

Bipartisan Policy Center's State of Intelligence Reform Conference
Summary of Proceedings
6 April 2010

Key Issues Discussed

- Whether intelligence reform has helped make America safer.
- Whether the Office of the Director of National Intelligence (ODNI) has provided unique value; has it helped to orchestrate Intelligence Community (IC)-wide responses to the nation's most challenging intelligence problems and tackled issues that no one IC agency would or could.
- Five years after the fact, has the integration and information-sharing goals of Intelligence Reform and Terrorism Prevention Act (IRTPA) been realized.
- Whether the DNI's responsibilities outstrip his authorities.
 - Some believe that the existing "federated" model can still work.
 - Others believe the DNI needs expanded authorities to achieve the goals of the IRTPA.
 - Given the tasks assigned to the DNI by IRTPA and Executive Order, no one believes the DNI has too much authority.
 - All believe that before seeking difficult and lengthy legislative fixes for real or perceived shortfalls, the Intelligence Community leaders must "double down" to improve IC performance within existing guidelines.

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The Intent of IRTPA. Since the National Security Act of 1947, intelligence reform has been built on evolutionary change, often in response to adversity, controversy and failure. Questions about CIA activities within the U.S. led to new congressional oversight committees and prohibitions on intelligence activity at home. The Iran-Contra affair changed how covert action is conducted and overseen. The 9/11 failure, and specifically the insufficient sharing of information between intelligence and domestic law enforcement agencies, led to the establishment of a "federated" IC model led by a full-time Director of National Intelligence. This was another evolution in how to provide centralized leadership for US intelligence agencies, always with the goal of ensuring the President, national security establishment and Congress receive the best intelligence support possible.

The new model was established to address three objectives:

- Facilitate and incentivize the sharing of intelligence and information across the Intelligence Community and with a much broader array of customers (including some 18,000 state, local and tribal civil and law enforcement entities);
- Focus on managing the entire Community vice the old model whereby the Director of Central Intelligence was inevitably drawn to focus primarily on managing CIA, and specifically its operational component; and

- Provide leadership for the integration of intelligence collected overseas and domestically, which the DCI was not well-suited to accomplish.

The DNI serves as the principal intelligence advisor to the President and as the head of the Intelligence Community. The DNI was given department-like responsibilities to manage the intelligence enterprise, including enabling information sharing, improving analysis and analytic tradecraft, overseeing and directing the implementation of the national intelligence program budget, setting personnel policies, and providing education and training standards and curricula. However, the DNI was not given department-like authorities as a “Secretary of Intelligence” to carry out these responsibilities.

Progress. Among the items cited by conference participants as the ODNI and DNI’s unique, value-added contributions were that the DNI:

- Established “mission managers” for the purpose of focusing and integrating the IC’s attention and resources on cross-cutting missions of national importance, including counterterrorism, counterproliferation, counterintelligence and Afghanistan-Pakistan. It was posited that these mission managers have improved the support to policymakers, diplomats, military personnel, and law enforcement officials by coordinating activity across the IC elements, and identifying and focusing remedies on key intelligence gaps. NCTC, in particular, was cited as a success for its work integrating the Community to meet the counterterrorism challenge.
- In partnership with Congress, provided critical leadership in modernizing the 1978 Foreign Intelligence Surveillance Act to reflect the changes in information and communications technologies over the last three decades.
- Focused the Community on the cyber challenge, playing a key leadership role in development and execution of the government-wide Comprehensive National Cyber Initiative.
- Paved the way for progress on security clearance reform, in partnership with the Office of Management and Budget, the Office of Personnel Management and the Department of Defense.
- Provided an IC-wide perspective on complex policy issues that effect the entire Community, e.g., national space policy and export control.
- Established the Joint Duty program, providing opportunities for cross-agency collaboration.

