



IRTPA changed the landscape for budget oversight, planning, and execution in the national and military intelligence programs.

Managing IC Resources Before and After IRTPA

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Caryn A. Wagner served as assistant deputy director of national intelligence for management (2005–7) and the first chief financial officer for the National Intelligence Program. She also served as the executive director for Intelligence Community Affairs (2004–5) and the under secretary for intelligence and analysis at the Department of Homeland Security (2010–12).

Like many who end up working programming and budgeting in the Intelligence Community, I did not set out to do it. How an English/history double-major who never balanced her checkbook became the first chief financial officer (CFO) of the National Intelligence Program—and ended up as the under secretary for intelligence and analysis at the Department of Homeland Security—is a story about how seeking and seizing opportunities can take you on a very unexpected journey through the IC.

I don't really like dealing with numbers—although at this point, I'm pretty good with a spreadsheet—but I love understanding how things fit together and solving problems. Programming, the process of building a five-year budget plan that matches capabilities to requirements and optimizes capabilities within a budgetary top-line, turned out to be right up my alley. I liked the fact that there was a tangible deliverable every year—a budget request to send to the Congress—even though after a while that wears you down, as you find yourself

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re-solving the same problems over and over. Nevertheless, you could feel you were helping chart the course for the IC, investing in the right capabilities for the future, and equipping our amazing people with the tools to work their magic.

After I retired, I spent many years teaching about IC resource management for the Intelligence and Security Academy^a and as an adjunct professor at the National Intelligence University. I've had some time to think about how the program and budget provisions of the Intelligence Reform and Terrorism Prevention Act contributed to the director of national intelligence's ability to fulfill the responsibilities in the statute. Many of the conclusions I will share with you will sound familiar, especially if you have read Michael Allen's excellent book, *Blinking Red*, or his article with former Bush National Security Advisor Stephen Hadley in this special issue. However, as one of the few IC professionals who has worked at CIA, within Defense Department elements of the IC, on Capitol Hill (for both parties), and finally at one of the domestic IC agencies, my perspective has been shaped by working

some of these issues from multiple vantage points.

Facing the Pre-IRTPA IC/DOD Budgeting Complexities

When IRTPA became law in December 2004, I had been the assistant director of central intelligence for administration (ADCI/Admin, still commonly known as the director of the Community Management Staff) for a little more than six months. I was working for Larry Kindsvater, the second and last deputy director of central intelligence for community management.^b The DDCI/CM position had been created as a result of the most recent effort at IC reform, an effort called IC-21 that I had participated in when I worked on the HPSCI staff. Making the previous executive director for intelligence community affairs a deputy director of the CIA was an attempt to increase the stature and clout of the Community Management Staff, which was the element of CIA that supported the DCI's statutory additional duty as manager of the IC. Larry had three

assistant directors under him; as the ADCI/Admin, I managed the bulk of what had been CMS—policy, planning, programming, and budgeting—while the ADCIs for analysis (Mark Lowenthal) and collection (Charlie Allen) focused on requirements, systems, and tradecraft.

Soon after becoming ADCI/Admin, it became clear to me that the creation of the DDCI/CM structure on top of the old CMS structure had done little to address the challenges facing it. From my time on the HPSCI, I was familiar with the unique challenge of building a budget for IC elements residing in six different departments (Defense, Justice, State, Energy, Treasury, and, most recently, Homeland Security). The IC planning, programming, and budgeting process, modeled after the DOD process developed by Robert McNamara in the 1960s, built a five-year National Foreign Intelligence Program—a planned budget—every year, with the first year of each five-year program sent to Congress as the IC NFIP (later NIP) budget request.^c This practice of long-term budget planning allowed DOD and the IC to plan,

a. Originally the Intelligence and National Security Academy, a for-profit education and training company founded by Mark Lowenthal and James Simon, now under the leadership of Jorge Shimabukuro.

