



Intelligence Reform After Five Years: The Role of the Director of National Intelligence (DNI)

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Summary

The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) was the most significant legislation affecting the U.S. intelligence community since the National Security Act of 1947. Enacted in the wake of the 9/11 Commission's final report, the 2004 act attempted to ensure closer coordination among intelligence agencies especially in regard to counterterrorism efforts. Most notably, the Intelligence Reform Act established the position of Director of National Intelligence (DNI) with more extensive authorities to coordinate the nation's intelligence effort than those formerly possessed by Directors of Central Intelligence. The DNI speaks for U.S. intelligence, he briefs the President, has authority to develop the budget for the national intelligence effort and manage appropriations made by Congress, and, to some extent, can transfer personnel and funds from one agency to another. The Office of the DNI (ODNI), a staff of some 1,600 officials along with additional contract personnel, works to carry out the DNI's responsibilities.

Observers are divided over the success of the DNI position and the ODNI. Three DNIs have been successively appointed and confirmed; none served more than two years. A number of innovations have been undertaken in the intelligence community to encourage coordination and information sharing. However, some observers remain skeptical of the need for a DNI or ODNI. A widespread perception is that coordinative mechanisms and authorities as currently established are inadequate to the goal of creating a more flexible and agile intelligence effort. Still others see cooperative efforts in the intelligence community as a test-case of the extent to which independent federal agencies can work closely together without being merged under a single leader.

Congress has monitored the work of DNIs and the ODNI, but oversight has thus far been largely informal, given the absence of enacted intelligence authorization legislation since 2004, shortly after passage of the Intelligence Reform Act. Some outside observers would repeal the act, but there appears to be little enthusiasm among Members to undo a major piece of legislation and return to the *status quo ante*. On the other hand, there appears to be limited sympathy for creating a "Department of Intelligence," directly managed by one official.

The roles of the DNI and the ODNI are likely to form the backdrop for congressional consideration of intelligence authorization legislation for FY2010 (H.R. 2701 and S. 1494) and for FY2011. In addition, confirmation hearings for General James R. Clapper, Jr., nominated by President Obama on June 7, 2010, to serve as the fourth DNI, are likely to include consideration of the responsibilities of the position.

Additional information on issues related to the DNI and the ODNI can be found in CRS Report RL33539, *Intelligence Issues for Congress*, by Richard A. Best Jr.; CRS Report RL34231, *Director of National Intelligence Statutory Authorities: Status and Proposals*, by Richard A. Best Jr. and Alfred Cumming; and CRS Report R41284, *Intelligence, Surveillance, and Reconnaissance (ISR) Acquisition: Issues for Congress*, by Richard A. Best Jr.

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Introduction

Given the short tenures of the first three Directors of National Intelligence (DNIs) and especially the abrupt departure of Admiral Dennis C. Blair in May 2010, there has been considerable speculation about the future of the position of the DNI and the roles and mission of the Office of the Director of National Intelligence (ODNI). Despite a number of accomplishments that recently have been publicly described by intelligence officials, some commentators express significant concerns. Some believe that the intelligence community was more effective prior to the Intelligence Reform Act of 2004 (P.L. 108-458) that created both the DNI position and the ODNI. They maintain that the act merely added a superfluous layer of complexity to an already cumbersome intelligence community. A recent article notes “most intelligence experts agree that the job has been troubled from the start, having little actual power over the operations and budget of a sprawling intelligence infrastructure that the Pentagon and C.I.A. still dominate.”¹ Another critic has argued that creating the DNI position “was a misguided reform that would add bureaucratic layers without improving operations and analysis.”² Others believe that the act was merely an unworkable half-way measure that failed to create a single, integrated intelligence community. One media analyst claims, “without absolute control over intelligence agency spending or people, the spymaster cannot compel much of anything to happen.”³

The concerns over the future of the reforms included in the 2004 act will probably affect consideration of the nomination of retired Air Force General James R. Clapper, Jr. to succeed Blair and become the fourth DNI. General Clapper has had a long history of serving in senior positions in the intelligence community and is widely respected. The position is potentially highly influential, but it does not provide the extensive line responsibilities that Cabinet secretaries possess. It requires sharing of power and close coordination and cooperation rather than decisive direction. It necessarily entails great leadership skills and the ability to forge consensus among senior intelligence leaders of some 16 separate and diverse agencies. The occupant of the position is likely to be subject on a regular basis to criticism for either meddling unnecessarily or failing to exert authorities that are in fact ambiguous. The DNI position is one that is built around an interagency, “whole-of-government,” approach to dealing with the myriad and serious challenges of the 21st century. A review of the history and functioning of the position suggests that the DNI and ODNI are appropriate subjects for enhanced congressional oversight.

