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SPECIAL EDITION: IRTPA 20 YEARS ON

At the Beginning
Making it Work
Early Effects

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The mission of *Studies in Intelligence* is to stimulate within the Intelligence Community the constructive discussion of important issues of the day, to expand knowledge of lessons learned from past experiences, to increase understanding of the history of the profession, and to provide readers with considered reviews of public media concerning intelligence.

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Awards

Unless otherwise announced from year to year, articles on any subject within the range of *Studies*' purview, as defined in its masthead, will be considered for monetary awards. They will be judged primarily on substantive originality and soundness, secondarily on literary qualities. Members of the Studies Editorial Board are excluded from the competition.

The Sherman Kent Award of $3,500 is offered annually for the most significant contribution to the literature of intelligence submitted for publication in *Studies*. The prize may be divided if two or more articles are judged to be of equal merit, or it may be withheld if no article is deemed sufficiently outstanding.

Another monetary award is given in the name of Walter L. Pforzheimer to the graduate or undergraduate student who has written the best article on an intelligence-related subject.

Foreword

Studies is pleased to present this special edition marking the 20th anniversary of the passage of the Intelligence Reform and Terrorism Prevention Act (IRTPA), which created the position of Office of the Director of National Intelligence (ODNI) to oversee the US Intelligence Community. The edition includes a rich mix of perspectives and reminiscences from people who were instrumental in crafting and implementing IRTPA, particularly during the formative years of the ODNI. Their insights and perspectives are valuable additions to the historical literature and should stimulate discussion of the future direction of the IC. We thank all of the contributors and particularly guest editors Ronald Sanders and Michael Richter, themselves early ODNI stakeholders, who conceptualized the idea of a special edition and did the legwork in rounding up contributions.

Readers will note that the contributors are generally advocates of IRTPA and proud of ODNI's accomplishments. These authors concede that there have been many critics of the legislation or its implementation, but there are no contributions by critics. Despite the breadth of topics covered in this edition, there are gaps, even of the formative years. There is little about the impact of IRTPA on intelligence collection or on smaller IC components and liaison services, for example, or about the clashes between ODNI and CIA that set de facto bounds on the DNI's role. Some gaps have been covered elsewhere in *Studies* and other publications, but there is a wide scope for additional contributions to the historical literature, including those that provide differing perspectives on IRTPA's impact, for good or ill.

Contributions that examine how ODNI has evolved over the past decade would be particularly useful in informing the ongoing debate over the future of the IC. Several of the articles in this edition allude to ongoing questions about ODNI's utility, and the incoming administration's review of government programs for efficiency may well reinvigorate debate on the IC's role and composition. In this context, what is the current situation? Has IRTPA achieved its goals? Have the challenges many of the contributors cite been resolved? If not, are they achievable or endemic? And, more broadly, what implications do such developments as the explosion of open-source information, advances in artificial intelligence, and renewed great-power competition across a range of military-economic-technical spheres have for the IC?

Structure of this Special Edition

This edition begins with reflections on intelligence reform by former Principal Deputy Director of National Intelligence Michael Hayden, former DNIs Michael McConnell and John Negroponte, and scholar and former ODNI executive Edward Wittenstein. After reviewing the background to passage of IRTPA, they touch on their efforts to implement a law that they saw as having an "awkward but practical" balance between broad responsibilities and limited, ambiguous authorities—for example, over budgets and personnel—capped by the law's language that the DNI could not "abrogate" a Cabinet secretary's authorities. Given this, they stress that DNI's success has relied heavily on informal influence, whether from proximity to the president or good relationships with IC and DOD leaders.

The remainder of this edition is organized around the impressions of various key participants in the passage and initial implementation of the IRTPA, either as leaders in ODNI or in other IC components. Two major political figures who played key roles passing the IRTPA, Senator Susan Collins and former Representative Jane Harman, offer their personal views on the complex political dynamics that led to the passage of the legislation through the Congress and to the desk of President George W. Bush. National Security Advisor Stephen Hadley and White House aide Michael Allen discuss the impetus for passing IRTPA from an Oval Office perspective, and former Deputy Director of Central Intelligence John McLaughlin recalls his thinking about the process.

Turning to the process of early implementation, a number of former IC leaders describe the challenges they faced after the act's passage to make it work. Senior ODNI leaders Ron Burgess, Tom Fingar, Patrick Gorman, Ben Powell, Caryn Wagner, and David Shedd recount wrestling with the law's structural, operational, and administrative ambiguities as they implemented initiatives in areas ranging from collection and analysis to information sharing and budget formulation and execution.

James Clapper—who has written about his service as the fourth DNI previously in *Studies*—provides new details on his experiences as director of the National Geospatial-Intelligence Agency when IRTPA was passed and later as the under secretary of defense for intelligence. Melissa Hathaway provides insights on the successes and challenges of the first Comprehensive National Cybersecurity Initiative—an initiative she led under DNI McConnell that filled a critical IC programmatic vacuum and has fed into ongoing US cyber security efforts. Mike Leiter offers his reflections on the development, maturation, and challenges of the National Counterterrorism Center, an ODNI office he led and argues was the flagship of post-9/11 IC reform.

Several of the contributors draw on their experiences to look ahead. Among these, Ron Sanders and Mike Richter detail the challenges of structuring a scheme of interagency joint-duty assignments modeled after the Goldwater-Nichols Act to foster IC integration; they argue that a more formal, centralized system focused on senior leaders is needed to reach this goal.

The issue closes with perspectives on the broader impact on the IC of 9/11 and IRTPA. William Evanina, John Pistole and Valerie Caproni, and Barry Zulauf offer reminiscences on the impact of ODNI and of changing threats on their organizations. Finally in an interview with *Studies* Managing Editor Joseph Gartin, former Acting DCIA Michael Morell and former CIA Chief Operating Officer Andrew Makridis provide their perspectives as senior CIA leaders who served in and alongside ODNI.

As always, we invite reader feedback on the articles and welcome submissions to *Studies* at any time.

—John Pulju, Chair, *Studies* Editorial Board

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IRTPA

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Michael Richter, Esq., is a partner at Grant Herrmann Schwartz & Klinger, where he leads the firm's litigation practice. He served as the ODNI civilian joint duty program manager.

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Michael Allen is managing director of Beacon Global Strategies. He previously served as the majority staff director of the House Permanent Select Committee on Intelligence and on in a variety of positions in the National Security Council and Homeland Security Council under President George W. Bush.

LTG Ronald Burgess retired from the US Army in 2012 after 38 years of service. He served twice as the acting principal deputy director of national intelligence and as the 17th director of the Defense Intelligence Agency.

Valerie E. Caproni is a judge in the United States District Court for the Southern District of New York and former general counsel of the FBI.

Retired Lt Gen James Clapper served as the director of national intelligence (2010–17), under secretary of defense for intelligence, and director of the National Geospatial-Intelligence Agency and the Defense Intelligence Agency.

Sen. Susan Collins has represented Maine in the US Senate since 1997. She chaired the Senate Homeland Security and Governmental Affairs Committee (2003–7) and later served as the committee's ranking member (2007–13).

William Evanina is founder and CEO of the Evanina Group, advising business leaders on strategic corporate risk. He served as director of the National Counterintelligence and Security Center (2014–21).

Dr. Thomas Fingar is a Shorenstein APARC Fellow in the Freeman Spogli Institute for International Studies at Stanford University. He served as the first deputy director of national intelligence for analysis and, concurrently, chair of the National Intelligence Council (2005–8).

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Contributors (cont.)

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Melissa Hathaway is president of Hathaway Global Strategies, which provides strategic advice to companies, NGOs, and countries. She led cyber security initiatives under Presidents George W. Bush and Barack Obama.

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Retired VADM Michael McConnell served as director of national intelligence (2007–9) and director of NSA (1992–96).

John McLaughlin is a senior fellow and distinguished practitioner-in-residence at Johns Hopkins University. He served as the acting director of central intelligence (July–September 2004) and the deputy director of central intelligence (2000–2004).

Michael J. Morell served as deputy director of CIA (March 2010–August 2013). He was acting director of CIA from July 2011 to September 2011 and November 2012 to March 2013.

Amb. John Negroponte served as director of national intelligence (2005–7).

John S. Pistole is the president of Anderson University. He served as administrator of the US Transportation Security Agency (2010–14) and as a deputy director of the FBI.

Benjamin A. Powell is a partner at WilmerHale specializing in cybersecurity. He served as general counsel in the Office of the Director of National Intelligence (2006–9).

David Shedd served as chief of staff and deputy director of national intelligence for policy, plans, and requirements in the Office of the Director of National Intelligence. He later served as acting director and deputy director of the Defense Intelligence Agency.

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).

Edward Wittenstein served as executive assistant to the director of national intelligence (2005–7) and deputy secretary of state (2007–9).

Dr. Barry Zulauf, is a senior ODNI executive on a joint duty assignment as the defense intelligence officer for counternarcotics and transnational organized crime. He served as the IC analytic ombudsman and chief of Analytic Integrity and Standards. ■

Directors of National Intelligence

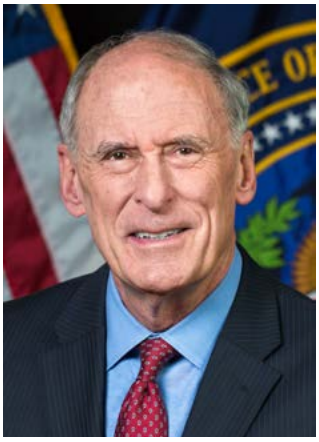
John Negroponte
(2005–7)

J.Michael McConnell
(2007–9)

Dennis Blair
(2009–10)

James Clapper
(2010–17)

Michael Dempsey
(Acting, January–March 2017)



Dan Coats
(2017–19)

Joseph Maguire
(Acting, 2019–20)

Richard Grenell
(Acting, February–May 2020)

John Ratcliffe
(2020–21)

Avril Haines
(2021–)

)

Acronyms & Abbreviations

AIS	Analytic Integrity and Standards
ARC	Analytic Resources Catalog
BPA	Business Process Automation
CDO	Chief Data Officer
CFO	Chief Financial Officer
CI	Counterintelligence
CIA	Central Intelligence Agency
CJD	Civilian Joint Duty
CMS	Community Management Staff
CNCI	Comprehensive National Cybersecurity Initiative
CNSS	Committee on National Security Systems
CSA	Combat Support Agency
CT	Counterterrorism
CTIIC	Cyber Threat Intelligence Integration Center
DCI	Director of Central Intelligence
DCIA	Director, Central Intelligence Agency
DDCI	Deputy Director of Central Intelligence
DDCIA	Deputy Director, CIA
DDCI/CM	Deputy Director of Central Intelligence/Community Management
DDI	Director of Defense Intelligence
DDNI	Deputy Director of National Intelligence
DDNI/A	Deputy Director of National Intelligence for Analysis
DDNI/C	Deputy Director of National Intelligence for Collection
DEA	Drug Enforcement Administration
DEXCOM	Deputies Executive Committee
DIA	Defense Intelligence Agency
DHS	Department of Homeland Security
DIB	Defense Industrial Base
DIE	Defense Intelligence Enterprise
DNI	Director of National Intelligence
DOD	Department of Defense
DOE	Department of Energy
DOS	Department of State
DVE	Domestic violent extremism
EAD	Executive Assistant Director, FBI
EO	Executive Order
FIG	Field Intelligence Group
FISA	Foreign Intelligence Surveillance Act
FISC	Foreign Intelligence Surveillance Court
FBI	Federal Bureau of Investigation
GOMO	General Officer Management Office
HASC	House Armed Services Committee
HSGAC	Homeland Security and Government Affairs Committee
HPSCI	House Permanent Select Community on Intelligence
HSIP	Homeland Security Intelligence Program
HSC	Homeland Security Council
IC	Intelligence Community
ICAP	IC Officer Assignment Program
IC CHCO	IC Chief Human Capital Officer
IC CIO	Intelligence Community Chief Information Officer
ICD	Intelligence Community Directive
IC IRC	Intelligence Community Incident Response Center

Acronyms and Abbreviations (cont.)

IC ITE	Intelligence Community Information Technology Enterprise
INR	Bureau of Intelligence and Research, Department of State
INT	Intelligence (source)
IRTPA	Intelligence Reform and Terrorism Prevention Act
JD	Joint Duty
JDA	Joint-Duty Assignment
JIACTF	Joint Inter-Agency Cyber Task Force
LNI	Library of National Intelligence
MIP	Military Intelligence Program
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NCIX	National Counterintelligence Executive
NCPC	National Counterproliferation Center
NCSC	National Counterintelligence and Security Center
NCSG	National Cyber Study Group
NCTC	National Counterterrorism Center
NGA	National Geospatial-Intelligence Agency
NIC	National Intelligence Council
NIM	National Intelligence Manager
NIMA	National Imagery and Mapping Agency
NID	National Intelligence Director
NIO	National Intelligence Officer
NIP	National Intelligence Program
NSA	National Security Agency
NSAP	National Security Advisory Panel (NSAP)
NSB	National Security Branch, FBI
NSPD	National Security Presidential Directive
NSPM	National Security Policy Memorandum
ODNI	Office of the Director of National Intelligence
OMB	Office of Management and Budget
ORCON	Originator Controlled
PCLOB	Privacy and Civil Liberties Oversight Board
PDB	*President's Daily Brief*
PDDNI	Principal Deputy Director of National Intelligence
PFIAB	President's Foreign Intelligence Advisory Board
PIAB	President's Intelligence Advisory Board
PM ISE	Program Manager, Information Sharing Environment
PPD	Presidential Policy Directive
RASER	Rapid Analytic Support and Expeditionary Response
SEMO	Senior Executive Management Office
SSCI	Senate Select Committee on Intelligence
TIDE	Terrorist Identities Datamart Environment
TSDB	Terrorist Screening Data Base
TTIC	Terrorism Threat Integration Center
UCDMO	Unified Cross Domain Management Office
USD(I)	Under Secretary of Defense for Intelligence
USD(I&S)	Under Secretary of Defense for Intelligence and Security
US(I&A)	Under Secretary for Intelligence and Analysis, DHS
WMD	Weapon of Mass Destruction ■

Many ODNI components are headquartered at the Liberty Crossing complex in northern Virginia. (Photo: John Williams/ODNI)

Leadership Reflections on the Intelligence Reform and Terrorism Prevention Act of 2004

Michael Hayden, Michael McConnell, John Negroponte, and Edward Wittenstein

Retired Gen Michael Hayden served as the principal deputy director of national intelligence (PDDNI)(2005–6). Retired VADM J. Michael "Mike" McConnell served as the second director of national intelligence (2007–9). Amb. John Negroponte served as the first DNI (2005–7). Edward Wittenstein served as executive assistant to the director of national intelligence (2005–7) and as deputy secretary of state (2007–9).

Twenty years ago, Congress passed the Intelligence Reform and Terrorism Prevention Act, representing the largest overhaul of the US Intelligence Community since the National Security Act of 1947 first established the Central Intelligence Agency. Forged in the aftermath of the terrorist attacks on September 11, 2001, and the 2004 revelation of flawed pre-invasion assessments of Iraq's weapons of mass destruction, IRTPA created the director of national intelligence. On the of occasion IRTPA's 20th anniversary, it is important to evaluate the strengths and weaknesses of this landmark legislation.

Did the IRTPA outline a sound strategy for intelligence reform to remedy the failures identified with respect to 9/11 and Iraq WMD? How did leaders of the sprawling US Intelligence Community, including the authors of this article, approach the monumental challenge of implementing this statute and realizing the vision of an integrated, agile community? What are some of the key lessons learned for how future DNIs should coordinate the now 18 government organizations, approximately 200,000 military members, civilian employees, and contractors and more than $100 billion in annual expenditures that comprise the even larger IC of today?[a] [b]

Our essay, like this entire special issue of *Studies of Intelligence*, seeks to address these critical questions. From our vantage point, the picture that emerges is mixed and much like intelligence itself, ambiguous. We had the privilege of leading thousands of dedicated men and women who serve across the IC, often at great personal risk. These talented individuals have disrupted numerous terrorist plots, preserved the geopolitical order, saved countless lives, and enabled significant discoveries beyond the terrorism realm that have shed light on the capabilities and intentions of our most reclusive and aggressive adversaries. Yet the IRTPA is an imperfect law, granting the DNI broad responsibilities but only limited and often vague authorities. At times, the DNI leadership structure still struggles to overcome entrenched bureaucracies, demonstrate added value, and rapidly adapt to new and emerging threats in this era of renewed great power competition.

Successive DNIs have navigated the IRTPA by possessing a nuanced understanding of intelligence and policy, as well as an ability to forge personal relationships with other key players in the IC; in our case, critical partners included President George W. Bush's National Security Advisor Stephen Hadley; other Cabinet officers, like the secretary of defense, who "owned" certain intelligence agencies; and even the President's Intelligence Advisory Board. In so doing, DNIs can facilitate unified strategies and, at their best, imbue intelligence organizations with a common sense of purpose. That is in part why the complex legislation requires the DNI to have extensive national security expertise, in order to provide intelligence that is timely, objective, and independent of political considerations.

Since the end of World War II, the IC has played a vital role in providing nonpartisan, unvarnished assessments to inform national security decision making. For the past 20 years, the DNI has sat atop this system: not as a secretary of intelligence with a unified chain of command over the IC, but as a collaborator- and coordinator-in-chief, ensuring exceptional intelligence support to the diverse array of customers across the US national security enterprise.

In this essay, we first briefly trace the origins of the IRTPA and highlight some of the key legislative provisions. We next turn to the implementation hurdles that we confronted in the early years of the Office of the DNI. We are especially grateful for the input from many colleagues who offered a wide range of detailed, varied insights on IRTPA from different vantage points. In particular, we do not seek to present a unified view of the DNI but rather to encourage diverse perspectives from all our contributors in order to inform continued debate and analysis of these enduring challenges.

Road to Reform

The National Commission on Terrorist Attacks Upon the United States (informally, the 9/11 Commission) extensively documented the cultural, legal, and policy obstacles that prevented the CIA, FBI, and other elements of the IC from possibly thwarting the 9/11 attacks. The failure to "connect the dots" resulted in part from an inability to collect and integrate valuable intelligence from various

a. https://www.dni.gov/index.php/what-we-do/ic-budget
b. https://www.dni.gov/index.php/what-we-do/members-of-the-ic

human and other sources on al-Qa'ida, but also from a failure of imagination to anticipate this type of homeland attack, as well as a failure to share the information that did exist, both within and between agencies. This lack of coordination and collaboration across the foreign-domestic divide was attributed to bureaucratic rivalries, the infamous "wall" that discouraged the FBI from collecting intelligence that could not be used for criminal prosecutions, and stovepipes where certain types of intelligence were collected within different agencies but not disseminated further.

The 9/11 Commission attributed these failures primarily to a lack of central leadership and management of the IC. It concluded that the director of central intelligence had too many jobs (an observation made by various review panels as far back as 1948). As outlined in Executive Order 12333 under President Ronald Reagan, the DCI had three key responsibilities: (1) director of the CIA; (2) principal intelligence adviser to the president; and (3) head of the IC at large. In reality, however, just running the CIA and briefing the president was more than a full-time job, and the DCI's authorities over other IC elements were limited and rarely exercised. The 9/11 Commission proposed stripping the DCI of this under-utilized community management responsibility and transferring this role to a new national intelligence director with strengthened budgetary and personnel authorities. To break down stovepipes through increased information sharing and a more centralized leadership structure, the 9/11 Commission also proposed establishing national centers that synthesized all intelligence across agencies on key priorities, such as terrorism, weapons proliferation, and state actors like China.