b. The positions of the DDCI for Community Management and three associate deputy directors for collection, analysis, and administration were created in the Intelligence Authorization Act for 1997 as the result of a HPSCI-led intelligence reform effort called Intelligence Community 21, or IC-21. The other, more substantive recommendations to improve community management, which were quite similar to the new authorities adopted in the IRTPA, were not included in the legislation, and the new positions did little to elevate the influence of the community portfolio within the CIA.

c. The National Intelligence Program, formerly the National Foreign Intelligence Program, is an aggregation of IC programs, projects, and activities. It excludes programs, projects, and activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations. The NIP is basically the IC's budget, managed by the Director of National Intelligence in accordance with authorities outlined in the National Security Act of 1947, as amended.

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build, and sustain large systems or multi-year initiatives.

Unfortunately, none of the other federal departments with IC elements in them took a multiyear approach to budgeting, instead they built their budgets one year at a time. Their budget schedules and timelines were also different from DOD's and the IC's, concluding earlier in the year and making it difficult to synchronize budget reviews. In addition, their funds were appropriated by different subcommittees than the defense subcommittees, which understood the NFIP and with whom CMS had a long-standing relationship.

When developing the five-year program and the annual budget request, the DCI could move funds around within DOD, where the bulk of the NFIP funds were located, but not between departments. Because of all these limitations, CMS—and the DDCI/CM structure that “replaced” it—didn't spend much time trying to shape the budgets of the non-DOD IC elements.

However, it wasn't completely smooth sailing with the DOD part of the IC, either. Defense would usually—but not always—accept the DCI's budget decisions affecting DOD elements of the IC. Disagreements that could not be resolved necessitated OMB and sometimes White House adjudication meetings. The creation of the new under secretary of defense

for intelligence (now intelligence and security) position to replace the previous assistant secretary of defense for command, control, communications, and intelligence led to a more assertive DOD role in the programming and budgeting realm. The disagreements that escalated to the White House often concerned decisions about big-ticket satellite systems and architectures.

Back at the ranch, with its own direct communication channel to the DCI, also did not feel the need to comply with CMS requests or directives, and it could effectively neutralize almost any budget change proposed by CMS that it did not like by lobbying the DCI. The other big intelligence agencies—the NSA, NGA, NRO, and DIA—resented the special status of the CIA and were vocal about the lack of a level playing field for programmatic initiatives.

The CMS had been envisioned as a mix of rotational employees on detail from IC elements and a small number of permanent staff. The agencies did not fill many of the rotational positions, resulting in chronic understaffing and—most importantly—a lack of expertise on specific programs. In addition to all these limitations on the DCI's and the CMS's ability to shape the IC through its budget, once the five-year program and annual budget request were completed, the DCI's and CMS's authority effectively ended. There

was no authority to influence funds once they were appropriated by Congress and apportioned to the departments by OMB for expenditure, in what is called the execution year. This was the situation when I arrived to work for Larry Kindsvater, but change was just around the corner.

The Beginnings of Change

The six months leading up to the passage of the IRTPA were very eventful. While the staff was working on finalizing the Fiscal Year 2006 budget request for the IC, the 9/11 Commission released its report in July. DOD issued new guidance giving the USD(I) “authority, direction, and control” over the DOD intelligence agencies, which was causing a great deal of angst on the DDCI/CM staff. Furthermore, President George W. Bush issued a series of executive orders implementing many recommendations of the 9/11 Commission and significantly changing the community management landscape.

Executive Order 13355

Issued on August 27, 2004, Executive Order 13355, “Strengthened Management of the Intelligence Community,” was an attempt to get ahead of (and perhaps obviate) potential legislation resulting from the 9/11 Commission report by significantly

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strengthening community management authorities. The EO did not create a new DNI, but it did give the DCI unambiguous authority over building the NFIP, which from the CMS perspective was a welcome end to arm-wrestling with DOD over satellite systems. It also provided explicit authority in the year of execution to monitor expenditures and initiate the reprogramming^a of funds in response to high-priority, unforeseen requirements. When building budgets two years in advance, there are a lot of unforeseen requirements. At CMS, we were pretty happy with EO 13355. However, as time went on and the 9/11 Commission report continued to gain traction, President Bush eventually endorsed its recommendation for a “National Intelligence Director,” and it became clear that Congress felt the need to act. It was unclear what approach they would take to Intelligence Community management.

