of House Republican leadership ● 2 members appointed by the senior member of Senate Republican leadership ● 2 members appointed by the senior member of Senate Democratic leadership ● 2 members appointed by the senior member of House Democratic leadership <p>No more than 5 members may be from the same political party.</p>	<p>Commission member appointment 11 members, with Chair appointed by the President (from among the three presidential appointments) and Vice-Chair jointly selected by Senate and House minority leaders (from among the members they appoint)</p> <p>Equal appointments by Democratic and Republican Members of Congress, but uneven overall partisan balance due to President's appointment of three members:</p> <ul style="list-style-type: none"> ● 3 members appointed by the President ● 2 members appointed by the Speaker of the House of Representatives ● 2 members appointed by House minority leader ● 2 members appointed by Senate majority leader ● 2 members appointed by Senate minority leader <p>No stipulations about political party membership of commissioners.</p>	<p>Commission member appointment 10 members, with Chair appointed by President and Vice-Chair appointed by Senate Republican leader, in consultation with House of Representatives Republican leader</p> <p>Equal appointments by Democratic and Republican Members of Congress:</p> <ul style="list-style-type: none"> ● 2 members appointed by the senior member of House Republican leadership ● 2 members appointed by the senior member of Senate Republican leadership ● 2 members appointed by the senior member of Senate Democratic leadership ● 2 members appointed by the senior member of House Democratic leadership <p>No more than 5 members may be from the same political party.</p>	<p>Commission member appointment 10 members, with Chair appointed by President and Vice-Chair appointed by Senate Republican leader, in consultation with House of Representatives Republican leader</p> <p>Equal appointments by Democratic and Republican Members of Congress:</p> <ul style="list-style-type: none"> ● 2 members appointed by the senior member of House Republican leadership ● 2 members appointed by the senior member of Senate Republican leadership ● 2 members appointed by the senior member of Senate Democratic leadership ● 2 members appointed by the senior member of House Democratic leadership <p>No more than 5 members may be from the same political party.</p>

<p>“An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.”</p>	<p>“An individual appointed to the Commission may not be an officer or employee of an instrumentality of government.”</p>	<p>“An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government, except that not more than two of the members who are appointed by Members of Congress may be Members of Congress or other officers or employees of the Federal Government.”</p> <ul style="list-style-type: none"> ● “Members of the Commission who are full-time officers or employees of the United States, including Members of Congress, may not receive additional pay, allowances, or benefits by reason of their service on the Commission.” 	<p>“An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.”</p>
<p><u>Additional qualifications</u> “It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, intelligence gathering, commerce (including aviation matters), and foreign affairs.”</p>	<p><u>Additional qualifications</u> “It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in at least two of the following areas:</p> <ul style="list-style-type: none"> (A) Governmental service. (B) Law enforcement. (C) Civil rights, civil liberties, and privacy. (D) The Armed Forces. (E) Intelligence. (F) Counterterrorism. (G) Cybersecurity. (H) Technology. (I) Law. 	<p><u>Additional qualifications</u> “It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, online dis-information and intelligence gathering.”</p>	<p><u>Additional qualifications</u> “It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, intelligence gathering, and racial justice.”</p>