Although previous blue-ribbon commissions as recently as 1996 had leveled similar criticisms against the IC, the scale of the 9/11 tragedy, the public nature of the ensuing inquiry, and the Iraq WMD intelligence debacle combined to make large-scale reform more politically viable.[a] As postwar violence escalated in Iraq, and evidence mounted that the IC had erred in its prewar assessments of Iraq's WMD programs, congressional calls for intelligence reform intensified.

In February 2004, President George W. Bush established the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (informally, the WMD Commission) to examine the IC's assessments of the WMD programs in Iraq, Libya, and Afghanistan, as well as "other related threats of the 21st Century," and recommend specific forward-looking reforms.[b]

In the rush to reform, Congress passed IRTPA while the WMD Commission's study was under way. The commission would conclude that the IC was "dead wrong in almost all of its pre-war judgments about Iraq's weapons of mass destruction." Although the 9/11 Commission found a lack of imagination leading to an underestimation of the terrorist threat, the WMD Commission found a lack of analytical rigor that led to an overestimation of Iraq's weapons capabilities. Specifically, analysts had been too wedded to their past assumptions about Iraq's nefarious intentions and thus overlooked or played down intelligence that did not conform to their preconceptions.

Although 9/11 and Iraq WMD were very different types of intelligence errors, the combination of these events had a snowball effect on the political momentum, leading to large-scale intelligence reform.

a. See, e.g., Commission on the Roles and Capabilities of the U.S Intelligence Community, Preparing for the 21st Century: An Appraisal of U.S. Intelligence (1996); see also IC21: The Intelligence Community in the 21st Century: Hearings Before the H. Permanent Select Comm. on Intelligence, 104th Cong. (1995).
b. Exec. Order No. 13328, 3 C.F.R. 139 (2005).

IRTPA: Meaningful Yet Imperfect

Like most legislation, IRTPA struck an awkward but practical balance between the political and substantive policy interests of affected parties. The result was consensus legislation that created a DNI position with broad responsibilities but only limited and ambiguous authorities in many respects. IRTPA assigned the new DNI two of the three functions previously performed by the DCI: principal intelligence adviser to the president and head of the IC. The law also established the new position of Director of the Central Intelligence Agency, who "shall report through" the DNI. IRTPA, however, stopped far short of creating a position akin to a secretary of intelligence. Instead, the other IC agencies remained in their respective departments, reporting to the same superiors with the added stipulation that they now were jointly accountable to the DNI for certain functions.

The DNI therefore needed to rely on vague, ambiguous authorities to institute change. As detailed throughout this edition, IRTPA left many questions unanswered with respect to budget and personnel authorities. ODNI leadership would spend many years seeking to clarify these ambiguities and enact uniform intelligence community policies and procedures, a task that continues to this day.

For example, the DNI was authorized to "develop and determine" the National Intelligence Program budget, in contrast to the former DCI, who was authorized only to "facilitate the development" of the budget. Yet significant portions of the resources for Defense Department intelligence agencies reside in different budgets, and the DNI only could "participate in the development" of those other intelligence budgets with the defense secretary. Similarly, the IRTPA authorized the DNI to transfer personnel within the IC for periods not exceeding two years, but only after developing procedures for these transfers with relevant department heads. Because Section 1018 of the IRTPA stipulated that the president must ensure the DNI "respects and does not abrogate the statutory responsibilities" of other departments, department heads could object and thus stall personnel transfers and other forms of DNI IC management.

IRTPA also codified the authorities of the National Counterterrorism Center, which was designed to serve as the primary organization in the United States government for analyzing and integrating terrorism intelligence. NCTC was authorized to conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, while assigning roles and responsibilities to lead agencies. Yet strategic operational planning was an ill-defined concept, and IRTPA further stated that the NCTC director could not direct counterterrorism operations. To make matters even more complex, the director reported to the DNI on intelligence matters but directly to the president on strategic operational planning.

Even with respect to the CIA, where the DNI arguably was given the most authority under IRTPA, the authorities of the DNI and DCIA appeared to overlap if not conflict. This problem was most acute regarding oversight of foreign intelligence relationships. IRTPA authorized the DNI to oversee the coordination of the relationships between elements of the IC and the intelligence or security services of foreign governments. The law, however, also gave the same authorities to the DCIA, who had identical foreign intelligence coordination authorities under the DNI's. The nature of such direction was not defined.

In attempting to prevent the intelligence failures associated with 9/11, the IRTPA also created a whole set of new questions. Successive DNIs have navigated these ambiguities with mixed success for the past 20 years, and later, we will consider why (and why not). Innovative intelligence leaders, equipped with these authorities and a collaborative mindset, have reshaped how the IC collects, analyzes, and disseminates critical national security information, as well as balances and shifts

resources among priority topics, emerging threats, and long-term concerns.

Forging a Culture of Reform and Collaboration

It is difficult to describe the scope of the challenge confronting the IC in early years of the Office of the DNI. It was a challenge that these authors experienced on a personal level. The nation was bogged down in two wars. US intelligence resources were stretched thin, plus the trauma stemming from 9/11 and the Iraq WMD fiasco had depleted community morale. As is evident throughout this edition, senior leaders had broad responsibilities to implement the IRTPA and additional WMD Commission recommendations endorsed by the president, but the ODNI had minimal staff in a temporary office.

Creating a Leadership Team

The first task was to recruit a team of seasoned professionals from across the national security establishment—people who understood the IRTPA and WMD Commission recommendations and who had spent decades in the military, law enforcement, intelligence communities and the federal civil service in general. Many contributors to this edition of *Studies* hail from that initial core leadership team of deputies, lawyers, and senior staff.

Frame the Mission

The next step was framing the mission and articulating a vision for reform, something many leaders fail to do (or do adequately). The challenge lay in asserting control over skeptical IC agencies while fostering a collaborative atmosphere. In other words, we needed to clarify the DNI's formal authorities but do so in a way that emphasized the goals of integration, collaboration, information-sharing, and coordination across agencies, not the DNI's desire to establish and enforce a unified command structure. The ODNI staff set out to work within the confines of the IRTPA, not rushing to amend the imperfect legislation but filling in the blanks. The aim was to direct the required changes in intelligence practices but to accomplish that goal by empowering the intelligence agencies themselves to help lead the reform agenda. The devil, of course, is always in the details.

Building the Staff

Perhaps the most significant obstacle was that the ODNI management team needed to expand the size of its overall staff in order to fulfill this broad legislative mandate. With the passage of the IRTPA, the ODNI inherited about 1,000 personnel from other areas of the IC. For example, the CIA's Community Management Staff (CMS) of roughly 500 employees became part of the ODNI, as did the terrorism analysts at the NCTC. However, as the 9/11 and WMD Commissions had illustrated, these existing employees lacked the capacity for effective management of the IC. IRTPA had authorized the ODNI to hire 500 additional personnel billets, and many of these employees were hired during the ODNI's first few years. Critics later would charge that the ODNI usurped existing agencies or that it represented another layer of bureaucracy that did not provide added value. Yet the ODNI's approximately 1,500 personnel—now closer to 1,750—still represents less than 1 percent of the IC's government workforce. This is much smaller than the Defense Department's regional combatant command headquarters staffs or many US embassies overseas.

Defining National Intelligence

A second key challenge was developing the concept of "national intelligence" that truly broke down the foreign-domestic divide, brought the FBI into the IC community, and organized the community around missions rather than the agency-specific stovepipes created by various collection disciplines, or "INTs." Yet, intelligence reform on paper is quite different from reform in practice. Although we had no choice but to invest a great deal of time in issuing various

memoranda, it was the implementation of those directives filling in many of the blanks deliberately left in the IRTPA that ultimately would determine the scope and pace of change. This focus on policies and plans, while necessary, should not result in an under-emphasis on how to change the way the IC actually collects and analyzes information, which is more about people, culture, process, and technology than it is about directives. The process of developing community-wide policy guidance provided opportunities to obtain agency buy-in for key elements of the reform agenda, but this preference for consensus also delayed reforms and provided opportunities to challenge the DNI's authorities.

Early Lessons

Despite IRTPA's flaws, which in many cases were the product of political compromise, we worked within its mandate to make the ODNI and the IC as a whole as effective, or, in the words of Michael Hayden, as "coherent" as possible. Over four presidential administrations, the IC has learned to accommodate this structure. In that regard, there is no doubt that the IC has become more accepting of the DNI's leadership, although legally, the nature of that leadership remains primarily one of coordination, collaboration, and where possible, consensus. Rarely does the DNI attempt to exercise a command-and-control relationship over the IC. Thus, reflecting on our tours as IC leaders in the then-fledgling ODNI and elsewhere, we have learned a few key leadership lessons that remain relevant today.

Words Matter

The most important words in any piece of organizational legislation are direction, control, and authority over a particular mission area, department, or agency. With IRTPA, the DNI was only given meaningful direction, control and authority over his or her own ODNI staff. Sec.1018 of IRTPA provides that, other than CIA, all elements of the IC remain under the control of their respective Cabinet-level secretary, and the law—in a muddled (if perhaps masterful) political compromise stated that nothing in that law could "abrogate" the authorities (for example, over budget and personnel) traditionally afforded those departments.

This fundamental tension—a new Cabinet-level DNI who does not really control many of the IC functions within other Cabinet-level agencies—continues to plague or benefit (depending on one's perspective) the ODNI and IC as a whole. IRTPA constrains the ODNI and forces any DNI to start from a position of weakness and overcome bureaucratic resistance for most aspects of governance. Nonetheless, despite these legislative obstacles, the system is not insurmountable when the DNI exercises effective leadership and has strong presidential support.

Keeping CIA "Central"

In our experience, the DNI's overlapping authorities with the DCIA require constant attention. This remains one of the greatest tensions in the legislation as well as day-to-day management of the IC. However, although the CIA lost some stature with the IRTPA reform, it remains the crown jewel of the IC and the nation's premier all-source analysis, human intelligence, and covert action agency. While the DCIA no longer is responsible for serving as leader of the IC and principal intelligence adviser to the president, in many ways those responsibilities were an unnecessary diversion, and just running the CIA was an enormous task unto itself. The IRTPA in theory frees the DCIA to manage the agency and provide meaningful oversight for a wide range of highly sensitive intelligence matters.

The DNI's relationship with the DCIA must be a close partnership that is complementary, not competitive. While the CIA reports through the DNI, the latter does not have true operational direction, control, and authority over the CIA. A successful DNI needs to invest significant time and energy on getting this personal relationship right.

Informal Authority

One of the IRTPA's least ambiguous requirements is that the DNI and PDDNI have "extensive national security expertise" that enables them to provide intelligence that is "timely, objective" and "independent of political considerations." Moreover, IRTPA noted the sense of Congress that either the DNI or PDDNI should be a commissioned military officer of or "have, by training or experience, an appreciation of military intelligence activities and requirements." Serving as both the principal intelligence adviser to the president, as well as leader of the IC writ large, often can feel like two full-time jobs. There is a significant risk that the demands of current intelligence support to the White House can prevent the DNI from devoting sufficient attention to IC management, and vice versa.

President George W. Bush once told DNI McConnell that he expected the DNI to be in the Oval Office for every in-person President's Daily Brief (typically early every morning). When McConnell suggested that as DNI he did not need that kind of exposure, Bush said, "You don't understand…it's all about 'informal authority' and your relationship with me; if you're the first person in my office and the last person to leave, others will take note and respond to you accordingly."

The DNI's informal authority, derived from close proximity to the president, can help break through the proverbial bureaucratic red tape that can impede implementation of the IRTPA. These strong personal relationships should extend to other IC leaders and the broader national security team. As recounted in this edition, the early days of the IRTPA saw significant dysfunction, as department heads, the CIA director, and DNI all vied for ascendance. When the team does not mesh for personal or other reasons, even the most adept bureaucrats will prove ineffective.

During President Bush's second term, former DCI Bob Gates became the secretary of defense. Gates, National Security Advisor Steve Hadley, Secretary of State Condoleezza Rice, and former PDDNI Hayden as DCIA had preexisting personal relationships. Most importantly, they all understood the IC, particularly its bureaucratic strengths and weaknesses, and worked as a team to make the IC function as effectively as possible. In the early days of IRTPA, the Bush administration's informal support enabled the establishment of a Civilian Joint Duty (CJD) program for the IC; revisions to the Foreign Intelligence Surveillance Act, which governs electronic surveillance in an age of rapidly changing technology; and an increased focus on cyber security that eventually led to creation of the US Cyber Command.

Future DNIs might look to additional levers of informal authority, such as the President's Intelligence Advisory Board (PIAB). For example, Bush's amendments to Executive Order 12333, which guides the operation of the IC, had not been updated since it had been issued by President Reagan at the height of the Cold War, before 9/11 and the IRTPA. Faced with bureaucratic resistance at the working level, the PIAB convinced Bush of the importance of updating EO 12333, so he called a National Security Council session in which he bluntly told its members that he wanted the EO updated promptly. The bureaucratic resistance faded and the updated EO 12333 was signed.

Culture of Collaboration

We have found the adage (often erroneously attributed to Peter Drucker), that "culture eats strategy for lunch," to be just as true in the IC as anywhere else. Many of the agencies that comprise today's IC have deep and storied histories of undertaking highly sensitive and successful activities—well before the creation of DNI oversight. These agencies had, for many years, separate budgets and personnel authorities, and distinct bureaucratic cultures born from decades of experience. However, an agency-centric mindset is inconsistent with the vision of an integrated IC that the 9/11 and WMD Commissions recommended and that Congress endorsed.

A key challenge confronting any DNI is how to forge a culture of collaboration when simply ordering an IC agency head to adhere to certain IRTPA provisions is unlikely to succeed. In the absence of statutory authority, we quickly realized that focusing on organizational structures, policies, and plans is a recipe for encountering resistance. Instead, an IC-wide vision should emphasize the people of the intelligence workforce and the technology that connects them—a far more powerful (and persuasive) approach than flexing bureaucratic biceps. We have seen first-hand how the ODNI helps integrate disparate elements of the IC when it can connect analysts and collectors who share a common mission on regional and functional priorities across agencies. We found this change in mindset most evident in the analytic processes that culminate in the PDB and National Intelligence Estimates, where analysts across the IC are now more regular contributors.

Previewing this Issue

As we reflect on the IRTPA's 20th anniversary, we have the luxury of looking back over that tumultuous early period with the benefit of hindsight. However, while we had the privilege of presiding over the ODNI in those formative years, ours was not the only point of view. Other key figures, some known nationally but others less visible, played crucial roles in both developing and implementing the IRTPA.

All of these officials faced significant challenges in implementing the IRTPA, especially when it came to their statutory authorities and programmatic responsibilities, as the two were too often at odds with one another. As General Hayden has wryly noted, ODNI staff often had to "go forth and make stuff up" in the absence of clear legislative authorization. They also had to contend with significant institutional (and sometimes individual) resistance from the various IC agencies to their efforts. They were all playing in what looked like a zero-sum game with those agencies and their various legal authorities, requiring them to improvise as they went. And in so doing, they had to over-rely on personal relationships with IC agency officials, rather than on the institutional authorities that could have been spelled out in the IRTPA.

We are thankful for the thoughtful contributions of our expert colleagues and encourage you to read and reflect on their diverse perspectives on the occasion of the IRTPA's 20th anniversary. We are hopeful that this collection encourages further debate and analysis of the enduring challenges confronting the DNI and IC.■

Night skyline of New York City featuring twin towers of light that evoke the World Trade Center buildings destroyed on 9/11. (Photo: Jesse Mills)

Present at the Beginning: Creating the Intelligence Reform and Terrorist Prevention Act

Susan Collins with a personal reflection from Jane Harman

Senator Susan Collins (R-Maine) has served in the US Senate since 1997. She chaired the Senate Homeland Security and Governmental Affairs Committee (2003–7) and later served as the committee's ranking member (2007–13).

Remember that old saying that there are two things you never want to see made: sausage and legislation? In this article, I'm going to provide an insider's account of the sausage factory in Congress, a behind-the-scenes look at how the most significant intelligence reforms in more than 50 years became law in 2004. It combines the sweep of global events, the urgency of national security, and the intrigue of Capitol Hill machinations.

Perhaps the best place to start is on July 22, 2004, when the bipartisan 9/11 Commission headed by former New Jersey Governor Tom Kean and former Congressman Lee Hamilton released its final after-action report on the tragedy. This report was both a thorough reconstruction of events that led to that terrible day and a powerful narrative of the heroic response. It also made clear that the intelligence failures it chronicled—the so-called dots that went unconnected—were not isolated occurrences but rather systemic problems.

Present at the Beginning

As the commission put it, the agencies that comprise our IC were using people, processes, and technologies designed for the Cold War that were ill equipped to fight the threats of the 21st century.

As the commission stated, "Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many officials straining, often without success, against the boundaries of the possible. Good people can overcome bad structures. [But] they should not have to."

To illustrate the strain between good people and bad structures, consider this passage from the commission's report. In late 1998, it had become apparent that Usama bin Ladin posed an immediate and deadly threat to the United States. On December 4, 1998, CIA Director George Tenet issued a memorandum that warned, "We are at war. I want no resources or people spared in this effort, either inside the CIA or the Community." What was the result of this clear, concise, direct order from our nation's chief intelligence official? According to the commission, the memorandum had little overall effect on mobilizing CIA or the Intelligence Community.

The 9/11 Commission's report described case after case in which good people could not overcome bad structures. In January 2000, elements of our IC Community observed suspected Middle Eastern terrorists converging in Malaysia. As this information was passed from one IC component to another, it was misinterpreted or delayed. A Cold War barrier (in effect, a stove-piped culture) separating our overseas and domestic intelligence agencies kept this information from being passed along to the FBI.

In the spring of 2000, the first two 9/11 hijackers obtained visas and entered the United States. On the night of September 8, 2001, one of the hijackers was pulled over for speeding while driving from Baltimore to Newark. The Maryland state trooper had no way of knowing that the speeder had been in violation of his visa for more than a year. The trooper had no reason to do anything but write the ticket and send the speeder on his way. Three days later, that speeder took the controls of United Airlines Flight 93, the plane that was deliberately crashed into a field near Shanksville, Pennsylvania, killing 40 passengers and crew.

The 9/11 Commission's report did much more than present a devastating indictment of intelligence failures. It also gave us strong, urgent recommendations for reform. That is where my partner, Sen. Joseph Lieberman, the ranking Democrat on the Senate Homeland Security and Governmental Affairs Committee, and I, as the committee's chair, came in, as well as our terrific counterparts on the House Intelligence Committee, Representatives Jane Harman and Peter Hoekstra. On the evening of July 22, 2004, the very day the report was released, the Senate leadership assigned Senator Lieberman and me the task of developing legislation to implement those recommendations.

The key to the eventual passage of the landmark intelligence legislation was an agreement that Joe Lieberman and I made on July 23. We agreed that the bill we would write had to be bipartisan and that our approach would be nonpartisan. To the greatest extent possible, we decided to work out any differences we had behind closed doors, and to always present a united front. This agreement proved to be critical to our prevailing in committee mark-up, the floor debate, and the conference negotiations.

During the six weeks that followed the release of the report, our committee held eight hearings. We heard from more than two-dozen witnesses, including Secretary of State Colin Powell, Homeland Security Secretary Tom Ridge, the directors of the FBI and the CIA, and, of course, the leaders of the 9/11 Commission.