Collins/Lieberman Committee Formed

When the Senate selected the Homeland Security and Government Affairs Committee under Senators Collins and Lieberman to produce the legislation, we knew we faced a formidable challenge just to sufficiently educate members and their staffs, much less shape the outcome. We sent a seasoned professional with a

mediator’s temperament, Deborah Barger (who later became head of legislative affairs on the fledgling DNI staff), to be our liaison to the committee. DOD and CIA also assigned liaisons. The committee was a bit perplexed at first at having two IC reps—technically, two CIA reps, one from CMS and one from CIA “proper”—but Barger’s ability to provide fast, accurate, and comprehensive responses to their information requests soon made her indispensable to their effort. FBI was also working the problem hard, trying to ensure that the British model of an MI5-like domestic intelligence organization—which the 9/11 Commission had not recommended but some members still favored—was not resurrected.

As discussion focused on how to give an independent national intelligence director, separate from the CIA, real budget authority, Defense Secretary Donald Rumsfeld was very concerned that any increased authority for the NID would come at DOD’s expense. Although not recommended by the 9/11 Commission, there were still proponents on the Hill for a “Department of Intelligence” that would move the national intelligence agencies—NSA, NRO, and NGA—out of DOD into a new department, along with CIA. While this idea was never seriously in play during

the legislative deliberations, its resilience showed how strongly many people felt about the need to put the NID’s fiscal resources into one pot for better management. However, the DOD lobby, ably assisted by Duncan Hunter (the powerful chair of the HASC), was never going to let that happen, so discussion moved on to what was in the art of the possible within the existing departmental structure.

One longstanding idea was to create a separate appropriation for the IC budget without moving IC agencies/elements out of their home departments. While the funds would still have had to be apportioned to and expended by the departments, this approach—depending on how it was implemented—might have allowed the NID to move funds between departments in the programming and budgeting phase. It would have had the benefit of allowing the NID to send the apportionment documents to OMB, giving the NID the ability to withhold or condition funds in the year of execution.

However, this approach would have required declassification of the top-line of the intelligence budget, and there were powerful voices against that idea, including that of President Bush. In the final analysis, the drafters of the IRTPA settled on a provision that directed OMB to apportion IC funds “at the exclusive direction of the

a. Reprogramming is the term used for changing the purpose of appropriated funds. Reprogrammings must go through multiple approval steps and, if they exceed certain dollar thresholds, Congress must be notified.

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DNI,” a creative idea originated by John Schuhart of CMS that achieved some of the same goals without a separate appropriation.

IRTPA Results

Once we in community management had time to digest the IRTPA legislation, our view was that it could have been worse. Legislation is always a crap shoot. DOD had succeeded in watering down some of the authorities from the EO 13355, but most of the gains survived.^a The DNI was given authority to monitor spending and reprogram funds—albeit with new limitations—in the year of execution. Most important, the words “the DNI shall...develop and determine an annual consolidated NIP budget” made clear that the DNI was the final decisionmaker on the newly renamed National Intelligence Program. The DNI’s participation in the development of the Military Intelligence Program^b was also reaffirmed, which was critical to keeping the DOD IC and other DOD intelligence components integrated and interoperable. And finally, from our community management perspective,

organizationally separating the DNI from the CIA was positive in that it made the DNI the honest broker the DCI never could be.

But, despite these welcome improvements, the decisions not to create a Department of Intelligence or a separate intelligence appropriation left the inherent challenges of operating across departmental boundaries unchanged. From a traditional community management perspective, the IRTPA was a win. From the perspective of giving the new DNI authority to integrate the foreign and domestic elements of the IC against the terrorist threat, it was more of a mixed bag.