Background

A primary lesson drawn in the aftermath of the attacks of September 11, 2001, was that U.S. intelligence had not dealt effectively with the threat to the U.S. homeland posed by international terrorist groups. Previously, the intelligence community had been organized to deal with potentially hostile nation states that posed the threat of nuclear or conventional attacks. Sharp lines had been drawn between foreign intelligence and domestic law enforcement. Little attention had been given to coordination by intelligence agencies with national, state, tribal, and local law enforcement agencies. The work of intelligence agencies prior to 9/11 was extensively

¹ Mark Mazzetti, “Facing a Rift, U.S. Spy Chief to Step Down,” *New York Times*, May 21, 2010, p. 1.

² David Ignatius, “Obama’s Intelligence Retooling,” *Washington Post*, June 9, 2010, p. A21.

³ Tim Starks, “Help Wanted, Mission Impossible,” *CQ Weekly*, May 24, 2010, p. 1255.

investigated and analyzed; the resulting consensus among many Members of Congress and outside observers was that major changes were required.

It was quickly realized that information about the 9/11 plotters available to some agencies had not been shared with others and that there had been a failure “to connect the dots.” An initial response to the 9/11 attacks was to remove statutory barriers that had discouraged sharing of information between law enforcement and intelligence organizations.⁴ This was followed by an intensive combined investigation by the two intelligence committees. Based on the work of the Joint Inquiry, the two committees made a number of recommendations.⁵ Principally, they urged that the National Security Act be amended “to create and sufficiently staff a statutory Director of National Intelligence who shall be the President’s principal advisor on intelligence and shall have the full range of management, budgetary and personnel responsibilities needed to make the entire U.S. Intelligence Community operate as a coherent whole.”⁶ The DNI proposal, as noted by the committees, had been on the table for some years and had been urged by a number of earlier commissions. The two intelligence committees also recommended the development of a government-wide strategy for combating terrorism, the creation within the Department of Homeland Security (DHS) of an all-source terrorism information fusion center, and strengthening the counterterrorism capabilities of the Federal Bureau of Investigation (FBI), and considered whether a new agency should be established for domestic intelligence collection. The committees made other recommendations intended to enhance the ability of agencies to work jointly and access information from disparate sources, to increase accountability, and to improve congressional oversight of intelligence activities.

These recommendations were published in December 2002; they served as the template for efforts to adapt the intelligence community to the post-9/11 world. They were not, however, immediately adopted. The previous month, in the Intelligence Authorization Act for FY2003 (P.L. 107-306), Congress had established within the legislative branch the National Commission on Terrorist Attacks Upon the United States to investigate the 9/11 attacks and, having reviewed the findings and recommendations of the Joint Inquiry, made its own recommendations. The 9/11 Commission received far more attention from the general public than had the Joint Inquiry; it held numerous open hearings, and produced a well-regarded and best-selling account of the events of September 2001 that was published in July 2004 in the midst of that year’s electoral campaign.⁷ As a result the 9/11 Commission’s recommendations, strongly supported by members of the families of those who had died in the terrorist attacks, received widespread acceptance. During the fall campaign, they were endorsed both by President George Bush and his Democratic opponent, Senator John Kerry.

Throughout the fall of 2004 Congress debated the question of intelligence reform. Although there may have initially been some resistance in the Bush Administration to the need for wide-ranging intelligence legislation, there was a widespread consensus in Congress, especially in the Senate, that legislation was needed and that a position for a Director of National Intelligence should be

⁴ Accomplished by the USA Patriot Act of October 26, 2001, P.L. 107-56.

⁵ U.S. Congress, 107th Congress, 2d session, Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001*, S.Rept. 107-351/H.Rept. 107-792, December 2002.