We heard from intelligence experts, from field operatives, and, with some of the most compelling testimony of all, from members of the 9/11 families, whose testimony reminded everyone of what was at stake. By late September, we were

ready to mark-up the bill in committee. We never had a single vote on party lines. Joe Lieberman and I worked together and defeated every single attempt to weaken the bill. We produced legislation that was comprehensive, bipartisan (in fact, unanimous), and historic.

Our legislation was not, however, merely the product of two months of work by our committee. It was based upon the work of the 9/11 Commission's investigation that spanned 20 months, with 19 days of hearings and 160 witnesses, the review of 2.5 million documents, and interviews with more than 1,200 individuals in 10 countries. And it was constructed on the findings of countless commissions going back decades. Rarely has legislation been built upon such a rock-solid foundation of inquiry and information.

Rarely, too, has legislation been developed in such a fraught atmosphere. Our work began as Washington, New York City, and northern New Jersey were under elevated terrorist alert, a status made evident by the sudden security barriers and checkpoints all around the Capitol. Our work neared its conclusion as terrorists murdered children at a schoolhouse in Russia.[a] Our hearings coincided with the third anniversary of that terrible morning in America that saw the loss of 3,000 lives. We had no doubt that the enemy had both a global reach and an unlimited capacity for cruelty. We knew our legislation had to unleash America's capacity to meet any challenge.

The details of the legislation we produced eventually filled some 600 pages, too many to describe here, but I'd like to touch upon four key elements. First, the bill created a new Director of National Intelligence to give our IC what Colin Powell called "an empowered quarterback." Second was the establishment of the National Counterterrorism Center to combine the experience and expertise of analysts from a wide range of intelligence agencies. Third, we included provisions to promote information-sharing among federal agencies and with state and local law enforcement. And, fourth, a new civil liberties board was included to help ensure that freedom and privacy were not sacrificed as we tightened security.

After our committee's unanimous vote, it was on to the full Senate. We had a vigorous debate for nearly two weeks. One of the most persistent objections during this period was that we were moving too fast. What, our opponents asked, was the rush? For an answer, I had a poster listing all the studies, going back a half century, calling for intelligence reform that would keep pace with a changing world. The names on these studies read like a Who's Who of 20th century military, intelligence, and diplomatic expertise. Despite the rising incidents of terrorism, nothing was done.

As studies were being ignored, elements of our IC had started to recognize that bin Ladin had started some kind of terrorist army called al-Qa'ida. Unfortunately, every element had a different idea of how to deal with this threat, so nothing was done, and they were not sharing those ideas, nor were they collaborating on a joint solution. Meanwhile, in 1998, terrorists bombed our embassies in Kenya and Tanzania. Suicide bombers struck the USS *Cole* in October 2000. Something called the "Planes Operation" was taking shape in the minds of al-Qa'ida leadership.

After much debate and consideration of some 300 amendments, the bill–now referred to as the Collins-Lieberman National Intelligence Reform Act–passed in the Senate by a vote of 96 to 2 in early October. This was a victory, but rocky shoals lay ahead of us: reconciling the Senate bill with the substantially different version passed in the House. I was the chairman of the Senate conferees.

The key issues in the conference were the powers of the DNI and the National Counterterrorism Center, the relationship between the new DNI and the Department

a. In September 2004, Chechen terrorists seized some 1,100 hostages at a school in Beslan, North Ossetia-Alania, Russia. At least 334 children and adults were killed.

of Defense, and the extent to which criminal law and immigration provisions included only in the House bill should be made part of the final version of the legislation. Complicating matters was the fact that several powerful House members really did not want any bill to pass, and some Pentagon officials were working against the bill despite the President George W. Bush's strong position in favor of it. Change is always difficult in Washington, but especially so when one is taking on an entrenched bureaucracy with powerful congressional advocates.

Whack-A-Mole

Let me describe what the conference was like. There's an arcade game where players with big mallets try to clobber little creatures as they pop their heads up through holes: Whac-A-Mole. Clobber one, and another pops up somewhere else. By November 20, 2004, we thought we'd had all the moles whacked. The four of us—Sen. Lieberman, Rep. Peter Hoekstra, Rep. Jane Harman, and I—who were the principal negotiators had reached a deal after midnight the night before. We literally were minutes away from success. Joe Lieberman and I had briefed the other Senate members of the conference committee that morning, and I had a victory statement in hand.

Then, in the late afternoon, the House adjourned for Thanksgiving without voting, due to the objections of Rep. Duncan Hunter, chairman of the House Armed Services Committee (HASC), and Rep. Jim Sensenbrenner, chairman of the Judiciary Committee. My staff, many of whom had worked throughout the night putting in the final touches, called this Black Saturday. It was the darkest moment in the arduous battle to get this bill passed. At this point, the conventional wisdom was that intelligence reform was dead for that Congress. Nobody would want to come back for a few days after Thanksgiving to do something so difficult. Opponents were rejoicing. But those of us who believed in the bill just could not let it die. None of us who were there will ever forget the words spoken at one of our committee hearings by Mary Fetchet, whose son, Brad, died in the World Trade Center:

> *When American lives are at stake, indifference or inertia is unacceptable.... When critical reforms are implemented to make our country safer, I will know that neither Brad's life, nor the lives of nearly 3,000 others who perished on September 11th, were lost in vain.*

We redoubled our efforts. House and Senate leadership stepped up. The president and the vice president were very strong and persistent advocates.

Final Push

Here's the inside story on how the final deal was struck. In order to get a bill, we had to figure out how to satisfy Chairman Hunter's concerns. He was convinced that a strong DNI would somehow compromise the intelligence that flowed to our troops in Iraq. Sec. Powell, a former general, testified that our bill would improve the quality of intelligence, but we couldn't convince the chairman of that.

On the evening of December 5, Senator Lieberman was taking a well-deserved break for a concert at the Kennedy Center, in Washington, DC. I was working late that Sunday night, consulting with my staff and the White House. We had to get an agreement by the next day, or time would simply run out. I had proposed language that I was certain the Representative Hunter would accept to clarify the role of the DNI vis-à-vis the defense secretary. The White House had blessed it as well, but, much to my surprise, the chairman objected; his counteroffer was completely unacceptable to Senator Lieberman and to me.

At this point, I was beginning to lose hope. I needed Representative Hunter's support to persuade the speaker of the house to schedule the bill for a vote, but I wasn't willing to cripple the DNI to get that support. Then my Blackberry buzzed with a message from my brilliant staff counsel: let's

Jane Harman Reflects on IRTPA

Former Representative Jane Harman (D-California) represented California's 36th District (1993–99 and 2001–11). She was the ranking member on the House Intelligence Committee (2002–6) and chaired the Homeland Security Committee Intelligence Subcommittee (2007–11).

After the massive intelligence failures of 9/11 and Iraq WMD, it was clear that major changes had to be made in how we compiled intelligence. At the time, I was ranking member of the House Intelligence Committee and in a position to have some influence over reform. The 9/11 Commission had just made a series of recommendations, including a "joint command" structure over our intelligence agencies. It was also 2004, less than two decades after the Goldwater-Nichols legislation created the Joint Chiefs of Staff.

Several of us, on a bipartisan basis, took the 9/11 Commission's recommendation and Goldwater-Nichols to fashion legislation that was introduced in both chambers of Congress. We anticipated an easy ride toward adoption. We were wrong.

It became clear almost immediately in the House that we had strong opposition from HASC Chair Duncan Hunter, who felt our effort would interfere with military readiness. We also got negative feedback from the Secretary of Defense Rumsfeld and Vice President Cheney, but we kept on pushing. The good news was that there was considerable bipartisan support in the House and Senate, and that Pete Hoekstra, who then chaired the Intelligence Committee, was a strong ally.

In addition, we developed great chemistry with the prime sponsors in the Senate—Senators Susan Collins and Joe Lieberman. It was serendipitous that they were chosen to be our counterparts rather than the chair and ranking member of the Senate Select Committee on Intelligence. One very special and personal benefit of our collaboration was that Susan Collins and I became dear, lifelong friends and remain so two decades later.

Over time, we also received support from President Bush 43—notwithstanding the continued opposition of the vice president. And we were able to fashion some compromises to increase other support. One thing we did was to take the individual service intelligence agencies out of the bill to meet objections about impairing military readiness.

At my request, we included a structure to protect civil liberties and personal privacy, which developed the atrocious acronym PCLOB (for Privacy and Civil Liberties Oversight Board). Speaking of acronyms, early in the process we struggled with what to call the joint intelligence commander. The going idea was to call the person National Intelligence Director with the acronym NID. I objected, saying that it sounded like a bug. My alternative name—Director of National Intelligence—was adopted and we have lived with a structure called ODNI for two decades.

A few more stories. When different versions of the bill had passed the House and Senate, Hoekstra, Collins, Lieberman, and I were named the "big four" conferees. Because of the nature of our work, we did not have any public sessions and instead met in the evenings around a large conference table in Speaker Dennis Hastert's office in the Capitol. As I recall, we drank all his wine as we worked out differences. I also joked that since two of the big four were women, Susan and I did 98 percent of the work. One evening, she and I went for a late-night drink at Bistro Bis, where someone sent us extra drinks as we talked at a window table. I was very surprised and asked the waiter where the drinks came from. He pointed to a person at the bar who had told him that he was impressed by two sisters having a clearly personal and lovely conversation late into the evening.

As the years have gone by, I think that IRTPA was "50 percent law and 50 percent leadership." Mistakes were made and gaps created, along with opportunities. We never envisioned a large ODNI staff—our thought was a small group of government detailees along with the small Community Management Staff of the CIA director would be adequate. Instead, a large permanent staff has evolved and I'm not certain that was a better outcome. But are we better off with IRTPA? My answer is an unqualified yes. ■

propose language saying that the bill shall "respect and not abrogate" the authority of the Defense Secretary, he wrote. Just four words that would not in any way detract from the power of the DNI but would make clear that we were not trying to alter the military chain of command.

I sent a Blackberry message to Sen. Lieberman at the Kennedy Center. In the middle of Billy Joel playing a tribute to Elton John, he got my message and concurred with the change, without missing a beat. Once I had Sen. Lieberman's concurrence, I contacted the White House and suggested that Vice President Cheney present the compromise four words to Chairman Hunter. He did, and the chairman signed off. At 11:24 p.m. on that Sunday night, we finally had an agreement at the very last possible minute.

Finally, on December 7, (Pearl Harbor Day, ironically) the conference report passed in the House. The next day, it passed in the Senate. On December 17, 2004, President Bush signed the Intelligence Reform and Terrorism Prevention Act.

Have these reforms made us safer? Yes, although the threat of a terrorist attack in the United States is currently high due to a porous southern border, the fall of Afghanistan, the continued role of Iran in sponsoring terrorist proxies, and tensions in the Middle East and elsewhere. Had the reforms this legislation created been in place during the late 1990s, there are several points at which the 9/11 conspiracy might have been uncovered. Of course, no piece of legislation can ever guarantee that we will not experience another attack, but these reforms have increased our ability to detect and dismantle plots before they can be carried out. More important, this new structure gives us the flexibility to adapt to changing threats. The Intelligence Reform and Terrorism Prevention Act implemented the most significant reforms since the end of World War II, and I am proud to have been part of this landmark, bipartisan, and bicameral effort.[a] ■

a. For additional information, see interview with Jon Rosenwasser, "Intelligence Integration: A Congressional Oversight Perspective," *Studies in Intelligence* 65, No. 3 (September 2021).

President George W. Bush (center) signs the Intelligence Reform and Terrorism Prevention Act, December 17, 2004. (White House photo by Paul Morse)

Intelligence Reform: If We Didn't Do It Then, We'd Have To Do It Now

Stephen J. Hadley and Michael Allen with a contribution from John McLaughlin

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Michael Allen is managing director of Beacon Global Strategies. He previously served as the majority staff director of the House Permanent Select Committee on Intelligence and in a variety of positions in the National Security Council and Homeland Security Council under President George W. Bush.

John McLaughlin is a senior fellow and distinguished practitioner-in-residence at the Merrill Center for Strategic Studies at the Paul H. Nitze School of Advanced International Studies, Johns Hopkins University. He served as the acting director of central intelligence (July–September 2004) and the deputy director of central intelligence (2000–2004).

Early Ideas

Efforts to reform the Intelligence Community are almost as old as the IC itself. Established in Congressional legislation in 1947 and 1949, by the 1950s there were already public and private discussions of various reform measures. These included the creation of a director of national intelligence. The idea first surfaced in the Eisenhower administration: a director of national intelligence who would not also be director of the CIA and would be devoted to coordinating, integrating, and directing the intelligence community. But as Philip Zelikow has written in his excellent account of the historical evolution of intelligence reform, the idea never caught on and fell away in the 1960s and 1970s. Instead, successive administrations addressed the issue by making incremental additions to the authority of the director of central intelligence to manage the IC while also serving as director of the CIA.[a]

Renewed Momentum

The DNI concept reemerged in the 1990s, reflecting renewed momentum for intelligence reform that built up over at least a decade before to the report of the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission) in July 2004. The idea of a DNI was, for example, a hot topic during the late 1990s within the National Security Advisory Panel, which was chaired by former Vice Chairman of the Joint Chiefs of Staff ADM David Jeremiah and reported to DCI George Tenet. Several members of the panel argued that the DCI could not both coordinate the various elements of the IC and run the CIA at the same time. One of the roles had to suffer, and in almost every instance it was the role of coordinator of the IC.[b] The idea that the two roles needed to be separated was very much in play by the time it was picked up in the 9/11 Commission report.

Indeed, in one of his first presidential directives, on May 9, 2001, President George W. Bush issued National Security Presidential Directive-5 calling for a study of the organization of the IC. The review had an internal component, pursued within the IC itself (led by Joan Dempsey, Tenet's deputy for community management), and an external component, pursued by an outside team led by ADM Jeremiah and Brent Scowcroft (who had served as the national security advisor under Presidents Gerald R. Ford and George H.W. Bush).

The external component never issued a final report, but it did develop a working paper that called for separating the job of DCI (as the IC coordinator) from the job of running the CIA and strengthening the authority of the DCI to perform the coordinating function.[c] This idea was briefed by Scowcroft and Jeremiah throughout the Bush administration in early 2002, including to Vice President Richard Cheney and the NSC.

Immediately thereafter, the idea was picked up and pursued by the reconstituted President's Foreign Intelligence Advisory Board.[d] Chaired by Scowcroft (and with a membership that included ADM Jeremiah and Philip Zelikow), over the course of 2002 the PFIAB finalized a report on intelligence reform. It recommended that the the DNI would "provide higher-level management of national collection systems, allocate resources to meet challenging priorities within and beyond the US, and foster community-wide innovation and better R&D …."[e] The PFIAB report, as well as the earlier NSPD-5

a. Philip Zelikow, "The Evolution of Intelligence Reform, 2002–2004," *Studies in Intelligence* 56, No. 3 (September 2012), 2–5.
b. Stephen Hadley served on the NSAP.
c. Zelikow, 6–7.
d. "Foreign" was dropped from the name in 2008.
e. Zelikow, 8–12.

process, helped prepare the way for Bush administration's acceptance of the idea of a DNI as it emerged from the 9/11 Commission report.

The Bush NSC staff, including National Security Advisor Condoleezza Rice, supported the creation of a DNI. Their collective view was that historically the DCI was so occupied with leading the CIA that the DCI was not performing the coordinating function and was not knitting together the various elements of the IC into a single enterprise.

Addressing Dysfunction

This situation resulted in a variety of dysfunctions within the IC. First, as the tragedy of 9/11 revealed, IC agencies were in silos, each operating within its own domain. There was too little sharing of information among the various foreign intelligence agencies. And for policy, privacy, and civil liberties reasons, a wall had been erected between the foreign intelligence agencies like the CIA and domestic law enforcement agencies like the FBI. There was virtually no sharing of information across the domestic-foreign divide, especially when it came to transnational threats like terrorism and proliferation. This resulted, for example, in the failure to "connect the dots" and pull together all the available intelligence on the activities of the 9/11 plotters.

Second, as revealed by both 9/11 and the intelligence failure associated with the issue of weapons of mass destruction in Iraq, the views of the non-CIA intelligence agencies were either not being presented—or not being given adequate weight—in IC products. These products, like the President's Daily Brief, reach the seniormost levels of the executive branch. This meant that these inputs were also missing from the interagency policy process that used intelligence products as the basis for developing policy options and recommendations to the president. In the case of Iraq WMD, this resulted in an overestimation of Saddam Hussein's biological weapons capability and the extent of his nuclear weapons program.

Third, there was no natural home for cross-agency collaboration on transnational issues. The effort to deal with these transnational threats resulted over time in the creation of institutions like the Terrorist Threat Integration Center, the National Counterterrorism Center, and the National Counterproliferation Center.

The NSC staff view was that the elements of the IC were unable to reform themselves and address these dysfunctions without some oversight and prod from above—something that so far had been lacking. The DNI seemed a reasonable way to address this problem, combined with clear guidance and direction from the president. As for the various collaborative entities required to deal with transnational challenges, the Office of the Director of National Intelligence seemed a good place for these entities to reside and avoid "capture" by any one intelligence agency.

IRTPA's Impact

The Intelligence Reform and Terrorism Prevention Act signed into law by President George W. Bush on December 17, 2004, gave the DNI several important authorities. Because it is an article of faith in Washington, DC, that "real power" flows from the authority to move money and to hire and fire government personnel, the IRTPA created a DNI that was the head of the IC—and principal intelligence adviser to the president—and had the power to "determine" the budget of the IC and some limited power to transfer money to emerging needs. But IRTPA did not give the DNI full authority over the budgets of the individual intelligence agencies. The DNI had the power to consult, recommend, and advocate, but final budget authority remained with the heads of the departments and agencies to which the elements of the intelligence community directly reported. The DNI had real budgetary authority only over ODNI itself. This remains a live issue in the calls from some quarters for further IC reform.

Similarly, the DNI was not given ultimate hire-and-fire authority over IC personnel. The DNI did receive authority to create joint-duty programs within the IC to encourage cross-pollination among the workforces of the various intelligence agencies. DNI Mike McConnell went even further in his tenure during President George W. Bush's second term to encourage and facilitate intelligence analysts serving in policy positions on the NSC staff and in other departments and agencies. In these roles they were to work as policy people rather than intelligence analysts, thereby giving them a sense of the perspectives and needs of the policy community. DCIA Michael Hayden has said that the time he spent in such a position on the NSC staff during the George H.W. Bush administration was one of his most useful assignments in making him better able to support the policy community when he returned to his intelligence role.

The DNI received authority to create intelligence centers that would bring together experts from different intelligence agencies to encourage a broader perspective and greater analytic rigor in intelligence products. The DNI also received authority to "knock down stovepipes" to foster better information sharing among the elements of the community.

What Next?

Although it has had its critics, the IRTPA was a major step forward in intelligence reform. If the nation had not taken that step at the time, changes in the nature of intelligence would have forced similar reforms on the IC today. Indeed, some of these changes cry out for further intelligence reform.

Open Source

The explosion of unclassified open-source information represents an opportunity but also a challenge for an IC that still tends to prioritize the information it has been able to steal or otherwise acquire from clandestine sources and technical means. That said, the CIA in particular has taken great steps to exploit these open sources and incorporate the information they provide into the agency's intelligence products. But today, the volume of information is overwhelming and hard to manage and exploit. There is an opportunity here for judicious use of artificial intelligence to help handle this problem. The objective needs to be for the intelligence community to provide its customers with the information they need to make wise policy decisions whether that information comes from open or classified sources.