Before 9/11, no one had cared much that the DCI had no real control over the non-DOD IC elements’ budgets. After 9/11 and IRTPA, the FBI moved beyond its historically NFIP-funded CI mission into the realm of domestic intelligence and counterterrorism, now funded in the NIP under the new definition of National Intelligence.^c DHS, established in 2002, had an intelligence element that was being

funded by the NIP, performing multiple functions not traditional for NFIP funding. These two organizations, along with the National Counterterrorism Center established by IRTPA, formed a new triad of IC counterterrorism capabilities—supported by the rest of the Foreign Intelligence community—yet the DNI had very limited ability to influence the budgets of two of the three legs of the triad. NCTC, as an operating element of the new DNI staff, was the exception.

ODNI in Action

After John Negroponte was selected as the first DNI and the Office of the DNI began to stand up, I worked with Patrick Kennedy, who became the DDNI for management, to find appropriate placements within the new structure for the DDCI/CM personnel and to develop strategies for executing DNI authorities in the planning, programming, and budgeting arena. I became the NIP’s first CFO. Marilyn Vacca (who would become CFO of the NIP in 2008) and I restructured the NIP to improve budget analysis, and we

a. In sum, the DNI has the authority to disseminate guidance, oversee and determine the NIP budget, apportion/allocate funds, and transfer funds in the year of execution with consultation (not approval) of the department head.

b. The Military Intelligence Program funds programs that support unique DOD requirements at the tactical or operational levels. MIP funds can also enhance or augment NIP systems to meet DOD-specific requirements. The USD(I&S) serves as the MIP Program Executive, providing guidance and oversight on behalf of the defense secretary.

c. Section 1012, IRTPA: The terms “national intelligence” and “intelligence related to national security” refer to all intelligence regardless of the source from, which derived and including information gathered within or outside the United States, that pertains...to more than one United States Government agency; and that involves threats to the United States, its people, property, or interests; the development, proliferation, or use of weapons of mass destruction; or any other matter bearing on United States national or homeland security.

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developed the foundational DNI budget procedures and directives.^a We worked with OMB to develop procedures to direct the apportionment of IC funds and add “footnotes” to apply restrictions to appropriated funds.

An important development at this time was that OMB began to separate NIP fiscal guidance—and thus our top-line—from DOD’s, reinforcing the independence of the NIP and helping to dispel the DOD belief that any increase to the NIP came at the expense of DOD. However, our efforts to figure out how to shape the non-DOD IC element budgets during the programming and budgeting process were less fruitful.

The fundamental challenge was that if we wanted to increase funding in a non-DOD IC element within our overall top-line, the funding had to come from somewhere else within the NIP, and that was almost certainly going to be DOD—because that’s where most of the money was. Moving money from DOD to any of the other departments required moving funds between resource management offices at OMB (there are five of these, and the NIP has funds in three of them). Each of these RMOs had a top-line of their own

to deal with, and for many years, until its expiration in 2021, the Budget Control Act complicated this process further by imposing caps on defense and non-defense spending, making moving money from defense to non-defense difficult. After a few years without caps, the Inflation Responsibility Act of 2023 reinstated the Defense and non-Defense budget caps for 2024–25. The bottom line: it was and is very difficult to operate across these OMB and Defense/non-Defense boundaries.

During my tenure, we did—once—theoretically succeed in moving NIP funding from the defense RMO to an FBI intelligence capability. However, when the budgets were finalized, the intelligence capability had been “plussed up” as requested, but the FBI’s top-line had stayed the same—meaning that the intelligence capability was funded at the expense of the law enforcement mission, which had not been our intention and did not win us any hearts and minds at the Bureau. We just did not have the relationships or procedures to make these fund transfers work, because they ran completely counter to OMB practice and the structure of the federal budget.