⁶ S.Rept. 107-351/H.Rept. 107-792, Errata, p.2

⁷ U.S., National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, Washington: Government Printing Office, 2004.

established that would be separate from the head of the Central Intelligence Agency (CIA). A National Counterterrorism Center where all terrorism-related information could be brought together and analyzed was one recommendation. At the same time, strong disagreements emerged over the extent of the authorities that the new DNI should have over all intelligence agencies, especially the large technical agencies (the National Security Agency (NSA), the National Reconnaissance Office (NRO), and the National Geospatial-Imagery Agency (NGA)). There were differing perspectives on whether the DNI should be a “coordinator” or an “integrator”—the latter term denoting a stronger role in bringing change to the intelligence community. These agencies are components of the Department of Defense (DOD) and are charged with supporting combatant commanders as well as Washington policymakers. Some argued that they should be directly subordinate to the DNI, essentially in a new Department of Intelligence, since they constitute the major portion of the U.S. intelligence effort. Others firmly maintained that they need to be closely aligned with military commands of DOD. It has been suggested that the former approach had more sympathy in the Senate and the latter in the House, especially in the Armed Services Committee, then chaired by Representative Duncan Hunter.

The Intelligence Reform Act of 2004

After the November election, the final legislation, the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) (referred to as the Intelligence Reform Act or IRTPA)⁸ was passed by both chambers and signed by President Bush on December 17, 2004. The act established a DNI to serve as head of the intelligence community and as principal adviser to the President and the National Security Council and the Homeland Security Council for intelligence matters. Unlike the former Directors of Central Intelligence (DCIs), who combined leadership of the CIA with a community management role, the DNI by statute cannot simultaneously serve as director of another agency.⁹ The DNI oversees and directs the implementation of the National Intelligence Program, which refers to the intelligence efforts of major intelligence agencies directed at “national” missions but does not include intelligence efforts by the military departments in support of tactical military operations.¹⁰ The act gives the DNI some additional managerial and budgetary authorities including certain authorities to transfer personnel and to move funds from one agency to another. It established an Office of the DNI, separate from any other agency, to support the DNI in his coordinative responsibilities. It established as part of the ODNI the National Counterterrorism Center (NCTC) with responsibilities for analyzing information on terrorist threats and preparing government-wide counterterrorism planning.¹¹ The ODNI commenced operations on April 21, 2005. Ambassador John Negroponte was the first DNI, serving from April 2005 until February 2007; retired Vice Admiral John M. McConnell succeeded him and served until the end of the Bush Administration. Retired Admiral Dennis C. Blair served as DNI from January 2009 until May 2010.

⁸ Codified as amendments to the National Security Act (50 USC403 *et seq.*).

⁹ 50 USC403(c).

¹⁰ 50 USC 401a(6).

¹¹ For background on the NCTC, see CRS Report R41022, *The National Counterterrorism Center (NCTC)—Responsibilities and Potential Congressional Concerns*, by Richard A. Best Jr.. The relationship of NCTC with the Department of Homeland Security and its various data fusion efforts is described in CRS Report R40602, *The Department of Homeland Security Intelligence Enterprise: Operational Overview and Oversight Challenges for Congress*, by Mark A. Randol.

In an important compromise that facilitated passage of the legislation, the Intelligence Reform Act provided that the President

shall issue guidelines to ensure the effective implementation and execution within the executive branch of the authorities granted to the Director of National Intelligence by this title and the amendments made by this title, in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments of the United States government concerning such departments.¹²

Some observers maintain that this provision significantly undermined the authority of the DNI especially in regard to DOD agencies. The result has been that the DNI must accept the separate responsibilities of these agencies within DOD and within the national intelligence community. This inherent dichotomy has led, not unexpectedly, to continuing differences of opinion. At times, according to some observers, the intelligence community has provided support to military operations at the expense of support to national policymaking. On the other hand, military operations in Afghanistan and elsewhere are built upon precision attacks that minimize civilian casualties, and tactical intelligence is an integral part of such operations. Balancing competing requirements by Washington policymakers and military commanders for scarce resources is a necessary responsibility.