Liaison Relationships

A related problem is how to exploit and incorporate information and intelligence provided from the intelligent services of other nations. These national capacities have grown in size and sophistication, and in some cases are better positioned to acquire critical information and intelligence than US intelligence assets and agencies. But it requires work to maintain these liaison relationships and to maintain the level of trust required for these foreign intelligence services to be willing to share with the US IC. The spate of leaks out of the IC in recent years has not helped in this regard.

Globalization

Finally, the last several decades have seen an explosion of nongovernmental actors in the international arena whether it be corporations, humanitarian organizations, universities, charitable foundations, or the like. These actors can also be a source of critical information and intelligence particularly in some areas of the world that are hard for the IC to cover. There is concern among many of these organizations, however, about compromising their security, the safety of their personnel, or their ability to perform their missions if they are seen to be cooperating with the IC. Understandings and protocols need to be developed to reassure these organizations and enable the kind of information sharing that would be useful to the intelligence agencies.

Empowering the DNI

As detailed in *Blinking Red*, a unique confluence of circumstances

produced IRTPA.[a] It still was very difficult to implement these reforms, however, given formidable jurisdictional issues between departments, agencies, and Congressional committees. Those issues remain unresolved. Recent events have further complicated matters by raising questions in some quarters within the Congress and the American public about the integrity and competence of the IC. Finally, efforts to give the DNI full budgetary and hiring and firing authority will face the same arguments and bureaucratic resistance that defeated these efforts 20 years ago.

For this reason, any new legislative intelligence reform effort is unlikely to succeed absent a major national security crisis or intelligence failure. Probably the best way to enhance the clout and authority of the DNI would be a shot in the arm from the president. Power in the executive branch flows from actual or perceived White House backing. If the president were visibly to embrace the leadership role of the DNI as the head of the IC, assign specific tasks to the DNI, and make it clear that the Office of Management and Budget and the president would give great weight to recommendations from the DNI on budgetary and personnel matters, this could have an enormous effect toward enhancing the ability of the DNI to ensure the IC acts more like a cohesive body than a confederation of independent agencies. ■

John McLaughlin on the Genesis of the ODNI and IRTPA

As the 9/11 Commission was moving through its deliberations (November 2002–August 2004),[b] I was serving as the deputy director of central intelligence at CIA. Well before it wrapped up, I met with Phil Zelikow, the commission's executive director. In our discussion, it became clear the commission was trending toward, and probably had foreordained, recommending the creation of a director of national intelligence (this was then more commonly called a national intelligence director, but for clarity I use the acronym DNI). I recall saying something to the effect that this would not be necessary if Congress simply strengthened the powers of the DCI. Zelikow did not think that would be sufficient.

Throughout the spring and summer of 2004, I attended meetings in the White House Situation Room with representatives from most of the national security agencies to discuss the issue of intelligence reform and restructuring. It was apparent in those meetings that very few of the participants had ever done work of an intelligence nature, either operational or analytic, although they had all been consumers. It was some time in this period that I said to colleagues that "I felt as though I was a surgical patient lying on an operating table surrounded by people who had never been to medical school," a remark that has since made the rounds in various publications.

A turning point came during the presidential campaign of 2004, when Democratic nominee Senator John Kerry said on 17 July that as president he would favor restructuring the community around a DNI. Two weeks later, after my morning briefing of President George W. Bush on 2 August, National Security Advisor Condoleezza Rice asked me to stay behind. She told me for the first time that Bush was going to announce creation of a National Intelligence Director in a Rose Garden press briefing in a few minutes. (I had become the acting DCI on 12 July, after George Tenet's departure the previous day.) Rice asked me to remain and to appear with the president in the Rose Garden. I

a. Michael Allen, *Blinking Red: Crisis and Compromise in American Intelligence After 9/11* (Potomac Books, 2013).
b. The commission issued its report on July 22, 2004. See Susan Collins's and Jane Harman's recollections in the preceding article.

was flanked there by Secretary of State Colin Powell, Secretary of Defense Donald Rumsfeld, FBI Director Robert Mueller, and several others. President Bush made his announcement, saying that the new DNI would "oversee and coordinate" the work of the intelligence community. When asked by reporters to elaborate on the DNI's authorities it was apparent the president was not prepared to commit to much more than a coordination role. Later that day, Rice and the White House chief of staff held a press briefing in which they stopped short of saying the director would have the greater authority the 9/11 Commission had envisioned. The word "coordinator" again stood out in that briefing.

Upon returning to my office that day, I received a call from Powell on my secure hotline to Cabinet officers. Powell asked in an angry voice, "What the hell was that all about?" Clearly, he had had no more warning than I had about the announcement and appeared to know little about what it meant, despite Deputy Secretary of State Richard Armitage having been in many of the meetings that I attended in the runup to the decision. I gave Powell the background as best I understood but explained that much remained to be defined.

During this period, I met with then National Security Agency Director Michael Hayden and National Geospatial-Intelligence Agency Director Jim Clapper to strategize. We put together a proposal urging that if Congress created a DNI, that person should be significantly empowered, beyond the authority the DCI possessed, to run the IC with full authority. We went so far as to propose that our three agencies be administratively subordinate to a DNI with full authority over budgets and personnel. We realized this would be controversial within the agencies, but our view was that the worst outcome would be a weakly empowered new director with insufficient authority to manage a large and complex community. I forwarded this proposal to the White House, but it gained no traction, nor was it acknowledged, within the administration or in congressional deliberations.

On August 17, 2004, I testified before the Senate Armed Services Committee on the 9/11 Commission's recommendations. In this testimony, I laid out how the IC had changed in ways the commission had not noted: closer integration, more intimate information sharing, tighter coordination with the US military—all of this producing great progress in destroying al-Qa'ida and its partners. I raised questions about how a DNI would function and noted the necessity of clear authority and lines of command in the midst of war.

Most importantly, I strongly urged that if Congress approved the president's proposal for such an office, the DNI "should have the clear authority to move people and resources and to evaluate the performance of the national intelligence agencies and their leaders. And this should be accomplished in the cleanest and most direct manner you can devise." In short, I was counseling against a limited coordination role and recommending a fully empowered DNI along the lines that Hayden, Clapper, and I had envisioned.

The legislation authorizing the DNI was passed in Congress in December 2004 and was sent to the president on 15 December; it was signed into law two days later. Ambassador John Negroponte took office and was sworn in as the first DNI on April 21, 2005, about three months after I had resigned my position as deputy director of central intelligence following the arrival of Congressman Porter Goss as the new and final DCI. Following Negroponte's installation in April, Porter Goss became the first incumbent of an office now titled simply Director of the Central Intelligence Agency.

The legislation creating the DNI stopped well short of the strong authority we had recommended but did give the new director a clear coordinating role and direct authority over a number of organizations such as the National Intelligence Council. In the 20 years since its creation, the office has been significantly strengthened through executive order and practices established by a succession of

DNIs, as detailed elsewhere in this edition of *Studies in Intelligence*.

As someone initially very skeptical of the idea, I've come to the view that the DNI, with all the changes, now performs an essential integration and tasking role for the intelligence community, while also providing a public face and locus of accountability for the whole intelligence enterprise. And as a former CIA official, once responsible for coordinating the work of the huge complex community while managing CIA's global mission, I see the benefit of the DCIA now being able to focus more exclusively on the latter. ■

Senior leaders in the new Office of the Director of National Intelligence saw IRTPA as a chance to address longstanding challenges, including in the field of analysis.

From Mandate to Results: Restoring Confidence and Transforming Analysis

Thomas Fingar

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The Intelligence Reform and Terrorism Prevention Act of 2004 was triggered by the events of 9/11 and the war in Iraq. Doing something dramatic was unavoidable, but there was no appetite for addressing all the ills of the national security enterprise.[1] The legislation was shaped, in part, by a narrative asserting or implying that policy errors had been caused by bad intelligence.[2] The silver-bullet solution was to improve the formulation and execution of national security policy by fixing defects in the Intelligence Community. Identified and imputed deficiencies in analytic support became the focus of most specifically mandated reforms. I was tapped to lead implementation of IRTPA and White House-directed reforms intended to improve IC analytic products.[3]

To describe IRTPA as unwanted and unloved by the IC would be an understatement. There were many reasons for this, including the accurate perception that it unfairly disparaged the work of all analysts and

The views, opinions, and findings of the author expressed in this article should not be construed as asserting or implying US government endorsement of its factual statements and interpretations or representing the official positions of any component of the United States government.

agencies for the sins of a few and unnecessarily prescribed reforms that already were (or should have been) integral to analytic tradecraft. It also caused uncertainty about how implementation would affect the work and careers of individual analysts. Most analysts believed that they were doing good and important work and that their own agencies (if not necessarily other IC components) did not need outside supervision or unnecessary and potentially disruptive changes.

The stigmatization of IC analysts and analysis jeopardized retention of experienced analysts and the more than half the total who had joined the IC after 9/11. Moreover, the intelligence failure narrative threatened to erode policymaker confidence in the information, insights, and judgments they received from the Intelligence Community. Intelligence is a support activity and IC analysis is supposed to be the best informed, most objective, and best targeted input available to decisionmakers.[4] If or to the extent that decisionmakers lost confidence in the IC and the analysts who supported them, the intelligence enterprise would become an expensive irrelevance, policymaking would suffer, and national security would become more problematic. Addressing these consequences had to be among my highest priorities.

The hyperbole accompanying passage of IRTPA was often unhelpful, but senior managers of analytic components and I nevertheless saw the legislation as an opportunity to address problems that we recognized, found frustrating, and previously felt unable to do much about. In other words, we saw IRTPA as empowering us to do things we knew needed to be done. Indeed, as criticism of the IC intensified in the wake of the failure to find weapons of mass destruction in Iraq, several of us had begun to meet informally to talk about what we might do. IRTPA gave us the chance to act. This strong consensus that we needed to make and be seen to have made significant changes from business as usual created a receptivity to reform very different than the hostility and passive resistance encountered by the other ODNI deputy directors.[5]

IRTPA provided a mandate to improve analytic products and other forms of support to policymakers, but it did not include a blueprint or road-map for doing so. The goal was clear and, fortunately from my perspective, both the law and the guidance I received from John Negroponte, the first DNI, gave me wide latitude to set priorities and implement measures to make analysis better. But having authority and leeway to make changes was not a plan or even an approach.[6] Calls—demands, really—for me to submit a plan to Congressional overseers and the President's Foreign Intelligence Advisory Board began within days of my appointment. These calls were well meaning and reflected the urgency many felt about the need to "fix" the IC. But at least some of them were also intended to give Congressional staff and opponents of reform an opportunity to press for actions not included in the legislation.[7] I didn't want more cooks telling me what to do, and I did not want to spend time defending plans that I knew would be imperfect at the expense of getting started, learning from our mistakes, and demonstrating real progress. We adopted an approach that one of my deputies, Mike Wertheimer, summarized as "Think big, start small, fail cheap, and fix fast."

A few days after I had accepted Negroponte's invitation to become his deputy for analysis, he informed me that my portfolio would include chairing the National Intelligence Council and overseeing production of the President's Daily Brief. After referring to the dozens of specific tasks assigned by IRTPA and a recently issued presidential directive, he asked the simple but daunting question, "What are you going to do?" I replied that I'd get back to him. My immediate tasks were to build and staff a new organization (the Office of the Deputy Director of National Intelligence for Analysis), restore confidence in the IC and its analytic products, implement the IRTPA-mandated changes and others endorsed by

the president, and begin a process that would transform IC analysis.[8] Negroponte and I both knew that speed was of the essence and that changes had to be made without degrading daily support to national security policymakers. CIA colleague Peter Clement likened the tasks to replacing the wings of a fully loaded 747 flying at 30,000 feet.

New Team, New Organization

All my major tasks were interconnected, and all had to be pursued simultaneously. Doing everything required building a team with the experience, skill, and commitment to build a new organization and procedures (ODDNI/A) inside another entirely new organization (ODNI) while executing the continuing analytical mission of the Intelligence Community and introducing changes to enhance collaboration and the quality/utility of analytic support to the national security enterprise. The NIC and PDB had defined roles, structures, and staff, but the remainder of my organization chart was blank. To recruit people, I had to determine, at least in broad terms, what I wanted them to do. Getting started required a first approximation grouping of mandated tasks and desirable goals into coherent portfolios represented by boxes on the organization chart. But I was reluctant to lock in structure and divisions of responsibility until I understood the interests, abilities, and ideas of those I hoped to add to the team. I also wanted to delay locking in structures and responsibilities until I had obtained input from managers and analysts across the IC and better understood what my ODNI counterparts for collection, management, and customer outcomes were trying to do.[9]

The approach I adopted was influenced by the Chinese admonition to "cross the stream by feeling for the stones." The first two "stones" were the PDB and NIC. Both had real and totemic importance as producers of the IC's flagship products for its most important customers. They also had special importance because of the way they had been characterized in the intelligence-reform narrative. Fortunately for me and for the early successes of the ODNI, neither organization required immediate or dramatic changes and the serving directors, Steve Kaplan for the PDB and David Gordon for the NIC, agreed to stay on and were enthusiastic supporters of seizing the opportunity to improve IC products and procedures. President Bush had been in office for more than four years when I inherited responsibility for the PDB. It was his PDB and it reflected his preferences and priorities. My focus was on transforming the PDB from an exclusively CIA product into an IC product. I had a mandate to make the PDB better; whether that goal was achieved would be determined by the president.

The NIC was already the most inclusive and best integrated component of the IC. Its structure was appropriate to its responsibilities and it was staffed by excellent people from many analytic components. Given the high profile of NIC products in the intelligence reform debate, especially the flawed estimate on WMD in Iraq, I knew that Congress and the PFIAB would use the quality of NIC products as a key metric of ODNI performance. David Gordon and I decided to achieve and demonstrate improvement by incorporating and highlighting mandated tradecraft standards in NIC products.

My intent to defer and limit changes to the NIC was soon overtaken by Negroponte's decision to transfer responsibility for the preparation of materials for NSC and other high-level meetings from CIA to the NIC. I understood and agreed with that decision, but it put a severe strain on the NIC staff and impeded my ability to use the NIC to achieve other transformational goals.[10]

Improving and assuring the quality and integrity of analytic products was a central focus of the IRTPA mandate. As was true of many mandates, it specified goals without providing clear guidance on how to achieve them. I knew that there were many in the

IC with the interest and ability to operationalize standards and develop training procedures and evaluative processes. But I also judged that it was important to signal that "we got it" with respect to the prevailing narrative that nothing would change without fresh ideas and outside involvement. I decided to look outside the IC and was thrilled when Georgetown University professor Nancy Bernkopf Tucker, a highly respected diplomatic historian, agreed to build and head what became known as the Analytic Integrity and Standards (AIS) directorate.[11]

Each of the above positions had relatively clear responsibilities but together they did not cover the full range of mandated and necessary reforms. Managing the relationship between analysis and collection was both a critical and a high-profile task that had figured prominently in proposals for reform. I assigned responsibility for defining the role and leading the Analytic Mission Management directorate to John Keefe, whom I had recruited from the House Permanent Select Community on Intelligence (HPSCI) staff and knew to be a creative and effective manager. I knew that I wanted him on my team even though I initially did not know exactly how I would use him. His role was especially important on issues that crossed boundaries between ODDNI/A and other components of the ODNI.[12]

Implementing all the reforms mandated by IRTPA would be a challenging undertaking, but my new team and I wanted to do more. We wanted to launch a process that would transform fundamentally the way IC analysts do their jobs. I had only the dimmest notion of how to do that, but a fortuitous conversation with Mike Wertheimer, a National Security Agency veteran, persuaded me that he had visionary ideas, pragmatic approaches to achieving them, and a facility for articulating their salience. I recruited Mike without knowing exactly how he would fit into the ODDNI/A or what he would do. He quickly built a team that developed and built A-Space, the Library of National Intelligence, and other transformative capabilities.[13]

The final senior recruitment was that of Navy Captain Ron Rice who served as our first liaison to the military and the law enforcement community. Communication with all IC customers was and remains an essential requirement, but with shooting conflicts in Afghanistan and Iraq and the intense focus on terrorist threats to the United States and our international partners, ensuring that we were providing the tailored, timely, and targeted analytic support needed by those in the field was essential. As with most of the other deputies, Ron had to make it up as he went along and he had to get it right or fix flaws quickly. If the ODNI failed to maintain the high-level support demanded by those in uniform, those who had opposed its creation and wanted it to fail would have intensified efforts to roll back the IRTPA reforms.[14]

Rebuilding Confidence and Morale

Most fixations, crises, and targets of ridicule in Washington have a half-life measured in weeks or months. Intelligence Community analysis and analysts were preferred whipping boys in the run-up to passage of IRTPA in December 2004. Targeting IC analysts was, in part, a convenient way to redirect dissatisfaction with administration policy. It also validated the aphorism that in DC there are only two possibilities: policy success and intelligence failure. Criticism of IC performance was certainly warranted, but the magnitude and severity gave decisionmakers across the national security enterprise reasons to doubt the accuracy and utility of intelligence-based analyses, and undermined morale across the IC. Restoring confidence and self-confidence was an urgent imperative.[15]

Blows to analyst morale were compounded by uncertainties resulting from provisions of the law that gave the DNI authority to reassign people and portfolios, and proposals from non-governmental

groups and influential individuals calling for extensive restructuring of the IC.[16] Analysts were angered by what they considered unfair criticism and concerned about the potential impact on careers and personal lives. Providing reassurance that ODNI was not planning to make major structural changes to the IC or to move functions and people from one agency to another was an important early undertaking. It proved relatively easy to reassure the workforce because what we were saying had the virtue of being true.

The essence of our message was not, "Chill out, we are not going to change anything. Reform is nothing more than *kabuki* theater." Rather, it was a combination of encouragement that we had an unprecedented opportunity to fix problems that analysts wanted addressed and to make it easier for them to do their jobs and produce high-quality work. Soliciting their input and demonstrating that we heard what they were saying helped us to build our own "to do" list and to obtain buy-in for the changes we wanted to make.[17]

Verbal reassurances and recurring parish calls to agencies during which we provided updates on what we were trying to do and obtained feedback on our plans and performance probably helped to reduce anxiety and obtain provisional if still skeptical acceptance of the changes we introduced. Possibly more important was the fact that we had substantial buy-in and support from senior analytic managers across the IC. As noted above, analytic managers began to meet informally before IRTPA was passed to discuss what we could do on our own to enhance the performance and perceptions of our organizations and people. We met as friends, many of whom had known one another for years or decades, rather than as representatives of our agencies. As CIA Director of Intelligence John Kringen, put it, we are probably in our last IC jobs. We see better than anyone the problems that need attention and none of us wants to exit the stage without doing everything possible to restore confidence by improving performance.

The third leg of our strategy to rebuild morale and obtain buy-in was to provide an ambitious vision, a tentative road-map for attaining that vision, and immediate evidence that we could deliver on the promises we made. The vision and road-map we laid out promised steps like joint training, uniform tradecraft standards, easier ability to share intelligence and work collaboratively, and enhanced ability to take advantage of the specialized expertise of IC colleagues and non-USG experts. Some of the steps we took are described in the following section.