When James Clapper became DNI, with Marilyn Vacca as his CFO, they reopened the discussion of consolidating DOD NIP funding. A pre-IRTPA supporter of the Department of Intelligence idea, he had wanted all the NIP money—but at a minimum, all the DOD NIP money—in one pot. As DNI, he came close to achieving the consolidation of the DOD funding, but in the final analysis was not able to win over the House and Senate Defense Appropriations subcommittees, who cited CI concerns but also feared loss of jurisdiction.^b Clapper also instituted procedures for each NIP program manager, DOD and non-DOD, to brief him on how they had followed his programmatic guidance before finalizing their budgets, allowing him an opportunity to engage at the departmental or OMB level, if necessary, before departmental budget requests were finalized. More importantly, he negotiated the signing of a memorandum between the DNI, OMB, and FBI ensuring that the DNI would have the opportunity to review the FBI budget before it went final (of all the non-DOD IC elements, the FBI is the only one of any real size—it has the sixth largest amount of NIP funding in the IC—and is most critical for the CT mission).

a. A later, critical addition to that foundation was the creation of the Systems, Resources, and Analysis (SRA, now known as Requirements, Cost and Effectiveness, or RCE) staff under Roger Mason, which brought professionalized systems analysis and operational research to bear in support of program and budget decisions.

b. When all the Military Construction funding was put into a separate appropriation for improved management and oversight, a new MILCON Appropriations subcommittee was created. There was concern this would happen with intelligence funding if they followed that model.

Postscript: View from Homeland Security

In early 2010, I was confirmed as the under secretary for intelligence and analysis at DHS. I&A operated at that time under interim Attorney General Intelligence Oversight Guidelines that permitted it to collect, report on, analyze, and retain US persons information in support of I&A's authorized missions, within strict constraints designed to protect privacy, civil rights, and civil liberties. However, at the time, the legal opinion at ODNI was that no NIP dollars could be used against domestic terrorism without a foreign nexus—now often referred to as domestic violent extremism—at DHS or FBI, despite those missions being valid departmental missions and consistent with IRTPA's expanded definition of national intelligence.

The FBI carved out the domestic terrorism space within its National Security Division and funded it with non-NIP departmental dollars, but I&A's entire budget was funded by the NIP, so there no non-NIP dollars available for domestic violent extremism analysis. We continued limited DVE analysis (as it turns out, too limited) because it was our mission. However, this dilemma significantly contributed to my decision to create a non-NIP budget for I&A to fund activities focused on specific departmental work.

In 2010, I worked with ODNI to create the Homeland Security Intelligence Program. The I&A HSIP was intended to form the nucleus of an intelligence program for all of DHS, modeled on the MIP, with the undersecretary for I&A serving a similar function as the USD/I&S at DOD. This would empower the undersecretary as DHS's chief intelligence officer to create a unified intelligence architecture within the third-largest federal department, with its extensive, frequently excellent, but organizationally and operationally disconnected intelligence elements. It could

also improve integration between the IC and the DHS components who are major contributors to the CT and transnational organized crime mission areas. I viewed the HSIP as a logical part of the gradual maturation of departmental oversight of the components—a process that is far from finished.

My HSIP experiment didn't last long. Not all my successors understood the rationale, and it required swimming against departmental and Congressional tides to maintain it. Although the statutory language creating it remains, all of I&A's intelligence functions are once again being funded by NIP dollars. Ironically, DVE analysis never moved to the HSIP because it proved too difficult to separate it from the overall analytic effort. Over time, the ODNI general counsel apparently found a way to live with I&A doing DVE analysis, which continues to be a mission performed by I&A with NIP dollars and FBI with non-NIP dollars. The third leg of the counterterrorism triad, NCTC, remains restricted by statute to CT activities with a foreign nexus, but over time has expanded its interpretation of "foreign nexus" to include foreign-inspired as well as directed. Bottom line: each of these organizations is trying to work together within their legal authorities to address the full range of terrorist threats, foreign and domestic.