The goal of the act was to reorganize the intelligence community to provide a more coordinated and agile effort that would especially be more effective at the counterterrorism mission. It was based on the conclusion that the former practice of combining the leadership of the CIA and coordinative responsibilities of the entire intelligence community was impractical. The act gave the DNI important authorities; however, it did not create a “Department of Intelligence” that would have shifted the major agencies to the direct authority, direction, and control of the DNI. This reflected the desire to ensure that the major agencies in DOD would be closely aligned with the military forces, which depend on intelligence support for ongoing military operations.

Since the establishment of the ODNI in April 2005 no intelligence authorization act has been signed into law. However, the two congressional intelligence committees have reported bills since 2005 that include amendments to the Intelligence Reform Act. A number of these may be included in FY2010 intelligence authorization (H.R. 2701/S. 1494) or other legislative vehicles. Most of the proposed amendments would strengthen the DNI’s authority to transfer somewhat larger numbers of personnel or additional funds from one agency to another and conduct personnel level assessments, vulnerability assessments, and accountability reviews. Some would provide for an intelligence community-wide inspector general. None of the amendments that have been proposed by either of the two intelligence committees, however, would remove the command relationships that exist between Cabinet heads and intelligence agencies in their departments, although some maintain that some amendments might significantly weaken these relationships. In general, observers believe that provisions for a strong DNI role have more support in the Senate than in the House.

¹²Section 1018, P.L. 108-458.

Positive Assessment

In April 2010, the fifth anniversary of the ODNI, the then-DNI Blair issued a fact sheet highlighting the current status of the office.¹³ He recalled the Intelligence Reform Act's aim "to improve information sharing, promote a strategic, unified direction, and ensure integration across the nation's Intelligence Community (IC)." Director Blair noted the responsibilities of his office; the DNI

- serves as the President's principal intelligence advisor;
- manages the National Intelligence Program (budget);
- establishes intelligence community (IC) priorities with clear and measurable goals and objectives;
- sets direction through policies and budgets;
- ensures coordination of integration of IC personnel, expertise, and capabilities;
- provides leadership on IC cross-cutting issues; and
- monitors IC agency and leadership performance.¹⁴

Director Blair maintained that the ODNI has "made considerable progress toward breaking down the information-sharing, technical, and cultural barriers across the Intelligence Community that were identified in the wake of the September 11th attacks." He pointed to a number of accomplishments to back up this claim: the IC had confirmed the existence and purpose of Iran's uranium enrichment facility at Qum; successfully combined domestic and foreign intelligence to disrupt several important threats to the U.S. homeland; and provided information on international threats to the public, especially the H1N1 virus. An ODNI Rapid Technology Transition Initiative helped fund some 80 new technologies including a biometric identification system that led to the identification and capture of hundreds of high-value intelligence targets in the Horn of Africa, Iraq, and Afghanistan.¹⁵

In addition, according to the fact sheet, the ODNI has successfully undertaken a number of initiatives to increase information sharing and integration. These include a joint duty program that requires service in a position that qualifies as joint duty and the introduction of collaborative tools such as Intellipedia and A-Space and the Library of National Intelligence (separate data retrieval systems used for classified intelligence information). The fact sheet indicated that information sharing with state and local fusions centers had been enhanced through closer liaison administered by the Department of Homeland Security, the process for granting security clearances had been improved, and steps had been taken to facilitate granting of clearances to first-generation Americans, many of whom have needed language skills. Additionally, the report indicated that an intelligence community badge interoperability program had given intelligence

¹³ U.S., Office of the Director of National Intelligence, *ODNI Fact Sheet*, April 21, 2010.

¹⁴ *Ibid.*, p. 1.

¹⁵ *Ibid.*, pp. 2-3.

officials easier access to other agencies and that information sharing had been enhanced by new technologies including encrypted e-mail.¹⁶

The ODNI fact sheet stated that the President's Daily Briefing now incorporates analysis from across the intelligence community and that more rigorous analytical standards have been imposed.¹⁷ It also indicated that the ODNI has developed the first Performance-Based Budget with the FY2010 National Intelligence Program (NIP) to align strategic outcomes and budget priorities and that a National Intelligence Priorities Framework had been designed to align collection and analytical resources to ensure that adequate resources are matched with major challenges and emerging threats. The fact sheet noted that the ODNI had also established an Intelligence Advanced Research Projects Activity (IARPA) to fund high-risk, high-payoff activities such as quantum computing, identify recognition, and computer network intelligence.¹⁸