Obtaining buy-in from analysts was both an immediate and continuing requirement. So too was the need to regain the confidence of the decisionmakers we supported. If policymakers did not have confidence in the intelligence professionals, usually analysts, with whom they interacted and did not understand or respect the information and insights analysts provided, the intelligence enterprise would be an expensive fifth wheel. Although my interactions with policymakers suggested that loss of confidence was less serious than suggested by commentary, the problem was not a trivial one, and we had to address it. What I learned suggested that many policymakers expressed decreased or limited confidence in the IC but continued confidence in the analysts with whom they interacted and the intelligence they provided. This pattern resembled Fenno's paradox, in which voters express a low opinion of Congress but a higher opinion of their own representatives.[a] As Ron Burgess notes in his contribution to this edition, his directorate made a sustained effort to assess and respond to customer concerns and my directorate conducted annual surveys to obtain customer assessments of our performance.

a. In 1978, political scientist Richard Fenno observed that people generally disapprove of Congress as a whole but often support their own representatives. See *Home Style: House Members in Their Districts* (Pearson College Division, 1978).

Implementing Reforms

A few weeks after standup of the ODNI, I realized that many of my colleagues, notably those transferred to the new organization from the old Community Management Staff, viewed implementation of the IRTPA and White House mandated reforms as a series of discrete tasks that could be tracked on a spread sheet. Implementation was to be the metric of success (i.e., we were assigned tasks and we achieved them). I understood why they adopted this perspective and saw no reason to oppose what they were trying to do. Nevertheless, my newly forged team saw reforms as means to an end rather than ends in themselves. The end or goal we envisioned was a better integrated community of analysts eager and able to collaborate across agency boundaries in ways that took advantage of multiple perspectives and areas of expertise.[18]

Thinking and talking about reform in this way enabled us to seek buy-in for a vision of how IC analysis could and should function. The prevailing narrative decrying IC analytic incompetence was exaggerated and offensive, casting reform as necessary to raise deplorably low levels of individual and institutional competence. We saw approaching the challenge in this way as a recipe for failure that would foster resistance to reform. Instead, we adopted an approach that envisioned and described specific changes as steps to reduce impediments to collaboration that had been identified by analysts in the parish call meetings we held across the community and/or articulated by senior managers. Instead of looking back and emphasizing a need to correct existing defects, we sought—and obtained—buy-in for a vision promising to improve IC analytic support by making it easier for analysts to do things they had declared necessary to make their jobs easier and more rewarding. I realize in writing the above sentences that they might be read as describing a shameless ploy to persuade analysts and agencies to swallow bad tasting medicine, but that was not our intent. The vision and our belief that the specific steps we proposed would achieve that vision were genuine.

As noted above, we sought to assuage analyst concerns that ODNI-initiated changes would have negative consequences for their missions, agencies, careers, and personal lives by forswearing intent to restructure analytic components or reassign functions and people. Our stated goal was to make IC analytic support to policymakers better—more useful—by improving the performance of all agencies. To accomplish this, we proposed and took steps that would make it easier for analysts to access information, employ good tradecraft, and collaborate with counterparts and people with complementary expertise. Here are some of the things that we did to achieve that objective.

Tradecraft and Analytic Standards

Although sometimes depicted as dramatic departures from past practice, most of the mandated tradecraft requirements were essentially a repackaging of longstanding approaches and methods that were applied, consciously or not, by analysts across the IC.[19] Our task was not to persuade analysts to do things in a fundamentally different way but rather to clarify, reinforce, and improve good analytic practices. Despite presenting reforms in this way, we were not pushing on an open door and did encounter resistance that was stronger in some agencies than in others. As importantly, we sought to persuade analysts that their counterparts in other agencies were as well-trained and rigorous as they were. This was essential if we were to increase collaboration and use of products prepared in one agency to meet the needs of customers served by analysts elsewhere in the IC.

Enhancing confidence in the competence of analysts in other agencies was necessary because existing behaviors to build agency esprit often disparaged the people and products of other IC components. Moreover, the absence of standardized training and evaluative

standards made it imprudent to assume that the quality of work produced elsewhere was suitable for submission to all policy customers. Under the leadership of first Nancy Tucker and then Richard Immerman, another academic, the AIS directorate established a joint training program, established standards for evaluation, evaluated the work of all agencies on selected topics, and assisted agencies requesting help to establish or expand their own training and evaluation programs. What became known as Analysis 101 mandated joint training of new analysts from all agencies. Smaller agencies generally welcome Analysis 101, but resistance in one of the largest proved almost insurmountable. Training jointly provided assurance that all analysts were working toward the same standards, but it also facilitated networking across agency boundaries.[20]

The IRTPA required an annual report to Congress on the evaluation of IC analytic performance using the mandated standards. We decided to preclude unhelpful and invidious comparisons of individual agencies by aggregating information on all agencies and submitting a single report for the entire community. The strengths and weaknesses of individual agencies and/or analysts were treated as a diagnostic tool reported only to the agency involved. The evaluative reports were accompanied by a tailored offer from ODDNI/A to help improve performance. This offer was eagerly accepted by many agencies, especially DIA and the FBI.

Enhancing tradecraft and building confidence in the abilities of colleagues were necessary but insufficient steps toward building a community of analysts and enabling the IC analytic components to function in a more integrated and synergistic way. To achieve that goal, we adopted measures not specified in the reform legislation. One of the first was to revitalize and repurpose the Analytic Resources Catalog (ARC), a database of analysts and expertise that had been proposed more than a decade earlier by then NIC Chair John Gannon and resuscitated by Mark Lowenthal when he was assistant DCIA for analysis. Their efforts were frustrated by a combination of counterintelligence (CI) concerns and reluctance of analysts to be included in a directory that looked like a free-agent list of experts who could be recruited or reassigned without consent. We saw the ARC as a repository of expertise that could be used to facilitate collaboration by making it easier to find potential partners.

Illustrating once again the dictum that few things are more difficult than achieving what is obviously a good idea, our efforts to populate the ARC immediately encountered challenges centered on the question of who should be considered an analyst. Hoary IC traditions dating back decades distinguished—and discriminated—between "all source" and "single INT" analysts and assigned status, equivalent to white-collar and blue-collar workers, based on the agency in which one worked. We regarded that as outdated and counterproductive. Twenty-first century analysis requires input and insights from all "INTs" and analytical specialties.[21] We determined to break down barriers by adopting a broad and elastic definition of analyst. As importantly, we left it to analysts to specify their areas of expertise and were indifferent about how they had acquired it (e.g., in graduate school, previous IC assignments, the Peace Corps or military service). One of our operating premises was that many people knew more about the places or problems they covered in a previous assignment than about those in their recently assigned portfolios.

Making it easier to find potential collaborators was helpful but of limited value unless we could also lower barriers to information sharing, of which there were several. One of the most maddening and unhelpful restricted dissemination of intelligence to specific agencies even though "all" analysts in all IC analytic components had (or could have) the same security clearances. We attacked this problem on two fronts. One attempted to reduce ORCON (Originator Controlled) restrictions by invoking IRTPA language on analysis driving collection and arguing that analysts, not collectors, should be the ones who determined what intelligence they needed to do their jobs. This was a long and frustrating

battle that eventually produced Intelligence Community Directive 501, "Discovery and Dissemination or Retrieval of Information Within the Intelligence Community."[22]

Another component of our multifaceted attempt to facilitate collaboration was the creation of A-Space, which was quickly dubbed "Facebook for Spies" by the media. A-Space was a pilot program to develop a common collaborative workspace. Access was limited to analysts with up-to-date clearances who were listed in the ARC. Several attributes of A-Space warrant mention. One is that it was developed with the active participation of more than 100 analysts to ensure that it did what they wanted it to do and did not have unwanted bells and whistles of the kind that had given "tools" a bad name in the analytic community. A second is that it allowed all analysts to access and share intelligence reports with anyone or everyone who had access. Although using A-Space was voluntary, within weeks the utilization rate was greater than 90 percent. People used it because it helped them to do their jobs. A third notable feature was that sharing drafts widely led to the discovery of previously unknown colleagues working on similar or complementary subjects and greatly enhanced opportunities for collaboration and synergy.[23]

Another major innovation, which like A-Space was conceived by ADDNI for Analytic Transformation and Technology Mike Wertheimer, was the Library of National Intelligence. Among other capabilities, LNI enables analysts to discover the totality of intelligence reports on any given subject. Discovery does not mean that analyst would automatically have access to every report, but they would know that the reports exist and be able to discover who does have access. This was another of the capabilities requested in our initial parish calls to solicit ideas and outline what we hoped to do.[24]

These and other transformational reforms incorporated mandated and other measures prescribed by IRTPA, responded to requests solicited or demanded by IC analysts, and contributed to progress toward restoring confidence, improving the quality and utility of analytic products, and building a community of analysts. As importantly, they made it easier for analysts and analytic units to work smarter without working harder. None of these steps was a magic bullet that solved all IC problems. Each of them, however, made the situation better. As importantly, individually and collectively, they were recognized by analysts, agencies, and oversight bodies as constructive moves in the right direction.

Achievements and Unrealized Goals

The passage of time inevitably changes the lenses through which we view and assess the past. A decade ago, I probably would have cataloged in detail the steps we took and frustrations they encountered. In this essay, my goal has been to summarize in broad brush fashion what we were attempting to do and how we sought to use the mandate and opportunity provided by IRTPA to achieve meaningful and enduring improvements to the analytic enterprise. We certainly achieved the minimal but essential goals of standing up and staffing a new organization and checking the "done" box with respect to all mandated reform tasks. That we would do so was not a foregone conclusion. What probably looks easy and unimpressive in retrospect was anything but at the time we did it. Doing many obvious and necessary things was complicated by ambiguity, animosity, and the imperative to provide continuous support to the national security enterprise while attempting to transform critical relationships and procedures. We accomplished a lot more than simply checking all boxes. I think we improved the quality and utility of IC analyses, enhanced collaboration across agency boundaries, introduced technologies and practices that made it easier for analysts to do their jobs, restored morale, and regained the confidence of those we supported. These were not trivial accomplishments.

Not everything that we attempted was successful and many of our most innovative ideas did not long outlast my departure at the

end of 2008. Examples that did not survive include our Summer Hard Problems Program (SHARP) and multidisciplinary teams composed of IC analysts trained and equipped with the leadership skills, analytic tools, tradecraft, and mission processes to meet complex analytic challenges—Rapid Analytic Support and Expeditionary Response (RASER) teams. Another change that proved short lived was the inauguration of regular meetings between National Intelligence Officers and members of the press for the purposes of demonstrating the expertise of our senior analysts and helping journalists to avoid mistakes that we would have to clean up later. Our efforts to expand and deepen engagement with experts outside the IC achieved less success than I had hoped. Most distressingly, my efforts to forestall dilution of NIC and NIO status and authority by retaining their responsibility for tasks later transferred to National Intelligence Managers yielded only evanescent success.

No one with experience in Washington should expect successors simply to continue what has been initiated by others, and I certainly did not have any delusions in that regard. Some of our victories (e.g., preservation of separate directorates for analysis and collection to ensure that analysis was not swamped by the much larger collection enterprise) proved ephemeral, but many—even most—of the changes we launched and the battles we won have had staying power. Twenty years later, I remain proud of the things we accomplished, deeply grateful for the ideas and dedication of the team I built, and heartened by President Bush's statement to me at the end of our terms that I had succeeded in restoring his confidence in IC analyses.

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Endnotes

1. See, for example, Charles Perrow, "A Symposium on the 9/11 Commission Report: Organizational or Executive Failures?" *Contemporary Sociology* 34:2 (March 2005) 99–107; and Michael Allen, *Blinking Red: Crisis and Compromise in American Intelligence After 9/11* (Potomac Press, 2013).
2. See Mark M. Lowenthal, "Toward a Reasonable Standard for Analysis: How Right, How Often on What Issues?" *Intelligence and National Security* 23:3 (June 2008), 303–315; and Paul R. Pillar, *Intelligence and US Foreign Policy: Iraq, 9/11, and Misguided Reform* (Columbia University Press, 2011), especially chapter 11.
3. For more on this point and others addressed briefly in this essay, see Thomas Fingar, *From Mandate to Blueprint: Lessons from intelligence Reform* (Stanford University Press, 2021).
4. On intelligence as a support activity, see, for example, Thomas Fingar, *Reducing Uncertainty: Intelligence Analysis and National Security* (Stanford University Press, 2011).
5. See John D. Negroponte and Edward M. Wittenstein, "Urgency, Opportunity, and Frustration: Implementing the Intelligence Reform and Terrorism Prevention Act of 2004," *Yale Law and Policy Review* 28:2 (Spring 2010), 379–417.
6. The responsibilities and authorities assigned and delegated to me as DDNI/A were specified in Intelligence Community Directive Number 200: Management, Integration, and Oversight of Intelligence Community Analysis. (January 8, 2007) (since withdrawn but available at https://irp.fas.org/dni/icd/icd-200.pdf).
7. President Bush changed the name to the President's Intelligence Advisory Board in 2008 to reflect the integration of domestic and foreign intelligence mandated by the IRTPA. See "President's Intelligence Advisory Board," https://trumpwhitehouse.archives.gov/piab/#:~:text=President%20Reagan%20re%2Dinstituted%20the,end%20at%20our%20Nation's%20borders.
8. The president endorsed many reforms proposed by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction which submitted its "Report to the President of the United States" (hereafter WMD Commission Report) (Washington, DC: U.S. Government Printing Office, 2005) after passage of IRTPA. See "Bush Administration Actions to Implement WMD Commission Recommendations," https://irp.fas.org/news/2005/06/wh062905-wmd.pdf.
9. See the essay in this compilation by Ron Burgess.

10. See Thomas Fingar, "New Missions, New Challenges: 2005–2008," Robert Hutchings and Gregory F. Treverton, eds., *Truth to Power: A History of the US National Intelligence Council* (Oxford University Press, 2019), 133–56.
11. For background on Tucker see Thomas Fingar, "Nancy Bernkopf Tucker: Scholar and Public Servant," H-Diplo/ISSF Forum 35 (2022), https://issforum.org/forums/35. See also, Nancy Bernkopf Tucker, "The Cultural Revolution in Intelligence: Interim Report," *The Washington Quarterly* 31:2 (Spring 2008), 47–61.
12. Notable examples include reform of the National Intelligence Priorities Framework and regularized procedures for bi-weekly updating of collection priorities.
13. See remarks of Dr. Michel Wertheimer at the 2007 Analytic Transformation Symposium in Chicago, September 6, 2007, at https://www.dni.gov/files/documents/Newsroom/Speeches%20and%20Interviews/20070905_speech.pdf.
14. For more detail on building the ODDNI/A team and organizational structure see Fingar, *From Mandate to Blueprint*.
15. See Michael E. O'Hanlon, "Can the CIA Really be that Bad?" (Brookings, July 13, 2004), https://www.brookings.edu/articles/can-the-c-i-a-really-be-that-bad/.
16. See "Intelligence Reform and Terrorism Prevention Act of 2004, 108th Congress, Public Law 458, especially Section 1018.
17. For a more extended discussion see "Dr. Thomas Fingar, Deputy Director of National Intelligence for Analysis and Chairman, National Intelligence Council, at the DNI's Information Sharing Conference and Technology Exposition" (August 21, 2006), https://www.dni.gov/files/documents/Newsroom/Speeches%20and%20Interviews/20060821_2_speech.pdf.
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19. See, for example, Jack Davis, "Sherman Kent and the Profession of Intelligence Analyst," The Sherman Kent Center for Intelligence Analysis, Occasional Papers: 1:5 (November 2002); and Jim Marchio, "Analytic Tradecraft and the Intelligence Community: Enduring Value, Intermittent Emphasis," *Intelligence and National Security* 29:2 (2013), 159–83.
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21. See Thomas Fingar, "A Guide to All-Source Analysis," Peter G. Oleson, ed., *AFIO's Guide to the Study of Intelligence* (Falls Church, VA: Association of Former Intelligence Officers, 2016), 297–303.
22. Intelligence Community Directive 501, "Discovery and Dissemination or Retrieval of Information Within the Intelligence Community," January 21, 2009, https://www.odni.gov/files/documents/ICD/ICD-501.pdf.
23. For more on A-Space, see "Interview of Dr. Mike Wertheimer, Assistant Deputy Director of National Intelligence for Analytic Transformation and Technology, CNN & Federal News Radio, September 5, 2008," https://www.dni.gov/files/documents/Newsroom/Speeches%20and%20Interviews/20080905_interview.pdf.
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US service members and civilians bow their heads in a moment of silence during the annual 9/11 remembrance at the Pentagon, September 11, 2024. (Photo by Cpl. Christopher Grey, US Army).

From the Defense Department to Liberty Crossing: Perspectives on Standing Up ODNI

Ronald Burgess

Retired LTG Ronald Burgess served twice as the acting principal deputy director of national intelligence and as the 17th director of the Defense Intelligence Agency. He retired from the US Army in 2012 after 38 years of service.

The views of the Department of Defense and the Joint Chiefs of Staff on intelligence reform were generally aligned, but in both cases they were based on the life experience of the principals. Those experiences shaped DOD's view, as well as the JCS's, but each had their own points of view.

Secretary Donald Rumsfeld came to office as an experienced consumer of intelligence produced by the Intelligence Community. He had previously served as the White House chief of staff and as the secretary of defense (1975–77) under President Gerald Ford. He was knowledgeable of the findings of the Pike Committee, Ballistic Missile Threat Commission, and Space Commission that had come before the 9/11 and WMD Commissions. He had a high regard for the collection efforts of the IC, less so with the analytic products derived from them. His view in 2001 was that

the IC had two critical missions. First, to provide long-term warning to help the defense secretary prepare the Defense Department, which reacts slowly to address emerging threats. Second, it was to respond to the president's needs, many of which can be shorter term. While I think he recognized that balancing these missions was a challenge, it is my opinion that he believed that the IC had tipped toward the latter of the two. This view persuaded him that DOD would need to improve the performance of the combat support agencies to meet its wartime needs.

The attacks on 9/11, the subsequent global war on terrorism, and the war with Iraq contributed to Rumsfeld's decision to establish the position of under secretary of defense for intelligence. Rumsfeld understood the conundrum posed by a strong DOD position if it challenged the privileged position of the CIA in the larger national security community and its access to the president and the National Security Council. For that reason, he agreed with Director of Central Intelligence George Tenet (1996–2004) that the USD(I) would have authority, direction, and control only on those departmental matters explicitly delegated by the secretary. This differed from other assistant secretaries within the Defense Department to whom were delegated all of the defense secretary's authorities within the scope of the office. This was to ensure that the tensions created by all of these issues did not damage Rumsfeld's relationship with the CIA director. Rumsfeld believed IRTPA did little constructively to improve the DOD-CIA relationship and would, over time, lead to increased confusion on intelligence roles, missions and responsibilities, duplication of capabilities, increased costs—all without a substantial improvement in performance by either DOD or the IC.

General Richard Myers also had a long record of service and had long been a consumer of intelligence. He also understood the warfighting requirements of the combatant commanders and the requirements, especially those components inside DOD, that the IC had to satisfy. He had served as the assistant to the chairman of the Joint Chiefs of Staff and subsequently had served as the commander of Air Force Space Command. In this latter role he was responsible for defending the United States through space and intercontinental ballistic missile operations. He then became the vice chairman of the Joint Chiefs of Staff, where among his primary duties was to serve as the chairman of the Joint Requirements Oversight Council, vice chairman of the Defense Acquisition Board, and as a member of the National Security Council Deputies Committee. All of which provided him with even more insight into the strengths and weaknesses of the IC. In October 2001, Myers became the chairman of the Joint Chiefs of Staff, serving as the principal military adviser to the president, the National Security Council, the Homeland Security Council, and the secretary of defense. These backgrounds served as the foundation for DOD and the JCS as Congress began its discussions on IRTPA.