<p><u>Purpose/ Function</u> The Commission had authority to “examine and report upon the facts and causes . . . ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks . . . make a full and complete accounting of the circumstances . . . preparedness . . . response . . . [and] identify, review, and evaluate the causes of and the lessons learned . . .”</p> <p>The investigation “may include: intelligence agencies; law enforcement agencies; diplomacy; immigration, nonimmigrant visas, and border control; the flow of assets to terrorist organizations; commercial aviation; the role of congressional oversight and resource allocation; and other areas of the public and private sectors . . .” <i>[Note: this is similar to the list provided in H.R. 410, with differences informed by the nature of the attack.]</i></p>	<p><u>Purpose/Function</u> The Commission will investigate and report on “the relevant facts and circumstances . . . including (A) activities of intelligence and law enforcement agencies with respect to intelligence collection and sharing; (B) influencing factors that contributed to domestic terrorist motivation, organization, and execution, including technology, foreign influence campaigns, and online platforms; and (C) other entities deemed relevant.</p> <p>“Identify, review, and evaluate the causes and the lessons learned from the domestic terrorist attack. . .” regarding (A) command, control, and communications of National Guard and Metropolitan Police and other law enforcement on or before January 6; (B) structure, coordination, operational plans, policies, and procedures to detect, prevent, and prepare for targeted violence by domestic terrorism; (C) structure, authorities, training, planning, and use of force policies by the Capitol Police; (D) policies on information sharing of intelligence by Federal, State and local agencies, and policies for disseminating and acting on this information, including</p>	<p><i>[Note: some of the same information is contained in both 1/6 Commission bills but is distributed differently between the Purpose and Functions sections. This analysis includes language from both sections for clarity.]</i></p> <p><u>Purpose/Function</u> The Commission will “examine and report upon the facts and causes . . . ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks . . . make a full and complete accounting of the circumstances . . . preparedness . . . response . . . [and] identify, review, and evaluate the causes of and the lessons learned . . .”</p>	<p><i>[Note: some of the same information is contained in both 1/6 Commission bills but is distributed differently between the Purpose and Functions sections. This analysis includes language from both sections for clarity.]</i></p> <p><u>Purpose/Function</u> The Commission will “investigate[] relevant facts and circumstances . . . ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks . . . make a full and complete accounting of the circumstances . . . preparedness . . . response . . . [and] identify, review, and evaluate the causes of and the lessons learned . . .”</p> <p>The Bill contains an additional provision determining that scope of the inquiry should build upon the investigation at other entities, “which may include: relevant facts and circumstances relating to— intelligence agencies; law enforcement agencies, including the impact, if any, of the race of the attackers on the response of law enforcement; the flow of assets to insurrectionist and domestic terrorist organizations; the role of congressional oversight and resource allocation; and other areas of the public and private sectors determined relevant by the Commission for its inquiry.” <i>[Note: this is similar to the list provided in the 9/11 Commission legislation,</i></p>
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<p>Directs the Commission to “build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations” of the Joint Inquiry of the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives and “other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally. [Note: this is similar to language in H.R. 410 and Speaker Pelosi’s draft]</p> <p>Further, the Commission should review findings of the intelligence community and the Joint Inquiry, and then determine areas where the Joint Inquiry had either not investigated or not completed investigation, or where new information had become available.</p> <p>The Commission would report to “the President and Congress . . .”</p>	<p>elevating the security posture of the Capitol from information derived from an instrumentality of government, open sources, and online platforms; and (E) policies on interoperability between Capitol Police, National Guard, and Metropolitan Police on or before January 6.</p> <p>Directs the Commission to “build upon the investigations of other entities and avoid unnecessary duplication by reviewing the findings, conclusions, and recommendations of other executive branch, congressional, or independent bipartisan or non-partisan commission investigations into the domestic terrorist attack on the Capitol and other targeted violence and domestic terrorism relevant to such terrorist attack, including investigations into influencing factors related to such terrorist attack.” [Note: this is similar to language in the 9/11 Commission legislation and H.R. 410]</p> <p>The Commission will report to “the President and Congress . . . that may include changes in law, policy, procedures, rules, or</p>	<p><i>with differences informed by the nature of the attack.]</i></p> <p>Directs the Commission to “build[] upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of prior executive branch, congressional, or independent commission investigations into the insurrectionist attack of January 6, 2021, other insurrectionist and domestic terrorist attacks, and domestic terrorism generally.” [Note: this is similar to language in the 9/11 Commission legislation and Speaker Pelosi’s draft]</p> <p>The Commission will report to the “Chair and ranking minority member of the Committee on House Administration, the Chair and</p>	<p>Directs the Commission to “build[] upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of prior executive branch, congressional, or independent commission investigations into the insurrectionist attack of January 6, 2021, other insurrectionist and domestic terrorist attacks, and domestic terrorism generally.” [Note: this is similar to language in the 9/11 Commission legislation and Speaker Pelosi’s draft]</p> <p>The Commission will report to “the President and Congress . . .”</p>
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	<p>regulations that could be taken to prevent future acts of targeted violence and domestic terrorism . . .”</p>	<p>ranking minority member of the Committee on Rules and Administration of the Senate, the President, and Congress.”</p> <p>The Bill provides the Commission will “make interim reports on an ongoing basis on the Commission’s analysis of the security and safety of the Capitol Complex . . .” <i>[Note: all three bills provide for optional interim reports, this bill specifies that the reports should be on the security and safety of the Capitol and are required on an ongoing basis.]</i></p>	
	<p><u>Findings</u> Congress finds the following:</p> <p>(1) On September 24, 2020, Christopher Wray, Director of the Federal Bureau of Investigation testified that: “the underlying drivers of domestic extremism remain constant,” and “racially-motivated violent extremism . . . [is] the biggest bucket within the larger group.” Lastly, “more deaths were caused by [domestic violent extremists] than international terrorists in recent years.”</p> <p>(2) In October 2020, the Department of Homeland Security stated that: “violent domestic extremists have capitalized on increased social and political tensions in 2020,” and “will continue to target individuals and institutions that are symbols of their grievances,” furthermore, “the</p>		