During the same month, two prominent retired intelligence officials, Thomas Fingar and Mary Margaret Graham, argued that the DNI and ODNI were making substantial progress. They pointed out that the "intelligence community is transforming from a confederation of feudal baronies into networks of analysts, collectors and other skilled professionals who increasingly think of themselves as members of an integrated enterprise with a common purpose."¹⁹ In part they noted that this transformation was the product of technological advances and the development of analytical tools such as Intellipedia, A-Space, and the Library of National Intelligence. They maintained that the "sorts of collaboration that are routine today were impossible until DNI-led efforts changed policies that had prevented analysts with the same clearances from seeing or sharing large volumes of information."²⁰

Negative Views

Critical views of the ODNI are nevertheless widely held. The resignation of DNI Blair in May 2010 led to a spate of media accounts that include suggestions that the position is fundamentally flawed.²¹ More significant is a media account of an assessment of the ODNI by the President's Intelligence Advisory Board (PIAB).²² The account indicates that the PIAB found ambiguities in the Intelligence Reform Act and different approaches by the three DNIs have "fueled 'turf wars' that waste valuable time, expertise and energy, which should be directed toward meeting critical national security challenges." The Board reportedly recommended that the ODNI be downsized but strengthened by transferring certain functions to other agencies.²³ The functions

¹⁶ Ibid., pp. 3-4.

¹⁷ Ibid., p. 5.

¹⁸ Ibid., p. 6.

¹⁹ Thomas Fingar and Mary Margaret Graham, "Getting Smarter on Intelligence," *Washington Post*, April 30, 2010, p. A19. Fingar was the first deputy DNI for analysis; Graham was the first deputy DNI for collection.

²⁰ Ibid.

²¹ See "Dennis Blair's Replacement Has Problems to Solve," Editorial, *Washington Post*, May 22, 2010, p. A14; Siobhan Gorman, "The Job Nobody Wants," *Wall Street Journal*, May 27, 2010, p. A3.

²² Josh Gerstein, "Panel Found 'Distracted' DNI," *Politico*, June 2, 2010, available at <http://www.politico.com/news/stories/0610/38061.html>. The author indicated that the article was based on an unclassified summary of the PIAB report.

²³ Gerstein, "Panel Found 'Distracted' DNI." Arguments over the size of the ODNI are longstanding. There has been a determination to avoid a large ODNI that might duplicate work done in the various intelligence agencies. Several hundred of the positions in the ODNI are assigned to the NCTC which has 24/7 responsibilities for monitoring terrorist (continued...)

recommended to be transferred are reportedly the program manager for the information sharing environment; an office managing the National Intelligence University; a center for protecting sources and methods; and an office that runs a classified government-wide intranet site. Observers suggest, however, that moving these entities would not necessarily involve large numbers of positions or budgets.

A recent investigation by the Senate Select Committee on Intelligence (SSCI) into the attempted terrorist attack on a Detroit-bound airliner in December 2009 criticized the NCTC, CIA, and NSA in particular for failing to disseminate and effectively analyze available information. Although only an unclassified summary of the report has been released, the committee concluded that the “NCTC was not adequately organized and did not have resources appropriately allocated to fulfill its missions.”²⁴ One CIA regional division had “inadequate technological search tools and the fragmented nature of the Intelligence Community’s databases made it difficult to find additional intelligence related to [the presumed terrorist].”²⁵ Two members of the committee, Senators Saxby Chambliss and Richard Burr, went further, criticizing NCTC for “failure to understand its fundamental and primary missions.”²⁶ The two Senators also criticized existing technologies in the ODNI that greatly limit the ability of analysts to undertake searches of multiple databases.