Comply With the Law

Whatever misgivings or concerns Rumsfeld and DOD may have had, Rumsfeld made it clear that DOD would comply with the law. The department advocated for what has been called the "notwithstanding" or "abrogate" clause (Section 1018 in the final bill), which in effect states that the law may not do anything to affect the statutory responsibilities of the secretary of defense. An area of mutual concern between DOD and the JCS centered on the discussion concerning Title 10 and Title 50 authorities, with the agreement being reached that both DOD and the IC would have a seat at the table when both titles were in play.[a] Rumsfeld went on to direct his principal official, Stephen Cambone, that all areas of DOD would comply with the law. To ensure a smooth transition, Rumsfeld

a. Title 10 of the United States Code outlines the role of armed forces. Title 50 outlines the role of war and national defense in the United States Code, including elements funded by the National Intelligence Program.

and Cambone would meet privately often enough to evaluate compliance.

Myers also had concerns as IRTPA moved forward. He had worked hard to establish relations with the chairs and ranking members of the Senate and House Armed Services Committees. His insight and professional judgment were often sought as good governance would dictate. He had discussed some of his thoughts on the legislation with me as it progressed through its various forms. So, it came as no surprise when I received a call from him on a Saturday in October 2004. He had received a call from Representative Duncan Hunter, chair of the HASC. The joint Senate-House Armed Services conference committee was discussing the current version of the bill, and there was a proposal to remove the defense secretary from the budget process for the combat support agencies that resided inside DOD (DIA, NIMA, and NSA). The law would require these agencies to forward their budgets directly to the DNI.

Working directly with Myers, I crafted a letter outlining our thoughts that if the defense secretary were to properly oversee the combat support agencies (CSAs), he should also have the budget authority. That, combined with the criticality of these agencies to DOD's warfighting capabilities, made it imperative for the secretary to have that authority. Our letter was provided that evening to Rep. Hunter. A few days later, Myers told me that he had received a call from the White House telling him that he had just cost the president his chance at reelection. We both knew that we had been asked our opinion and had provided it as requested. The chairman had a legal obligation to provide his best advice, and I had a moral obligation to do the same. His guidance to the JCS was to comply with law and I would meet with him and his successor in my early days at ODNI to report how the JCS was doing in meeting that guidance.

Standing Up ODNI

IRTPA provided a framework and structure for the newly created Office of the Director of National Intelligence. The law established the positions of the director and the principal deputy director and authorized the creation of up to four additional deputy directors. IRTPA and a subsequent White House directive on intelligence reform specified dozens of tasks that, taken together, were intended to enhance the performance of the national security enterprise by fixing real and imagined defects in the Intelligence Community. John Negroponte, the first DNI, and his principal deputy Michael Hayden established four deputy director positions focused on specific clusters of intelligence tasks. This structure was designed to implement mandated changes and better integrate the intelligence community.

Creating separate directorates for collection and analysis was intended to ensure implementation of mandated changes and enhance the performance in each of these critical arenas of intelligence activity. This decision was criticized by some who argued that locating both functions in a single organizational unit was necessary to ensure that collection activities were driven by analytical requirements. Negroponte and Hayden determined that this goal could be achieved by other means and that separate units and deputies would better achieve mandated and other improvements in both arenas. Mary Margaret Graham, from CIA, and Tom Fingar, from State's Bureau of Intelligence and Research, were recruited to head the collection and analysis directorates. They were selected primarily because of their experience and professional reputations, but also to build representation of multiple producer and consumer components into the structure of the ODNI.

The requirements of standing up and administering a new cabinet level organization with responsibilities and personnel spanning four departments and 16 agencies, and assuming responsibility for numerous tasks and functions previously assigned to the director of central intelligence entailed Herculean managerial challenges.

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A third directorate (management) was established to ensure a seamless transition to the new bureaucratic structure. Patrick Kennedy from the State Department was selected to head it.

The fourth deputy director position was used to establish a critical catch-all directorate with the awkward name of customer outcomes. The 9/11 and WMD commissions highlighted their finding that policymakers across government believed that their intelligence requirements received inadequate attention and that their organizations had information and insights that could contribute to the overall intelligence picture. I was selected to be the first deputy director for customer outcomes. I had been serving as the director of intelligence (J-2), for the Joint Chiefs of Staff and like Michael Hayden (who had been the director of the National Security Agency) had come out of DOD.

The structure we adopted was logical and we believed appropriate to the assigned tasks, but it was also controversial. Criticism of how we had decided to implement IRTPA compounded the challenges of implementing changes that many in the IC and on the Hill wanted to fail. To say there was resistance across the IC and from some of the departments would be an understatement. If we were to succeed, it would not be because we had built a perfect organizational structure or picked exceptionally talented people. It would be—and was—because we shared common objectives and understood that we would all succeed or fail together. We had to function as a team.

The standup of the ODNI was marked by a remarkable degree of camaraderie and collaboration. Each of the deputy directors struggled to comprehend and operationalize what we had been asked to do and what authority we had or needed to do it. From the beginning, we met daily with the ODNI Chief of Staff David Shedd and Deputy COS Mike Leiter to ensure we knew what each other was doing. Lacking a permanent "home," we met in David's small temporary office in the New Executive Office Building in Washington, DC. The tiny office had room for only four chairs. The last deputy to show up had to sit outside the doorway.

Our discussions centered on the challenges of what we were trying to do, what problems and possibilities each had discovered, and what each needed from the others or the DNI or PDDNI. In those early days i always came to the meetings or walked the hallways with a copy of the law to ensure that we were on terra firma as it related to our authorities. We would meet as required with the DNI and PDDNI to discuss items that we felt needed their attention and guidance. In retrospect, individually and collectively, we had extraordinary latitude to define and pursue our objectives. It was noted at one of these early meetings that we, the four deputy directors, were being referred to as the four horsemen. I don't remember who noted that the four horsemen were actually referred to as the four horsemen of the apocalypse, but i do remember that we agreed among ourselves that we were all committed to making changes that would improve our community and better protect the United States. It should be noted that when the ODNI was established there were 15 intelligence agencies and one of those—Coast Guard Intelligence—was brand new. Another, the FBI, had long been a nominal—budgetary—member of the IC, but before IRTPA it had minimal interaction with other IC components except on counterintelligence. Its law enforcement authorities and policy restrictions prevented it from being fully functional as an intelligence agency.

The FBI was an area of early focus for the ODNI. The access to law enforcement information was deemed critical to assessing and developing a complete intelligence picture especially as it related to terrorism. The ODNI provided funds for the FBI's National Security Branch but most of the FBI's budget came from the Justice Department. FBI Director Bob Mueller understood the intricacies of Washington and determined that the National Intelligence Program might be a solution to his

getting the nascent NSB off the ground, so he never lost an opportunity to point out that he was a rounding error for the NIP budget and to ask if we would throw him a few bones. We tried, but he never let up. He was always advocating for his organization. It was proposed and accepted that an intelligence professional would head up the NSB, and Phillip Mudd was detailed to the FBI from CIA to lead this effort. In the United States, collecting and sharing intelligence on US persons are complicated from a civil rights perspective when compared to criminal cases.

The IC budget was one of the tools—authorities—given to the ODNI by IRTPA, but using that tool required continuous discussion and negotiation across the IC and departments. The DNI shared authorities, responsibilities, and budget decisions with the defense secretary, who was not a fan of the new ODNI organization. The legislation mandated that DOD share some authorities, particularly regarding the IC budget. This led to weekly meetings with the under secretary of defense for intelligence to decide how best to implement the law so that we could resolve differences and keep moving ahead without having to call a meeting of the Joint Intelligence Community Council (established by IRTPA and made up of some of the executive-branch department chairs). This council was intended to advise the DNI on all matters that required senior interdepartmental coordination. The challenges of shared responsibility became clearer shortly after the establishment of the ODNI. DOD had a requirement for which ODNI was the sole funding source. The development and acquisition of this new and technically advanced system was not going well and was significantly over budget. The DNI, after extensive program reviews and conversations with DOD officials, canceled the acquisition because existing systems could cover the intelligence needs and requirements. As no good deed in Washington ever goes unpunished, part of the aftermath of this decision resulted in a challenge for the ODNI in Congress. The House of Representatives oversight bodies were strong advocates for the canceled program while the Senate oversight bodies were strongly in favor of our decision. The resulting negative and positive views of the ODNI in both chambers affected some of our future engagements on the Hill.

One of the areas overlooked by many who have commented on the standup of the ODNI was the requirement to rebuild policymaker confidence in the IC while at the same time restoring the confidence of a demoralized analytic community. The first and most important requirement, at least in Tom Fingar's mind and supported by many other IC professionals, was to rebuild confidence in the quality and utility of analytic support. The IC's failure to predict and prevent the attacks on 9/11 and its badly flawed judgments about Iraq's WMD programs were construed to be indicative of the quality of work done by all IC analytic components on all issues affecting national security.

Tarring all analysts with the brush of incompetence and disparaging intelligence assessments on all subjects was unfair. It was also dangerous. Rebuilding and restoring confidence required making real and observable improvements in the products that were prepared for decisionmakers and policymakers. Our approach to doing this was to improve the quality of IC support by improving the work of all analytic components and to improve the quality of agency products by implementing new or strengthened tradecraft standards and enabling every analyst to produce better work. Analysis 101 became the required course for every analyst paid for by the NIP. This building-block strategy focused on analysts and analytic products, not on organizational changes or the reassignment of people. The focus was on producing better quality support with minimal disruption.

We also developed procedures to ensure that analysis drove collection. The requirement for analysis to drive collection reflected the findings and recommendations of the WMD Commission. The basic idea is that when a decisionmaker or policy maker has a question or other intelligence requirement, it is

communicated to the IC through an analyst. If IC analysts cannot answer without additional information, they refine the request to highlight as precisely as possible the information they need, when it is needed, and where to look for it to IC collectors. Collectors then determine the best way to seek that information. As an example, the collection staff worked with the National Intelligence Council's national intelligence officers on one of the hardest collection problems that we had and asked them to provide questions, that, if answered would solve one of our most difficult problems against one of our hardest targets. One answer that came back in this case from the NIOs, analysts, and policymakers was a need for more linguists who could translate material. Another example was the new direction taken on the National Intelligence Priorities Framework. Feedback from collectors, analysts, and decision/policymakers drove a new process that ensured that all intelligence requirements were captured and prioritized. The NIPF allows decisionmakers at the ODNI and across the executive and legislative branches to see what the requirements have been levied and how they have been prioritized.

Restrictions on sharing intelligence across the enterprise were long recognized as a major impediment to collaboration and delivery of the best possible intelligence support. It should be obvious that producing high-quality analysis informed by the expertise and experience of analysts requires efficient sharing of information across bureaucratic boundaries. We tackled this problem by broadening the definition of analyst to include "all" IC professionals with requisite clearances regardless of current assignment and making it easier to identify them and easier to exchange information and ideas with all IC analysts. Specific steps toward achieving this goal include the expansion and re-purposing of the ARC and establishing A-Space (now i-Space) to facilitate discovery and access to all reporting by all analysts with the required security clearances.[a]

A-Space was an information-sharing environment within which all analysts could share intelligence and ideas. Who had access to certain intelligence was a concern to some of the intelligence agencies due to its sensitivity and the single threaded access some had to collection. We adopted many important tools such as 100-percent monitoring of who looked at what pieces of intelligence and we also added "single INT" analysts (for example, at NSA or NGA) to the ARC. An area where we did not succeed was trying to reduce ORCON restrictions, but we did get a "responsibility to provide" directive that shifted decisions on who needed access to certain intelligence information from collectors to analysts. Across the board, all four deputy directors pushed along with the ODNI for a more collaborative environment to take advantage of the strengths of the enterprise.

Collaboration was central to everything the ODNI tried to push forward. IRTPA created a new category—national intelligence—to facilitate sharing of foreign intelligence and law enforcement information to achieve end-to-end coverage of terrorist threats, proliferation activities, and other threats that originated abroad (foreign intelligence), entered the United States (border security), and became a problem inside the country (law enforcement). To achieve this goal required interaction with and support of state, local, tribal, and territorial law enforcement agencies. My office became the focal point for much of that effort. To better understand the support needed and requirements of these elements, especially at the state and local level, ODNI recruited Mike Tiffany to join the team. Mike was a New York City police officer of long standing and was well respected by his peers in local and state law enforcement, although we often heard from him about adapting to the federal

a. The Analytic Resources Catalog was a database of expertise across the IC. It was disestablished in 2013. i-Space was established that same year.

government and the idiosyncrasies of Washington, DC.

As the deputy director, I felt it important to ensure that each of the executive departments understood that it was no longer business as usual and that the ODNI was serious about implementing not only the letter but also the spirit and intent of the law. With this in mind I set up meetings with each Cabinet secretary to introduce myself and to establish an operating tempo with them that would establish the foundation for the way ahead. Based on those initial meetings, I established a regular routine with each department that fit the needs of the secretary, met at the level the secretary desired, and established the appropriate lines of communication between the department and the ODNI. In the early days, this level was either the secretary or the deputy secretary. These interactions went a long way in establishing a rapport and trust as the ODNI was establishing itself. As necessary i involved the DNI or PDDNI.

In the early years only one substantial change was made to the original organizational structure. DNI Mike McConnell decided to take advantage of a personnel move to organize the ODNI in a manner he believed would better serve the organization and the IC. I had been serving as the acting PDDNI since the departure of Mike Hayden to the CIA. McConnell thought the JCS model with a director of the Joint Staff to oversee and help coordinate all activities within the ODNI would better serve all. The position of the director of the intelligence staff was created and I was confirmed by the senate into this new position with the arrival of Don Kerr as the new PDDNI. It was a seamless transition because I had already been serving in this capacity while also serving as the acting PDDNI.

Report Card

I believe we accomplished much, but our ambitions exceeded what we were able to achieve. While the law does give the ODNI certain authorities, especially as it relates to the NIP and as the ultimate arbiter on intelligence declassification, the ODNI has to accomplish much of what it does through collaboration. The law also told the ODNI that it could do nothing to abrogate or impinge upon the statutory authorities of any cabinet-level official. We were able to mitigate most of the confrontations through our direct collaborative efforts, and we attempted to use organizational mechanisms like the JICC, executive committee, and the deputies' committee. Much like the military uses "hot washes" and after-action reviews to evaluate itself, the time has come to step back and evaluate the ODNI. What did we get right, where didn't we go far enough and what did we get wrong? Mechanisms could be utilized or created to do this by the executive branch in concert with the legislative branch. The ODNI could be charges by the White House to lead such a review; a commission could be established to execute the review and make recommendations to the White House or the President's Intelligence Advisory Board. ■

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

Managing IC Resources Before and After IRTPA

Caryn A. Wagner

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

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.

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

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.

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, it 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.

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 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 gainst a foreign threat; the terrorist threat with no foreign nexus doesn't mesh well with the statute because it was viewed soley 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. ■

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 enagement 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. ■

Acting DIA Director David Shedd (left) is honored at the Assumption of Command ceremony for LtGen Vincent Stewart (far right). Also on stage, left to right, are DNI James Clapper, USD(I) Michael Vickers, and STRATCOM Commander Adm. Cecil Haney. (Photo: Robert Kanizar)

Intelligence Reform: A Glass Half Full

David Shedd

David Shedd served as chief of staff and deputy director of national intelligence for policy, plans, and requirements in the Office of the Director of National Intelligence. He later served as acting director and deputy director of the Defense Intelligence Agency.

In February 2005, only a couple of months after the passage of the Intelligence Reform and Terrorism Prevention Act, I received a call from John Negroponte, the newly designated (and first) director of national intelligence. As the senior director and special assistant to the president for intelligence programs and reform on the National Security Council, I was honored to receive the call and to be asked whether I would consider being a part of standing up a new intelligence office created by IRTPA: the Office of the Director of National Intelligence. I provided an unequivocal yes.

Negroponte's initial call was quickly followed by engaging Michael Hayden, tapped by President George W. Bush to be the principal deputy for the new intelligence organization. On April 22, 2005, the ODNI doors opened in temporary spaces at the New Executive Office Building in Washington, DC.

The establishment of ODNI came after months of arduous debate within the Bush administration and on Capitol Hill over what needed to change so that the attacks of September 11, 2001, would never happen again. That debate was informed by the 9/11 Commission report. At the same time, as the intelligence failures of 9/ 11 were being evaluated, the administration was coming to terms with the reality that intelligence had also failed policymakers on Iraq. The extent of that failure was highlighted in the WMD Commission report.[a]

I never doubted either the need for intelligence reform and or that the nation, if reform was undertaken properly, would be better for it. The prospect of establishing the ODNI excited me because I saw it as a historic opportunity to improve the coherence and effectiveness of the IC in its vital national security mission, while also enhancing the oversight and checks and balances on its constituent elements.

What I underestimated was the resistance to change among the IC elements and how much those bureaucracies would fight for what they considered matters related to their own preservation.

My thought then, as it is to this day, is that President Bush picked a dream team to stand up ODNI. Negroponte was a seasoned consumer of intelligence, and Hayden was a highly respected intelligence professional whose credentials could not be questioned. I personally held them in high regard. Saying yes to becoming the prospective DNI's chief of staff was easy as I had known Negroponte well from his days as US ambassador to Mexico in the late 1980s and early 1990s.

Getting Started

The white board exercise got under way in the runup to establishing ODNI in April 2005, four months after IRTPA became law. With Hayden in the lead, we brainstormed the ODNI structure. We started by looking at what IRTPA required the DNI to focus on in overseeing a sprawling IC. We were not naïve about the law: It was imperfect but when combined with support from the president, IRTPA provided the DNI with some significant authorities to lead and integrate the IC by building the enterprise's budgets and establishing policies for information sharing and beyond.

As chief of staff, I saw my role as chief facilitator. The Negroponte-Hayden dream team was supplemented by three outstanding professionals as deputy directors: Tom Fingar for analysis, Mary Margaret Graham for collection, and Patrick Kennedy for management. Alongside a spectacular deputy chief of staff, Michael Leiter, we set out to build a more integrated and efficiently administered Intelligence Community, with enhanced information sharing as a bedrock principle.[b]

Negroponte was embraced by President Bush into the Oval Office as the chief intelligence integrator over the IC. While Negroponte provided the contours of leadership over the IC, Hayden delivered detailed attention to building a stronger intelligence enterprise. In my inaugural role at the ODNI, I ensured that the office remained focused on delivering integrated analytic products to IC customers, enhanced collection plans, and improvements to management oversight of the IC.

Continuity Lost

Unfortunately, the dream team leadership would not last long. Hayden became the CIA director just one year after becoming the PDDNI. A little more than six months later, Negroponte would depart for the State Department to be the deputy secretary under Condoleezza Rice. The leadership continuity was disrupted and ODNI suffered its first major

a. Formally, the National Commission on Terrorist Attacks Upon the United States and the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction.
b. See contributions by Tom Fingar and Mike Leiter elsewhere in this edition.

setback because the ODNI, at least in its early days, required long-term leadership to instantiate the IRTPA reforms.