Challenges Cited for Intelligence Reform

Generally, the conference participants noted that the federated model is cumbersome. It has created bureaucratic tensions by ensuring that the DNI's purview straddles other departments' oversight and management authorities, and contributed to a slow rate of change. Section 1018 of the IRTPA stipulates that the DNI cannot abrogate any other department's authorities. As such, in many instances, the DNI lacks the authority, direction and control that other cabinet secretaries traditionally use to bring coherence to their efforts and resolve outstanding issues. Those working to codify intelligence reform believed that creating a Department of Intelligence was a bridge too far, especially during a time of war and given the experience of the new Department of Homeland Security. Without such powers, the DNI was forced to rely much more on personal relationships (with the President, cabinet members, members of Congress, and senior leaders in the Intelligence Community) rather than on inherent authorities to advance the intent of the law. The ambiguities in the IRPTA, the strains of fighting two wars, and natural bureaucratic resistance to change have amplified the challenges in implementing complex intelligence reforms. A successful DNI needs presidential support and legislative backing; without both, his ambiguous authorities in law are in some instances debilitating.

While some elements of the IC welcome the attention and cross-cutting national focus that the DNI can bring to their efforts, others have unevenly embraced the purpose and intent of IRTPA. The bigger agencies in particular have strong institutional cultures and established loyalties aligning with their host departments.

Some of the "energy" on intelligence reform has been spent on a protracted public debate over the numbers of personnel in the ODNI vice an evaluation of its ability to carry out the missions for which it was statutorily charged. The ODNI at its core consists of only approximately 650 people, who oversee roughly 100,000 members of the Intelligence Community. The more appropriate questions are what missions are appropriately the DNI's and how well is the DNI performing those missions.

The authorities provided in IRTPA to shape the development of "joint" IC leaders need maturation, and potentially augmentation. These authorities were modeled on the Goldwater-Nichols Act of 1986 that has—over time—successfully promoted joint-minded military personnel in the Defense Department. The IC's efforts to implement a similar program—moving intelligence officers among intelligence agencies to broaden their understanding of the IC's capabilities and integrate the various elements—have made important strides; however, not all identified joint duty positions have provided real experience in the capabilities and the culture of other agencies. The DNI lacks the traditional hire and fire authorities that leaders in other Federal Departments and corporations use to promote institutional change. Thus far, the DNI has only once offered the President a nominee for D/CIA.

The White House has not necessarily been clear about what it wants from a DNI as head of the Intelligence Community. In the absence of visible direction and support from the President to the DNI, the intelligence bureaucracies continue their agency efforts without fully considering the interrelationships with the efforts of the other IC elements.

Leadership vacancies have made effective management of the IC harder. Managing a 100,000 person and a roughly \$50 billion enterprise requires a strong leadership team. For more than half of the ODNI's existence, the DNI's top deputy (the Senate-confirmed Principal DDNI) was vacant and held in an "acting" capacity.

Looking Ahead. Participants at the conference identified at least seven potential areas which the DNI might focus to enhance the IC's contribution to the national security establishment, focus the Community on mission, and foster advances in information sharing.

Director Dennis C. Blair identified three objectives for his tenure. One is the development of leaders—at all levels—who collaborate instinctively and can build a truly integrated intelligence capability for this nation. Personnel are skilled in their own agencies' craft, but still face barriers—in part due to authorities, but also due to background, training, development—to working effectively across institutional boundaries. The integrated, mission focus seen in the field must be replicated in our headquarter offices. Practical initiatives include strengthening the joint duty program, improving succession planning at the agencies to cultivate strong joint-minded leaders, and improving joint education at entry-, mid-, and senior-levels.

Second, there is the need to more clearly conceptualize, execute, and assess the effectiveness of covert action within a larger policy context, factoring in the roles and capabilities of the rest of our intelligence apparatus and other interagency partners. As the President's principal intelligence adviser, the DNI is uniquely positioned to frame this strategic analysis.

Third, collection and analysis must be more effectively integrated. More sophisticated analytical tools should assess the contributions that each IC element offers to specified missions in order to minimize gaps and overlaps in programs and activities. The intelligence disciplines—signals, human and technical (the "INTs")—must be linked in a more coherent fashion to yield more holistic analytic insights on issues that our customers face. While short-term requirements always remain a priority, greater focus should be placed on building capabilities that meet the medium- and long-term challenges we see ahead. Improvements in capabilities-based analyses and the resource analysis system will better inform cross-agency tradeoffs and help create an enterprise that operates as an integrated whole, rather than a collection of individual parts.