In March 2010 one current ODNI official, Patrick C. Neary, writing in the CIA’s official publication, *Studies in Intelligence*, set forth a distinctly negative assessment of the work of the ODNI and the changes that resulted from the implementation of the Intelligence Reform Act since it was signed in 2004.²⁷ According to Mr. Neary, currently director of strategy in the ODNI, the Intelligence Reform Act is simply “a lukewarm version of intelligence reform that has since its inception virtually run its course.”²⁸ The intelligence community “remains fundamentally unreformed” and “intelligence reform appears moribund.”²⁹

Mr. Neary relates that the ODNI absorbed both the missions and the mindsets of the previous Community Management Staff (CMS), which served Directors of Central Intelligence in their community management responsibilities. The CMS, many of whose staff transitioned to the ODNI, was “optimized for coordinating the community work together *when the community chose to do so*. It was not designed to, nor did it prove capable of, integrating the community absent that volition.”³⁰ Given the historical pattern and the “non-abrogated” authorities of the major Cabinet

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activities. Reductions in ODNI funding affect the NCTC. Proposals to reduce the size of the ODNI were the subject of discussions between DNI Blair and the NCTC Director on how to allocate a \$30 million cut in ODNI funding during the week preceding the Christmas bombing attempt in a Detroit-bound aircraft. See testimony of Dennis C. Blair before the Senate Committee on Homeland Security and Governmental Affairs, “Intelligence Reform: the Lessons and Implications fo the Christmas day Attack,” Transcript, Federal News Service, January 20, 2010.

²⁴ Senate Select Committee on Intelligence, Unclassified Executive Summary of the Committee Report on the Attempted Terrorist Attack on Norwest Flight 253, May 18, 2010, p. 8.

²⁵ Ibid., p. 6.

²⁶ Senate Select Committee on Intelligence, Unclassified Executive Summary of the Committee Report on the Attempted Terrorist Attack on Norwest Flight 253, May 18, 2010, Additional Views of Senators Chambliss and Burr.

²⁷ Patrick C. Neary, “Intelligence Reform, 2001-2009: *Requiescat in Pace?*,” *Studies in Intelligence*, Extracts, March 2010.

²⁸ Neary, p. 1.

²⁹ Neary, p. 7.

³⁰ Neary., p. 6; italics in the original. Contrarily, some argue that DNI Negroponte removed some key CMS officials (continued...)

departments, especially DOD, the ODNI has not, in Mr. Neary's view, become the driving force for shaping intelligence programs.

In addition Mr. Neary argues that recalcitrant agencies have successfully resisted meaningful reform. One way is through the joint duty assignment system. Joint duty requirements have at times been met by billets within home agencies that are technically designated as joint duty but are not actual assignments to other agencies. In another example, although broad priorities for intelligence collection are established by the DNI, he asserts that the ODNI has little capability to monitor fast-changing shifts in collection efforts and even less capability to direct modifications to take account of fast-breaking situations. According to Mr. Neary, the National Intelligence Coordination Center (NIC-C), established as part of the ODNI in 2007,

remains a simple staff element, conducting manual data calls and reliant on the voluntary compliance of the large collection agencies. There is no real-time feed (or operational status) of SIGINT [signals intelligence], HUMINT [human intelligence], GEOINT [geospatial intelligence], or even open source information into the NIC-C. There is no comprehensive collection dashboard display, no 24-hour operational capability, and no immediate mechanism to issue directive changes.³¹

Interagency training designed to develop an intelligence community culture had been an ongoing goal of DNIs but, according to Mr. Neary, results have been limited at best. He offers an example of the problem:

Analysis 101 was a month-long course for new analysts to establish professional networks while building a common analytic framework. After receiving positive initial feedback, DDNI/A [the Deputy DNI for Administration] sought to make it mandatory. Some agencies responded by trying to eliminate it. The compromise shortened the training to two weeks and made it optional, with DIA [Defense Intelligence Agency] acting as executive agent; CIA stopped participating in it.³²

Mr. Neary is particularly skeptical of much of CIA's humint effort. He notes inadequate numbers of bilingual staff, the absence of firm metrics to judge success, and a disinclination to accept the role of ODNI oversight. There is, he sees, a tendency to value tidbits of high-level gossip over less glamorous but more substantive information needed for policy development.³³ Although Mr. Neary does not criticize the content of the intelligence community analytical products, he suggests the need for new ways of preparing and disseminating analysis.³⁴

The severe criticisms of Mr. Neary and the Senate Intelligence Committee are based on information that is classified and not available to the public. However, as acknowledged in the committee's unclassified summary, government analysts who have reviewed the committee's conclusions found a measure of "20-20 hindsight" in perceiving emergent patterns after the event that were buried in a vast mountain of evidence before the attack.³⁵ Some assert that Mr. Neary's

(...continued)

and their replacements were unfamiliar with interagency relationships.