J. Michael "Mike" McConnell was sworn in as DNI on February 20, 2007. His military service and intimate familiarity with military intelligence made him a good fit for the position. Shortly after arriving, McConnell asked if I would consider taking the position of ODNI's deputy director for policy, plans, and requirements. The job was particularly attractive as I had long come to appreciate that having established policies and procedures are required to shape and govern the behavior of the IC agencies and offices. Previous Director of Central Intelligence Directives would be replaced by Intelligence Community Directives. Easier said than done. The process for making the revisions would be difficult, as the bureaucracies often resisted changes to anything that IC elements believed eroded their authorities.

The pinnacle policy change came with the roughly 16-month interagency process updating Executive Order 12333, a document which had been in place since December 4, 1981, and which is, effectively, the operating charter for the IC. It was a herculean effort that required all hands on deck at the department and agency levels. The revision of EO 12333 could not have been accomplished without the support of the White House and specifically by Steve Slick, my successor on the NSC staff. President Bush signed the revised order on July 30, 2008. [a]

Addressing Authorities

Returning to my theme of unexpected resistance to change, I am reminded of an adage that McConnell introduced me to upon his arrival as DNI: "Bureaucracies will choose failure over change." What I came to realize is that bureaucracies prefer to go with what they know and what has historically worked for them rather than to take the risk of changing direction toward something unknown and where the outcome is uncertain.

IRTPA introduced a new paradigm by establishing a new oversight entity—the DNI—but the legislation provided little specificity on the exercise of the DNI's authorities. Breaking down the silos within the IC to intelligence sharing was a core mandate emanating from the legislation and in the aftermath of the 9/11 report. Yet turning that mandate into practical policies proved more difficult than necessary because of IRTPA's ambiguities. While the ODNI absorbed the Community Management Staff, which had for years operated under the Director of Central Intelligence, two important new roles fell to the DNI: leading the IC as the chief integrator and serving as the principal intelligence adviser to the president. Both of these roles presented challenges as there was bureaucratic inertia and outright resistance to each area that required painstaking negotiations in establishing the rules of engagement in crafting new ICDs.

Amid the ambiguity of DNI authorities parsed throughout IRTPA in 2004, we were a nation at war in Afghanistan and Iraq. Intelligence support to the warfighter was a "no fail" mission for the IC and the Department of Defense. The battle at times was fierce and unrelenting over authorities concerning the combat support agencies (DIA, NGA, and NSA) resident within DOD. Authority, direction, and control was the core issue in what was often where the greatest friction points took place between the ODNI and DOD. Those friction points during my tenure at ODNI were resolved within the IC policies but compromises did not erase inefficiencies.

The conflicts were a manifestation of distrust among the battling bureaucracies among the large IC agencies. Simultaneously, CIA as an institution, responded to the creation of a DNI as a zero-sum

a. See Stephen B. Slick, "On a Path Toward Intelligence Integration" in *Studies in Intelligence* 65, No. 3 (September 2021).

proposition wherein any authority resting with the DNI was viewed by CIA as coming at the expense of the DCIA and CIA writ large. That view has not changed. Again, through painstaking negotiations, progress was made during my tenure at ODNI by reaching compromises on policies, culminating with the rewriting of EO 12333 during 2007–08.

In the summer of 2010, I left ODNI to serve as DIA's deputy director. I ended my service at DIA, and to the US government, in February 2015 after serving approximately six months as DIA's acting director. During those five years at DIA, I was able to take the experiences of the standup of the ODNI and apply them to one of the IC's agencies. I would describe my tenure at DIA as one in which DIA, while never abandoning its combat mission support to the warfighter, became more committed to serving the greater good of the IC. Information sharing, joint duty opportunities for DIA officers, and integrated analysis became top priorities during those years. In the process, the agency became a strong example of what was intended by promoting intelligence reform, and both DIA and the IC were better for it.

Tasks Ahead

While progress has been made over the past two decades since IRTPA became law, much work remains to be done to fully leverage the law. Significant challenges remain for the IC leadership in building a more integrated enterprise. Promoting joint duty opportunities is still a big challenge as is the need to develop talent across the IC. Reciprocity for security clearances remains an unresolved challenge.

New legislation is not required but an update to EO 12333 is urgently needed to take into account new mission areas such as cyber security, open-source information, and artificial intelligence. Strong and committed leadership is needed atop the ODNI and IC agencies to advance reforms. In addition, the president and the national security Cabinet members also need to provide their support to a Community that is ultimately there to serve them. Time will tell if that commitment becomes evident. ■

Defense Secretary Robert Gates (left) shakes hands with DNI James R. Clapper after Gates received the National Intelligence Distinguished Public Service Medal at the DNI headquarters in McLean, Virginia, May 25, 2011. (Photo: Cherie Cullen/Department of Defense)

Reorganizations: Fun for Some, Misery for Most

James Clapper

Retired Lt Gen James Clapper served as the director of national intelligence (2010–17). He previously served as under secretary of defense for intelligence, director of the National Geospatial-Intelligence Agency, and director of the Defense Intelligence Agency.

Most reorganizations have unanticipated and unintended consequences—particularly those in the federal government—and even more so those shaped through bureaucratic compromise. Dreaded and endured by rank-and-file employees, reorganizations are inevitably championed by the true believers and those who seemingly benefit from them, and persistently resisted by those who come to believe their lot in bureaucratic life is diminished. The Intelligence Reform and Terrorism Prevention Act was no exception. Its creation was complicated, but its impact on the US intelligence enterprise in 2004 was as profound and far-reaching as the National Security Act of 1947 was for the Defense Department. IRTPA was as much a rethinking of intelligence as it was a reorganization.

I've had some unique experiences with IRTPA: first, as NGA director in the aftermath of 9/11 and as IRTPA was created and enacted; as under secretary of defense for intelligence a few years later, and finally as DNI. From those vantage points, I got to see how near-fatal flaws were inserted into the law by those

The views, opinions, and findings of the author expressed in this article should not be construed as asserting or implying US government endorsement of its factual statements and interpretations or representing the official positions of any component of the United States government.

looking to protect their interests and how those flaws were overcome by those looking to work as partners, rather than competitors.

When I became director of NGA (at the time the National Imagery and Mapping Agency) director two days after the 9/11 attacks, the Department of Defense's oversight for intelligence fell to an assistant secretary who was also tasked with oversight and supervision of the disparate functions of command, control, and communications across the department. So, while four of the five large intelligence agencies (DIA, NGA, NRO, and NSA) and eight total defense intelligence components of the IC (now nine with the addition of Space Force) were in DOD, the authoritative voice for intelligence matters on the defense secretary's staff was, comparatively, pretty far down the bureaucratic totem pole.

Knowing that, Defense Department leaders concluded that the imminent creation of the DNI by IRTPA posed a threat to DOD's authorities, and they decided they needed more bureaucratic clout to be on roughly the same level as the DNI. Defense Secretary Donald Rumsfeld—a shrewd bureaucratic infighter—was bound and determined not to be outdone by a DNI. He was quite sensitive about any potential jeopardy to his "authority, direction, and control," particularly over the four national intelligence agencies embedded in DOD. As the IRTPA legislation was being finalized, DOD and its Armed Services Committee proponents in the Congress inserted Section 1018, which, to paraphrase, states that nothing in the act would "abrogate" or compromise the authorities of the respective cabinet departments which had components in the IC—effectively neutering the rest of the act, at least as it pertains to intelligence.[a]

Even before IRTPA was signed by President George W. Bush on December 17, 2004, Sec. Rumsfeld had taken steps to secure DOD's position by creating the position of under secretary of defense for intelligence [now USD(I&S) with the addition of "and Security"]. This position was not mentioned in the law. Rumsfeld appointed Stephen Cambone to this new, elevated position, leading the food fight with the new DNI. Meanwhile, ODNI was flexing its new muscle by exerting its purported authorities, which in the time-honored Washington game of zero-sum, elicited consistent pushback from the department. It was the battle of the general counsel bands in each organization.

Second Hat: USD(I)

After Rumsfeld left DOD, I was appointed as the second USD(I) in April 2007. It was immediately obvious to me that there was a good bit of friction between the two staffs—ODNI and USD(I). As just one specific issue that consumed a lot of staff time, energy, and emotion centered on just who could grant waivers for joint duty credit. This seemingly innocuous administrative authority was important because IRTPA had provisions in it which mandated that IC employees were required to serve some period of "joint" duty to progress to the senior executive ranks. This was patterned after analogous stipulations in the Goldwater-Nichols Act of 1986 for military officers to progress to flag officer rank. Many employees scrambled to get credit for past joint duty, and who could approve such requests for DOD personnel became a matter of serious contention between the two camps.

The new Secretary of Defense Robert Gates, a former Director of Central Intelligence and longtime friend, colleague, and mentor, remarked that if he, Michael Hayden at CIA, Mike McConnell as DNI, and I as USD(I) couldn't solve some of these bureaucratic impasses, then nobody could. I took that as direction, and using the disagreement about joint duty as an opportunity, set about to produce a compromise arrangement whereby the USD(I) would have a "second hat" as the Director of Defense Intelligence on the DNI's

a. See in this issue Senator Susan Collins's discussion of the evolution of the IRTPA.

senior staff. Then, the DDI could be authorized to grant waivers for joint duty credit for DOD people, drawing on the DNI's authority for governing joint duty. All the principals quickly agreed to this proposal, which we memorialized in a memorandum of understanding in May 2007. The MOU was signed, sealed, and delivered in 45 days, which in the government is break-neck speed.

Today, the process for achieving joint duty credit has been honed so it is smooth, routine, and unremarkable. While that accomplishment is noteworthy, the more significant positive impact of the creation of the "second hat" of DDI worn by the USD(I) was that it created a mechanism that could be used in other contexts that work to the benefit of both DOD and ODNI, and for that matter, the IC as a whole.

Retired ADM Dennis Blair, who succeeded McConnell as DNI, further solidified the DDI position by simply including me in his weekly staff meetings. At first this caused consternation among some ODNI staff members, who were concerned that welcoming the USD(I) into ODNI headquarters as DDI really meant they were cozying up to a wolf in sheep's clothing. They were concerned that inviting the secretary of defense's most senior intelligence officer into the DNI's inner circle would somehow compromise his position and preempt staff actions designed to establish DNI's authorities.

I did what I could to demonstrate to the skeptics on the ODNI staff that there was genuine value-added in having a DOD senior official not merely present to observe the meetings, but to be an active contributor. Eventually, I was able to win over most of the ODNI staff, and communication improved across many areas where the lines of responsibility between the IC and DOD crossed. This evolved into a functional—if messy—arrangement that promoted inter-staff communication and fostered integration. After I became DNI in 2010, my successors as USD(I)—Michael Vickers and Marcel Lettre—continued using the DDI "hat," and, of course, I certainly supported their doing so. I think this arrangement still has value and utility today, even though it appears to be dormant.

The NIP: Leverage for the DNI

Although the IRTPA has many flaws, all exacerbated by Section 1018, the one way it does bolster the DNI's authority is to designate the DNI as the manager of the strategic National Intelligence Program, which represents the aggregation of money and manpower for the bulk of the IC—to include the lion's share of funding for the four intelligence agencies in DOD.

Similarly, the USD(I) has responsibility for the Military Intelligence Program within the department, which funds tactical intelligence activities. I always felt it was important that the two staffs work very closely to synchronize these two programs, since doing so made it much easier to defend them before the Congress.

In response, we developed NIP/MIP rules of the road to promulgate some policy tenets governing what would be justified, and hopefully funded, in each program, and, importantly, what we would fund jointly. In both positions, I tried to promote the soundness of consistently following the "that's our story and we're sticking to it" philosophy—both internally across the IC, as well as with the Congress.

Integration: The DNI's Forte

During my six-and-a-half years as DNI, my primary focus for the community was on intelligence mission integration. Particularly among the big intelligence agencies—six including the FBI—it's easy for intelligent, high-performing people with different experiences and perspectives to fall prey to distrust and toxic competition.

Coordination, collaboration, and integration are not natural bureaucratic acts. However, when

each agency remains the steward of its unique tradecraft, bringing those distinct but complementary capabilities together to meet a common mission, the IC has accomplished astounding things. I thought the DNI needed to be the champion to advocate and foster intelligence mission integration.

On an even larger scale, both DOD and the IC are massive, sprawling, complex global enterprises. Overlap and duplication of authorities, which were not cleanly defined in IRTPA, are virtually inevitable. Nevertheless, it is possible for reasonable people to come up with sensible compromises that work and that obviate these conflicts. Similar to the way the agencies relate to each other, these two enterprises bring unique and valuable perspectives to the national security mission.

I always thought the primary focus of the Defense Department in an intelligence context should be support to military operations. Three of the four DOD intelligence agencies are formally designated as combat support agencies. The fourth—the National Reconnaissance Organization—although not formally designated, has always operated as though it were a CSA. Tactical combat support is an area that the ODNI staff is really not positioned to oversee or supervise, and the USD(I&S) staff is better able by virtue of the DOD mission ethos to insure the agencies and service intelligence components robustly support military operations.

In contrast, these agencies are also critical components of the national IC, serving many customers outside DOD. ODNI is, by virtue of its legacy, history, and orientation, much better suited to oversee and supervise these national missions. What all this begs is integration: as much as the two staffs can operate synchronously and on an integrated basis, the better—for DOD, its intelligence components, ODNI, and the nation. The arrangement we have is inelegant and wouldn't pass muster at the Harvard Business School, but it works well because dedicated people have figured out how to make a flawed piece of legislation functional. ■

Capt. Taiwan Veney, cyber warfare operations officer, watches members of the 75th Cyberspace Operations Group, Warfield Air National Guard Base, Middle River, Maryland, June 3, 2017. (Photo: J.M. Eddins Jr./US Air Force)

Integrating the IC's Cyber Security Mission

Melissa Hathaway

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Information warfare is not new, nor is the fact that our cyber insecurity has been growing for nearly four decades. In the 1980s, US cyber capabilities were called information warfare, communications countermeasures, electronic warfare, propaganda, information operations, etc. Using such activities to disrupt, degrade, deny, or destroy could produce strategic effects on the adversary. Russian military theorists called it information confrontation in a technical and psychological manner.

In the early 1990s, I worked on a net assessment of information warfare requested by Secretary of Defense William Perry and conducted by the Office of Net Assessment under Andrew Marshall. The study compared US capabilities vis-a-vis our competitors, acknowledging that the United States needed to understand whether we had a comparative advantage. At that time, the community of military and intelligence personnel working these issues was quite small. What emerged from that study and subsequent efforts was the fact that as the United States digitized more of its critical infrastructures and military capabilities, it would become more vulnerable.

In 1998, President Bill Clinton signed Presidential Policy Directive 63 recognizing this vulnerability. It stated, "because of our military strength, future enemies, whether nations, groups or individuals, may seek to harm us in nontraditional ways including attacks within the United States. Because our economy is increasingly reliant upon interdependent and cyber-supported infrastructures nontraditional attacks on our infrastructure and information systems may be capable of significantly harming both our military power and our economy." It would take another decade before the United States would harness the strengths of the entire government and work to buy down the risk of the previous decades.

In March 2007, President George W. Bush received a briefing at NSA from senior IC leaders responsible for emerging and maturing cyber capabilities and operations of the United States. At the end of the briefing, the president asked what other nations were capable of and what types of cyber operations were being carried out by them domestically against the United States as well as US interests abroad.

Bush understood the situation was not good. Foreign governments, non-state actors, and criminal elements were all increasing their cyber attacks against US information infrastructures and industries with emphasis toward the defense industrial base weapon systems and intellectual property. He wanted recommendations to address the glaring deficiencies, and he tasked then DNI Mike McConnell to coordinate a comprehensive assessment of the problem.

National Cyber Study Group

On April 1, 2007, the DNI signed a memo notifying 20 agencies directing the stand-up of the National Cyber Study Group and requiring each agency to detail a senior executive of cyber intelligence and operations to the project (as authorized under IRTPA). I would lead the team as a "senior adviser" to the DNI.

I had worked with Mike for more than 10 years and I had been working in the cyber mission-space for more than 20. We knew that my job title needed to change. We modeled my title after the National Counter-Intelligence Executive, and the DNI named me the first National Cyber Coordination Executive—effectively a new mission manager.

Using the DNI's authorities, I assembled an unprecedented cross-government coalition to prepare the threat assessment, develop a strategy, identify operational capabilities needed to address the situation, and do so by taking a collaborative and cooperative perspective that recognized the breadth of expertise within and across each organization that had to come together for mission success. I helped the team earn and sustain an environment of trust.

During weekly NCSG meetings, the group of executives we nicknamed Team America engaged openly and collaboratively to learn and understand each other's stated missions, authorities, and capabilities. The goals: identify the strengths and skills of individual organizations to determine how each could best be utilized to form a comprehensive, unified strategy; and use that strategy to effectively confront malicious cyber activities across all sectors to stop what we believed to be an existential threat to the country.

Transparency was critical. To keep everyone connected and informed, we developed a fortnightly update for all agency heads, along with the National Security Council, Homeland Security Council, and Office of Management and Budget. This hyper-transparency was necessary to develop a holistic, integrated vision for the community that spanned defensive, offensive, and law enforcement operations.

On June 30, 2007, McConnell held the first Joint Intelligence Council. Under the IRTPA authorities, the DNI can convene the leaders of the Intelligence

Community and key consumers of intelligence to raise awareness of the existing and emerging threats to the country. The NCSG briefed the extent of the known cyber compromises in the country, including but not limited to: the targeting, penetration, and malicious exploitation of more than 200 companies and suppliers in the defense industrial base, including pre-positioned malicious code in the software libraries associated with the F-35; the targeting and exploitation of presidential candidates' campaign staff, policy papers, and donor lists; the constant reconnaissance and occasional penetration of sensitive government networks; and extensive criminal activity against the financial services community. It was as if the leaders of these agencies were hearing about the cyber threat for the first time. They all agreed that a comprehensive strategy must be pursued and presented to the president swiftly.

On September 20, 2007, NCSG briefed President Bush and Cabinet members at the White House. The NCSG put forth a comprehensive set of options regarding how best to integrate US government offensive and defensive cyber capabilities; how best to optimize, coordinate and deconflict cyber activities; and how to better employ cyber resources to maximize performance. President Bush concurred with the recommendations and ordered OMB Director Clay Johnson to resource the program with a sizable amount of "new" money.[a] The NCSG then became the Joint Inter-Agency Cyber Task Force (JIACTF) and developed and created a unified cross-agency budget submission for Fiscal Year 2008 and for 2009–13, assembling disparate funding sources into a coherent, integrated program.

The budget also addressed some very important and fundamental items for operational continuity and fortification. For example, CIA's cyber program had been entirely funded under the counterterrorism supplemental funding after 9/11, and it needed to be moved into its baseline funding. FBI had a significant shortfall in cyber agents and was operationally standing up the National Cyber Investigative Joint Task Force for law enforcement operations. Moreover, there was a shortfall in CI personnel and capabilities. Finally, there was an infrastructure and modernization gap for the broader signals intelligence enterprise that was under NSA's purview. These shortfalls were all addressed in the Bush administration's budget request.