	<p>domestic environment around the COVID-19 pandemic creates an environment that could accelerate . . . mobilization . . . or radicalization.”</p> <p>(3) On January 27, 2021, the Department of Homeland Security issued an advisory bulletin stating, “[S]ome ideologically-motivated violent extremists with objections to the exercise of governmental authority and the presidential transition, as well as other perceived grievances fueled by false narratives, could continue to mobilize to incite or commit violence.” DHS remains concerned these drivers of violence remain through early 2021 and “threats of violence against critical infrastructure, including the electric, telecommunications and healthcare sectors, increased in 2020 with violent extremists citing misinformation and conspiracy theories about COVID-19 for their actions.”</p>		
<p><u>Powers</u> The Commission (or any subcommittee or member acting on the authority of the Commission) may “hold such hearings . . . take such testimony . . . receive such evidence. . . administer such oaths; and . . . require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such . . . records . . . as the Commission or such designated subcommittee or designated member may determine advisable.”</p>	<p><u>Powers</u> The Commission (or any subcommittee or member acting on the authority of the Commission) may “hold such hearings . . . take such testimony, receive such evidence, administer such oaths . . . and; require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such . . . records . . . as the Commission or such designated subcommittee or designated member may determine advisable.”</p>	<p><u>Powers</u> The Commission (or any subcommittee or member acting on the authority of the Commission) may “hold such hearings . . . take such testimony . . . receive such evidence. . . administer such oaths; and . . . require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such . . . records . . . as the Commission or such designated subcommittee or designated member may determine advisable.”</p>	<p><u>Powers</u> The Commission (or any subcommittee or member acting on the authority of the Commission) may “hold such hearings . . . take such testimony . . . receive such evidence. . . administer such oaths; and . . . require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such . . . records . . . as the Commission or such designated subcommittee or designated member may determine advisable.”</p>

<p><u>Subpoena Powers</u> Subpoena requires agreement of Chair and Vice-Chair (who are appointed by President and Senate Democratic leader, respectively) or affirmative vote of 6 members of Commission</p> <p>In case of contumacy or failure to obey a subpoena, “the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.”</p> <p>“In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action”</p>	<p><u>Subpoena Powers</u> Subpoenas may be issued by the Chairperson or by the vote of a majority of the members of the Commission.</p> <p>In the case of failure to obey a subpoena, “the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.”</p> <p><i>[Note: Speaker Pelosi’s proposal does not include additional enforcement provision]</i></p>	<p><u>Subpoena Powers</u> Subpoena requires agreement of Chair and Vice-Chair (who are appointed by President and Senate Republican leader, respectively) or affirmative vote of 6 members of Commission</p> <p>In case of contumacy or failure to obey a subpoena, “the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.”</p> <p>“In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action”</p>	<p><u>Subpoena Powers</u> Subpoena requires agreement of Chair and Vice-Chair (who are appointed by President and Senate Republican leader, respectively) or affirmative vote of 6 members of Commission</p> <p>In case of contumacy or failure to obey a subpoena, “the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.”</p> <p>“In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action”</p>
<p><u>Information from Federal Agencies</u> “The Commission is authorized to secure directly from any executive department,</p>	<p><u>Obtaining Official Data</u> “The Commission may secure directly from any Federal department or agency</p>	<p><u>Obtaining Official Data</u> “The Commission may secure directly from any department or agency of the</p>	<p><u>Obtaining Official Data</u> “The Commission may secure directly from any department or agency of the</p>

<p>bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.”</p>	<p>information [, including any underlying information that [may be in the possession of] the intelligence [or law enforcement] community that is necessary to enable it to carry out its purposes and functions under this Act. Upon request of the Chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, the head of such department or agency shall furnish such information to the Commission.]</p>	<p>Government information necessary to enable it to carry out this Act. Upon request of the Chair, the chair of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, the head of that department or agency shall furnish that information to the Commission.”</p>	<p>Government information necessary to enable it to carry out this Act. Upon request of the Chair, the chair of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, the head of that department or agency shall furnish that information to the Commission.”</p>
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