³¹ Neary, p. 8.

³² Neary, p. 14, n. 31.

³³ Neary, pp. 14-15.

³⁴ Neary, p. 10.

³⁵ U.S. Congress, 111th Congress, 2d session, Senate, Select Committee on Intelligence, *Unclassified Executive* (continued...)

arguments may also be based more on the perspectives of a frustrated official than upon a balanced assessment of what is realistically possible, given prevailing organizational and budgetary constraints. None of the criticisms appears to be meritless, however.

An Alternative View

The experience of the past five years may also be interpreted as indicating that, although integrative efforts have thus far been based on a number of gradual changes that are not necessarily dramatic in and of themselves, a multi-year process may have been established that can create a more integrated intelligence effort. As most observers would acknowledge, shifts in organizational cultures do not occur immediately, and the organizational cultures of intelligence agencies are especially strong. Even if the separate cultures have contributed to the agencies' missions over the years, the Intelligence Reform Act was based on the assumption that a new culture of cooperation had to supplement (but not necessarily replace) long-established agency cultures. The external world changed, becoming a lot more complex, and Congress mandated that the U.S. intelligence community adapt to it.

The Intelligence Reform Act provides authority to create “sinews of cooperation” through an “intelligence enterprise architecture.” The ODNI was intended to establish and facilitate common data standards and security protections that will make possible the information sharing that Congress has mandated. Proponents argue that analysts can now share views with colleagues in other agencies and benefit from immediate peer reviews. Joint training opportunities can be seen as providing a sense of belonging to a genuine community that requires collaboration.

Some observers argue that the chief benefit of an intelligence community-wide culture is enhancing the ability to overcome the problems of collection and analysis that surfaced in regard to the 9/11 attacks, the failure to provide adequate insight into Iraqi weapons of mass destruction programs, and more recent attempted attacks by terrorists. Each of these disparate cases is seen as reflecting a failure to acquire, share, and analyze information that was readily available.

Those who hold this view hasten to note, however, that this approach cannot and will not be perfect, that intelligence is not a science and that mistakes are inevitable. Even under the best circumstances, some clues are likely to be missed and some terrorist attacks are likely to succeed, even as in wartime military operations some fatalities cannot be avoided. It should be remembered that intelligence analysis is an intellectual exercise; it is not possible merely to increase budgets by 50% and receive 50% better analysis in the same fiscal year.

Those who support the act and in general defend efforts that have been made in its implementation assert that better analysis and wider-ranging collection efforts may take a period of time—perhaps years—of incubation and experimentation. The creation of a culture of intelligence community cooperation that permeates the various agencies down to the working level is described as an important precondition for better performance. The end result ideally would be a more cohesive community comprised of officials with a shared understanding of their missions, with access to data from all other agencies, common procedures, and flexibility in shifting to new tasks and an agility in responding to new challenges. This would require an ability

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Summary of the Committee Report on the Attempted Terrorist Attack on Northwest Flight 253, pp. 3-4.

to adapt agency practices and priorities for the common mission and would include adopting a more coordinated acquisition policy for major systems such as satellites.

A particular concern has been the cost and performance of major surveillance platforms.³⁶ Along with the Secretary of Defense, proponents of the Intelligence Reform Act maintain that the DNI is in a position to address the need to develop consolidated acquisition plans that avoid duplicate systems for national and military consumers that would entail unnecessary expenses of tens of billions of dollars.³⁷

Arguably, this culture would ultimately lead to better analysis and more coordinated efforts to identify the threats and opportunities facing the nation in the new century. To some extent, this intended future of an intelligence community that is flexible and agile enough to respond to fluctuating conditions is similar to ways that many observers believe the entire government has to approach new challenges that do not fit within the traditional areas of concern of single agencies. The examples of 9/11 are combined with the need for “all-of-government” response to such calamities as Hurricane Katrina. To the extent that the government is able to address new threats (or opportunities), it is expected to require a capability of utilizing disparate agency capabilities on short notice and for limited periods without permanently changing statutory provisions for “authority, direction, and control.” In many ways intelligence agencies are arguably among the most agile agencies in the federal government and should be more amenable to these conditions than is the case with other departments.³⁸ As then-DNI McConnell testified in 2008