Other conference panelists cited four additional priorities:

The collection paradigm that relies so heavily on classified information needs to be updated to reflect the deluge of available open source information. The explosion in information and communications technology has provided access to a greater range and kind of information and is enabling revolutionary advances in search, analysis, and dissemination capabilities. Harnessing these capabilities to complement traditional

intelligence collected secretly through classified means remains a continuing opportunity for the entire Intelligence Community.

The domestic mission space for intelligence needs greater clarity. The Intelligence Community must become more competent at quickly and dynamically obtaining and using appropriate information on people who cross borders and may have nefarious intent, including Americans. The Ft. Hood shooting, the failed attack of 12/25, cross-border drug violence, and other events last year highlighted the challenges we face due to our porous borders and the rapid mobility of modern society. In addition, we have seen that some of our practices, such as no-fly lists, must be more dynamic and responsive, so they can trigger quick action, including warnings based on incomplete information. Our procedures for collecting and using US person data must adapt to these new challenges. Lastly, the Attorney General's guidelines for intelligence agencies operating domestically needs to be updated and harmonized so that the IC can perform its mission successfully.

The DNI and IC must find more ways to provide greater transparency to the public in order to foster trust from the American people and avoid over-reaction during troubled times. While much of intelligence must remain classified and out of public view, the Intelligence Community still needs support from the media, Congress, users of intelligence, and foreign partners among others, to successfully pursue our national goals. The DNI should work to promote a robust relationship/partnership with Congress, which serves as the proxy for the public in overseeing the IC and affirming its direction.

The civil liberties and privacy function needs further support and greater strengthening. Specifically, the President should nominate members for the Civil Liberties Oversight Board. Without a functioning presidential board, the activity seems adrift, with issues being handled at the agency level without the benefit of presidential-level guidance.

Questions Ahead

Do we need to further centralize authority, potentially through the creation of a Department of Intelligence? There is a gap between DNI responsibilities and authorities. In addition, the DNI's authorities are uneven and ambiguous. At least one former DNI (Mike McConnell) felt that the current model is inadequate and that a formal department is necessary to provide the intelligence effort with the coherence required to effectively serve the nation. One partial measure was contained in the June 2008 revision to Executive Order 12333, which among other things stated that Section 1018 of the IRTPA would be interpreted to presume that DNI actions do not abrogate department heads' authorities unless specifically objected to by a department head.

What is the appropriate relationship among the DNI, the D/CIA and the other agency heads? Should the DNI have an operational role? The ODNI is not an operational entity, e.g., it does not have an operations center or carry out tactical operations in the field. Rather, the general model is that the DNI and the ODNI set the

landscape and provides broad policy, resources, and guidance for the IC elements, but leaves execution and operational control to the elements themselves. The lack of operational control, however, has resulted in a *de facto* lack of visibility into intelligence operations and therefore the means for effective oversight. One alternative model is the role played by the Chairman of the Joint Chiefs of Staff (CJCS), who is not in the chain-of-command and does not wield operational control of deployed units, but retains operational oversight in order to perform his function as principal military advisor to the Secretary of Defense and the President. By virtue of his visibility, expertise, and independence, the CJCS shapes and influences U.S. military operations, despite not having formal control of operational units. Developing a similar role for the DNI is complicated by the IC elements' traditional independence and the question of whether the IC elements are akin to military services or combatant commands.

What should be the public role of the DNI? The IC needs a publicly accountable official to instill confidence among the American people that intelligence is firmly under control and provides appropriate information is being disclosed to the public. There remain instances in which a public role may be more appropriately played by policy officials, e.g., as it was by John Brennan and Secretary Janet Napolitano after 12/25, although this may send a signal about the relevance of the DNI in the national decision making process.