The potential fragility of this situation has recently become clear, however. While the foreign threat—overseas and at home—has continued to evolve without abating, the domestic violent extremist threat has steadily increased. In the post-9/11 world, the only IC elements with the authorities to collect information on US persons for authorized missions within prescribed parameters are the FBI and DHS/I&A—and this is a critical function for both the foreign and domestic terrorism missions. In its Intelligence

Authorization Act for FY 2024, the Senate Select Committee on Intelligence added a provision restricting I&A from collection activities against US persons absent a foreign nexus. This would have shut down I&A's open-source collection against DVEs (and other departmental missions such as human and drug trafficking within the US). The DNI and FBI strongly supported I&A in appealing this provision, and it was significantly modified to allow collection with certain additional safeguards that were supported by I&A.

DHS/I&A has had some well-documented missteps, and in response has recently undertaken wide-ranging and transparent actions to strengthen its protections of US persons' privacy and civil rights/liberties. However, due to its history and unique and poorly understand position at the nexus of foreign and domestic, it will continue to be a lightning rod. There is clearly—and not surprisingly—a lack of consensus on Capitol Hill about I&A engaging in domestic collection activities, even those spelled out in its Attorney General guidelines. The IRTPA was designed against a foreign threat; the terrorist threat with no foreign nexus doesn't mesh well with the statute because it was viewed solely as a law enforcement problem without national security implications.

Going forward, additional clarity on whether collecting against and analyzing the domestic violent extremist threat is a legitimate NIP/Title 50 mission would benefit everyone: the executive branch, Congress, the public, but particularly the I&A workforce. If it is deemed not to be a Title 50 mission (but for the reasons I mentioned earlier, even if it is), a budget structure that includes both NIP and non-NIP funds would better serve I&A's ability to ensure it can fulfill its important missions. ■

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Under Clapper, some DOD dollars were successfully reprogrammed to non-DOD IC elements—until the defense appropriations sub-committees realized what was happening and refused to support further transfers out of DOD. Despite these obstacles to treating the non-DOD IC elements the same way as the DOD elements in the budget-build process, the engagement with those elements and insight into their programs did improve dramatically after creation of the ODNI.

There were also improvements in the DNI's engagement with the MIP. In May 2007, DNI Michael McConnell and Defense Secretary Robert Gates created the position of Director of Defense Intelligence for the NIP, to be held by the USD(I) as a way of bringing that position formally into the programmatic and policy processes. This was a bureaucratically elegant way to ensure that the USD(I)'s "authority, direction and control" of DOD

IC agencies could be synchronized with DNI priorities. It also served to improve NIP/MIP coordination, because the USD(I) is also the program executive for the MIP. Under Clapper, the DNI and USD(I) began issuing joint programmatic guidance to NIP and MIP program managers as a way to maintain critical linkages and leverage mutual strengths.

IRTPA at its Limits

I believe all these efforts to leverage the IRTPA authorities got about as far as it was possible to get without either new legislation or specific White House direction, both of which remain unlikely. The obstacles encountered to date demonstrate the inescapable reality that the IC is a unicorn, a structure that is superimposed on the federal departmental structure and processes—and the congressional jurisdictions that largely flow from them. Exercising the DNI authorities that cross departmental, OMB, and congressional boundaries

requires constant swimming against a very strong tide of custom, jurisdiction, and organizational procedure.

I think Clapper followed the most promising path for any further improvements: direct engagement with OMB. I believe that there are potential avenues to be explored that could enable some increased budgetary impact without new legislation, but it would require the sustained personal attention of a DNI, strong White House backing, and the right political environment.

Several DNI's have said that they believed they were actually able to exercise more authority over the MIP than they could exercise over the non-DOD elements of the NIP. However, since the whole intent of the IRTPA was to better position the IC to successfully address the terrorist threat, improving the DNI's ability to influence the budgets of the domestic elements of the IC should remain a focus of the DNI. ■