[W]e have focused [on] the DNI’s role as the integrator of the community. We seek to create efficiencies and improved effectiveness in shared services like security clearances, information-sharing, information technology, and communications, but still promote an environment where the elements of the community serve their departmental responsibilities. This integration model of governance across the departments is still being defined because, quite frankly, we are in new territory for U.S. intelligence, something that has never been tried before, balanced with the need to have strong departmental intelligence elements in each department.³⁹

³⁶ See CRS Report R41284, *Intelligence, Surveillance, and Reconnaissance (ISR) Acquisition: Issues for Congress*, by Richard A. Best Jr..

³⁷ Acquisition of major surveillance systems remains complicated; in February 2008, DNI McConnell testified: “The law says that if it’s an acquisition by a defense agency, which is where most of the acquisition is done, and it’s jointly funded by the National Intelligence Program, then I must share jointly with the Department of Defense which’s called MDA, Milestone Decision Authority. It is silent on any program where the Department of Defense is also contributing money, military-intelligence program, into a major buy. And what’s happened over the last, say, six or 8 years is major systems have moved all into defense, all into the national programs or a hybrid, where they are split-funded. So it’s mixed. There’s been a lot of to-ing and fro-ing between staffs about we’ll use these procedures or those procedures. The poor guy is trying to buy things. We’re getting double reviewed and two sets of procedures and so on.” McConnell indicated that he and Secretary of Defense Gates had, however, developed an agreed-upon set of procedures. Testimony of the Hon. J. Michael McConnell, U.S. Congress, Senate, 110th Congress, 2d session, Senate, Select Committee on Intelligence, *Statutory Authorities of the Director of National Intelligence*, S.Hrg. 110-837, February 14, 2008, pp. 21-22.

³⁸ See Project on National Security Reform, *Forging a New Shield*, Arlington, VA: November 2008.

³⁹ McConnell testimony, February 14, 2008, p. 7.

Future Direction

Most observers agree that, at best, the roles of the DNI and the ODNI are works in progress. None of the tenures of the first three DNIs lasted for more than two years. The DNI position for some intelligence officials “has come to be viewed as a thankless assignment—lacking in authority, yet held to account for each undetected terrorist plot.”⁴⁰ Moreover, some actual and potential threats have been avoided, but only at the last minute and not by first responders, but by ordinary citizens. On the other hand, a number of serious terrorist attacks have reportedly been prevented by exemplary cooperative work among intelligence agencies.⁴¹

Observers who view the role of the DNI and ODNI positively see the role of Congress as vitally important in several ways. There are modifications of authorities—especially the extent of the DNI’s power to move funds from one agency to another and transfer personnel—that could be considered in the light of five years of experience. Some provisions for enhanced authorities of the DNI are included in FY2010 intelligence authorization bills (H.R. 2701 and S. 1494) and others may be considered in the context of FY2011 authorization bills or other legislation dealing with intelligence or homeland security issues. Congress may also probe the views of General Clapper during forthcoming confirmation hearings.

The internal functioning of the ODNI has not been systematically evaluated, and there are persisting concerns about the proper size of the organization. Given the key importance of the leadership exerted by an incumbent DNI, observers suggest a need for close and continuing congressional oversight. Efforts to ensure that information is shared in a timely manner and that acquisition plans are realizable and cost-effective can be underscored, encouraged, and monitored by congressional committees. Some argue that procedures for congressional oversight of intelligence be altered, but even if this doesn’t occur, observers suggest that cooperation and coordination among the agencies will be much encouraged by continued expressions of congressional support.

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⁴⁰ Greg Miller and Walter Pincus, “Blair’s Resignation May Reflect Inherent Conflicts in Job of Intelligence Chief,” *Washington Post*, May 2, 2010, p. A1.

⁴¹ ODNI Fact Sheet, p. 2.; see also, John Brennan, “Securing the Homeland by Renewing America’s Strengths, Resilience, and Values,” Center for Strategic and International Studies, May 26, 2010.