In January 2008, the strategy and programs were codified in the Comprehensive National Cybersecurity Initiative (CNCI) with the issuance of NSPD-54/HSPD-23. The JIACTF created and presented a statement for the record for every committee in Congress, earning accolades from committee leaders. Members of the coalition briefed members of 110th and 111th sessions of Congress and full committees more than 150 times, crossing jurisdictional boundaries in both chambers. We presented a unified perspective on the cyber threat and the US government operations that were addressing the situation. We highlighted the shortfalls in personnel, operational capabilities, and technologies, as well as IC capabilities and supporting infrastructures needing congressional authorization and appropriation. Congress authorized and appropriated nearly all the funds requested, and CNCI became the first ever integrated cyber program for the government and one of the single largest intelligence programs of the Bush administration.

At this point, the JIACTF—or the cyber mission manager—needed to develop processes, procedures, and reporting mechanisms to drive execution and accountability across the dozens of programs associated with and starting from the CNCI. It was a true cross-cultural and cross-agency execution and system for one mission to address multiple threats. This may have been the hardest to manage, in large part because the executive branch and most notably the IC is not used to having to work

a. In government budget parlance, this means additional funding rather than taking money from one program to create another.

together to coordinate its operations or report on the collective or individual successes or gaps within the mission space. Despite all efforts to be transparent and share resources and credit for the mission, there was still reluctance to share information regarding unique accesses and capabilities with the larger group.

The JIACTF established a quarterly reporting cycle to the president that would highlight the programmatic execution and where there may be legal or policy gaps that were impediments to mission success. The quarterly report also noted where some agencies were not able to obligate and execute funds against directed missions and recommended areas where reprogramming may be necessary. It was the first time the executive branch was held to a standard reporting mechanism, similar to a quarterly report to shareholders.

The ODNI's mission is to lead and support IC integration: delivering insights, driving capabilities, and investing in the future. That mission is hard to operationalize and make effective because when a person (or group of people) must lead a multi-agency mission, the leader or mission manager really must understand the measures and rewards system of every agency to ensure the entire team is recognized and each person has career growth opportunities.

For the cyber mission, this was particularly difficult because the community is not designed to be joint and most agencies will not send their "best" leaders to a joint mission center because they do not want to lose their best talent and detail those individuals to another organization that is outside of their agency's core mission. Furthermore, it would be rare for any leader in the community to know all of the personnel systems and be able to write their performance review, recommend salary adjustments, or nominate detailed personnel for specific recognition awards either within the DNI structure or from their home agency. This is a key shortfall for any multi-agency mission center of excellence.

Second, the cyber mission was a key portfolio that was elevated among both political parties and required extensive briefings to the transition teams. The JIACTF had to ensure that cyber was positioned as a mission priority in the IC, FBI, DHS, DOD, DOJ, and DOE. This required extensive coordination and collaboration to ensure that every agency was using the same language and briefing the importance of the mission, as the threats and capabilities of the malicious actors continued to evolve in sophistication and complexity. While some of this was already done when the single statement for the record was created for Congress, the threat had continued to become more serious in the months leading up to the election.

Lastly, there is a transition period approaching and after a presidential election, especially if the White House changes political parties. The JIACTF had to maintain focus on the mission and ensure a stable and successful handoff to a new president and a largely new national security team. We established relationships and held multiple briefings with both nominee's transition teams. We communicated how important the program was to the national and economic security of the country.

Cyberspace Policy Review

The new integrated cyber program was successfully handed off in 2009. The CNCI became the centerpiece of President Obama's Cyberspace Policy Review and eventually was expanded to include a broader focus on the entire country and the vulnerabilities in the critical infrastructures and services that underpin the economy. There was also a recognition that the commercially based supply chain—the hardware and software that are the backbone of every company and government institution—remained prone to disruption, vulnerable to exploitation, and was being co-opted by malicious actors because those malicious actors recognize that this portion of the

supply chain collectively is a strategic economic and vulnerability of the United States. Addressing this situation was going to require key regulatory bodies to amend the rules and create new market forces to facilitate the fielding of better products and more resilient services in the marketplace.

President Obama appointed Special Assistant to the President and Cybersecurity Coordinator Howard Schmidt to lead and direct the executive branch toward a more unified intelligence and operations, but with a focus on ensuring the resilience of the US critical infrastructures. One of the key initiatives that needed to be accelerated was the connectivity and mission coordination between each of the cyber mission centers at FBI, NSA, CIA, DIA, and DHS to help drive situation awareness and provide actionable intelligence to decision makers and the owners/operators of the critical infrastructures.

Unfortunately, the interagency centers continued to operate in silos based on mission and are understaffed. Despite efforts to move the CNCI forward, the Obama administration was forced to react to multiple, massive counterintelligence breaches—as the Russians call it, warfare in a technical and psychological manner—by Chelsea Manning, Edward Snowden, Joshua Schulte, and others; the breach of OPM that resulted in the loss of over 22 million government personnel security investigation/clearance records; and attacks by Shadow Brokers (2016), a malicious actor that exfiltrated and posted tools and exploits from NSA on Github. These significant violations of the Espionage Act put the United States on a back foot and degraded our capabilities for years.

In 2015, DNI James Clapper disbanded the JIACTF. Rather than continue to improve on it, the DNI replaced it with the Cyber Threat Intelligence Integration Center. Again, using the IRTPA authorities, the CTIIC was set up to integrate cyber threat intelligence to better inform national interests, support national cyber policy and planning efforts, and coordinate an IC-wide approach to cyber collection and investment. However, this center was only tactically focused on ensuring that timely and objective national (cyber) intelligence was making its way into the President's Daily Brief.

The new center was not a mission manager but rather an analytic coordination center of excellence. Moreover, the other centers at FBI, NSA, CIA, DIA, and DHS remained and the community reverted to operate within their organizational remit. The leadership, management, and advocacy functions of the JIACTF were lost. Team America was disbanded.

President Trump largely focused on enhancing the military's cyber operational capabilities. In May 2018, Trump ordered Cyber Command's elevation to a Unified Combatant Command. In August 2018, he signed out National Security Policy Memorandum (NSPM) 13, which delegated key authorities to the secretary of defense to conduct time-sensitive military operations in cyberspace. This empowered Cyber Command to conduct persistent-engagement operations, which recognized that cyber forces must be in constant contact in cyberspace with competitors day to day.

A key pillar to that concept is what defense officials called "defending forward," which involved operating outside US networks to face threats as far away from the United States as possible. This of course required even more exquisite intelligence to inform operations—not only from the US intelligence community, but from our foreign partners as well. The National Defense Authorization Act for FY 2019 codified these operations, deeming them traditional military activities that no longer require special approval from the president.

IRTPA 2.0

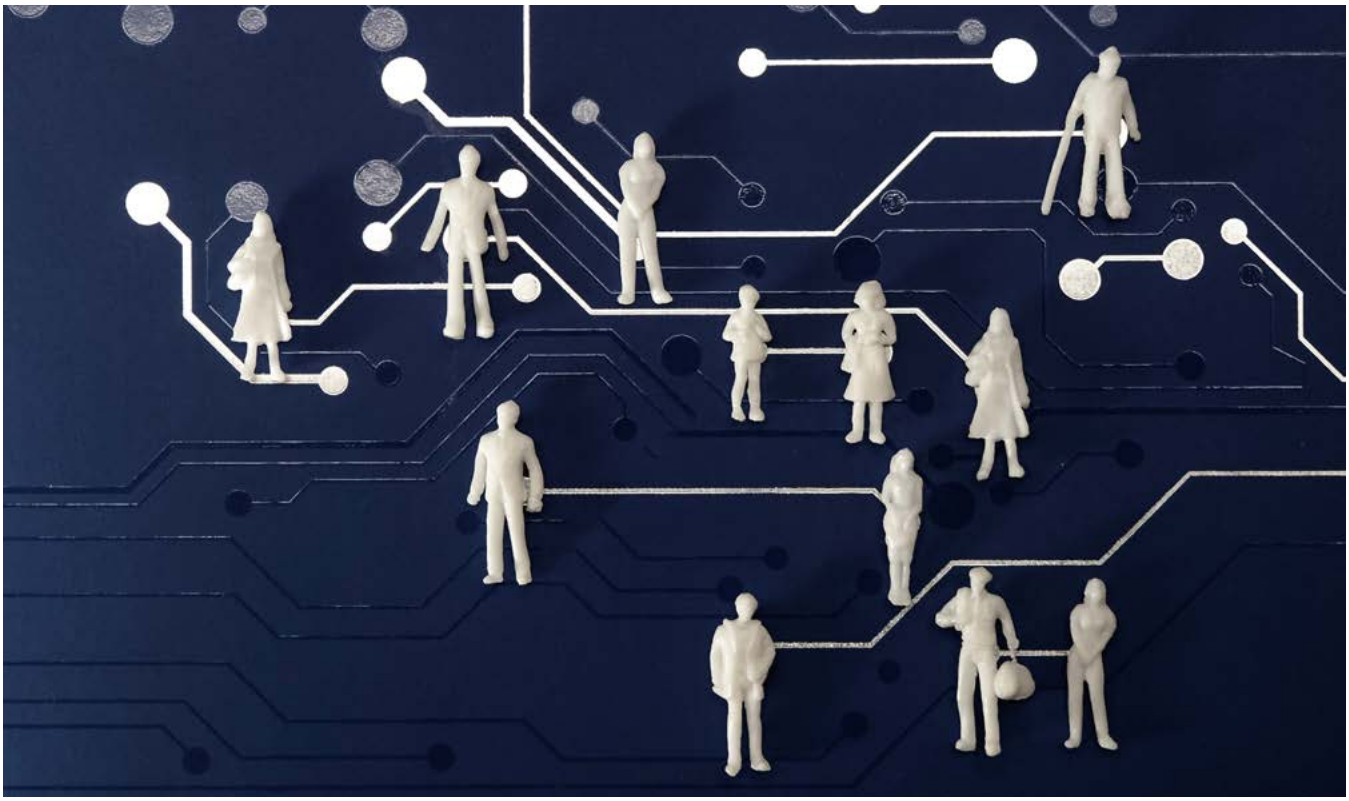
President Biden elevated the cyber portfolio at the White House when he established the position of deputy national security

advisor for cyber and emerging technology under the leadership of Anne Neuberger. Further, the Congressionally mandated Cyberspace Solarium Commission recommended 80 different actions for the executive branch and advocated for the establishment of an Office of a National Cyber Director supported by a staff of at least 70 people to effectively perform the mission of the JIACTF. On April 12, 2021, Biden nominated Chris Inglis, former deputy director of NSA (2006–14), to lead that effort.[a]

While the executive branch continues to struggle with how best to organize the collection of actionable intelligence and out maneuver our adversaries in cyberspace, malicious cyber activities have became more sophisticated, more targeted, and more consequential. It does not stop there; the IC is also observing new tradecraft that blends electronic warfare, with cyber operations, and disinformation to achieve even more devastating effects. Each malicious actor has different levels of skill and intentions; therefore, the country must develop flexible capabilities to understand and counter the activities, but must also focus on resilience.

The ODNI's mission managers and the broader intelligence community must adapt, collaborate, and bring the power of multiple disciplines together to address the situation. The ODNI, because of its comprehensive oversight, budget advocacy, and statutory leader of the IC is the best positioned to lead and manage the community using all of their collective authorities, capabilities, and operational capacity to drive meaningful cybersecurity and resilience of the nation. This is not just an intelligence collection and analysis problem. It is an operational problem too that requires commensurate budget to prioritize programs and provide actionable intelligence to empower the collective defense of our country. It requires resolve, courage, and leadership. We cannot concede to weakness, rather we must rise to the challenge that the ubiquitous digital systems, information technologies, and connectivity that underpin our daily life and global economy are vulnerable and under attack. We must aggressively employ our full spectrum of cyber capabilities to support and defend the nation. Failing to do so is simply not an option. ■

a. Inglis served as the national cyber director from July 11, 2021 to February 15, 2023.



"Connecting the dots" became a catch phrase in the IC after 9/11, but the counterterrorism mission is also about understanding people, organizations, and networks, as symbolized by this image showing connections beween individual figures.

IRTPA and Counterterrorism: More Than Connecting the Dots

Michael Leiter

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Although the Intelligence Reform and Terrorism Prevention Act was motivated by many causes—the failure to assess correctly weapons of mass destruction in Iraq, long-standing coordination challenges between the Director of Central Intelligence and Defense Department intelligence elements, and a lack of coordination between domestic and foreign intelligence organizations—but most of all by the tragedy of September 11, 2001. As a result of these horrific terrorist attacks, political fury, intense lobbying by the victims' families, and a realization that the US Intelligence Community was far from optimized for the new terrorism threat, IRTPA adopted a range of initiatives to forge a new approach to counterterrorism—for the IC and beyond.

As with all such revolutionary steps some worked while others struggled. But undoubtedly,

counterterrorism reform advanced by IRTPA changed how much of the US national security community—and those of our allies—approached the threat that manifested itself on 9/11. What follows is a reflection on both the Intelligence Community and some other key CT reforms that arose as a result of both 9/11 and IRTPA.

Perhaps no catchphrase better captured the motivating theme of counterterrorism reform post-9/11 than the IC's need to "connect the dots." This phrase—for better and for worse—animated much of the reform, because it:

- stressed the need to have a single organization that had access to "all" the intelligence related to terrorism threats;
- highlighted the imperative to reduce organizational boundaries between traditional law enforcement, foreign intelligence, and military intelligence;
- recognized the imperative for a consolidated watchlist that sought to identify all known and suspected terrorists, and that this list be shared comprehensively across varied parts of the US government;
- recognized that the aforementioned efforts needed to be enabled by a more broadly integrated, "joint" counterterrorism-intelligence workforce.

Flagship Reform

If there was a flagship post-9/11 IC terrorism reform, it was the creation of the National Counterterrorism Center. To say congressional authors viewed the NCTC as the centerpiece of reform would be an understatement; I cannot count the number of times Senators Collins and Lieberman proudly proclaimed—appropriately so—to me that they were NCTC's mother and father. NCTC was a hard-wired, organizational solution to the first identified failure of 9/11: no department or agency had all the authority and access it needed to understand fully transnational terrorism threats.

To further stress the significance of NCTC, Congress authorized the NCTC director not only to be Senate-confirmed, but also (admittedly, a very "inside the Beltway" metric of importance) to be Executive Level II—a deputy-secretary equivalent and equal in rank to the CIA director.

Critically, the creation of NCTC was not truly of whole cloth, as pre-IRTPA George Tenet had—in conjunction with the FBI, Defense Department, and National Security Council—created the Terrorist Threat Integration Center. TTIC, which was led by John Brennan, sat within the CIA but included an interagency flavor and had interagency responsibilities, to include modernizing the interagency watchlist (more on this later). But as much as TTIC advanced the notion of counterterrorism collaboration, it was viewed by many as a CIA institution and its fight for relevancy—most notably with CIA's own Counterterrorism Center—were things of bureaucratic legend. Having spoken with Brennan and Jose Rodriguez (then head of CTC) pre-IRTPA, it was readily apparent that as well-intended as the creation of TTIC was, it had done little to solve many of the interagency rivalries that had plagued the IC before 9/11.[a]

Thus, the creation of NCTC was truly groundbreaking, even with its imperfections. To create a new, interagency, mission-focused entity provided enormous opportunity for improvement while of course not putting to rest many of the decades-old interagency rivalries and imperfect allocation of resources across a distributed counterterrorism enterprise.

When I became NCTC's principal deputy director and later its second Senate-confirmed director, NCTC was on the path to becoming an increasingly robust counterterrorism presence. With 300-plus

a. See an interview with then-TTIC Director John Brennan in *Studies in Intelligence*, 48, No. 4 (December 2004). Lightly redacted, it was declassified and released in 2014; see https://www.cia.gov/readingroom/docs/DOC_0005618307.pdf

analysts looking at almost every aspect of global terrorism, chairing secure video teleconferences three times a day for the entirety of the CT community, a 24/7 operations center tracking global threats, and responsibility for maintaining the IC's classified watchlist of known and suspected terrorists, NCTC was a far cry from the early days of a resource-limited TTIC. And with significant cadres of interagency personnel—most notably almost half of all staff coming from the CIA—NCTC's expertise and connective tissue to the most far-flung corners of the CT enterprise was unmatched.

During its early years there were real successes from NCTC. These included:

- coordinating responses to numerous threats in the United States and abroad;
- authoring an increasing number of articles for the President's Daily Brief;
- creating joint counterterrorism products for state and local officials;
- managing and modernizing the watchlist to enable unmatched situational awareness.

All that being said, old habits and rivalries did not magically vanish with IRTPA's passage.

NCTC's Challenges

First, the tug-of-war between NCTC and CTC was—to put it politely—often a running gun battle. Who would write the PDB on the latest threat? Why were resources not allocated in a more coordinated manner? Shouldn't someone other than those supporting operations provide alternative analysis of a particular issue? In truth, too many people were often focused on high-profile work, like tracking al-Qa'ida senior leadership and writing for the PDB, and not enough were spending time on the mundane but likely more significant.

We almost tragically learned this on Christmas Day 2009 when a Yemeni-trained terrorist tried to blow up a plane bound for Detroit. To be clear, although the NCTC-CTC fights were most common, similar challenges existed across the counterterrorism community, given NCTC's new and broad statutory mission. Fully implemented and during a time of enormous resource growth, NCTC was often seen as a threat to others' traditional missions and resources.

Second, although NCTC gained remarkable access to intelligence and certainly had more than any other agency, certain "crown jewels"—whether CIA operational reporting or FBI case information—could be much harder to come by. Some of this was protected for excellent and worth security reasons; some was not.

Third, it took years to help others in the interagency understand why just tracking the latest plot wasn't enough to "solve" the CT challenge we faced. It was absolutely necessary, but not sufficient. Thus, while early in NCTC's life we created what was undoubtedly the preeminent analytic unit on radicalization and extremist messaging, we were for many years speaking into a bit of a policy vacuum. Intelligence analysis is critical but just because one had created NCTC and new capabilities didn't mean that the US government more broadly was well-positioned to action truly outstanding analytic work.

Finally, as a result of IRTPA, NCTC's work was limited to foreign terrorism. This was largely necessitated by a mix of legitimate civil-liberties concerns animating IRTPA's empowerment of the IC, but also in part—at least from my semi-biased perspective—by the FBI being extremely protective of its domestic turf. With the rapid growth of the internet and associated borderless radicalization, what was international and what was purely domestic terrorism? With the rise of other forms of terrorism since 9/11, these rather artificial divisions in a world of ambiguity have continued to cause organizational and legal angst.

NCTC as a Bridge

NCTC served an important role in reducing friction between law enforcement, military intelligence, foreign intelligence, and domestic intelligence, but this IRTPA-driven effort was much broader than any single organization. In the post-9/11 world, rapidly accelerated by the wars in Afghanistan and Iraq, the integration of these previously distinct realms became critical to virtually all counterterrorism. The successes of such integration are truly eye-watering, including rapid exploitation intelligence to drive follow on military and law enforcement operations; leveraging of military-collected biometrics for broader counterterrorism screening; and leveraging law enforcement expertise in military theaters to enable follow on criminal prosecutions.

Another revolution of IRTPA was the statutory requirement to create a "central and shared knowledge bank on known and suspected terrorists and international terror groups," which was to be managed by NCTC. To appreciate fully how revolutionary this is, remember that at least one part of the IC's pre-9/11 watchlist was literally a set of index cards. With IRTPA came NCTC's creation of the Terrorist Identities Datamart Environment (TIDE), which in conjunction with the broader Intelligence Community's collection and analytic efforts, became a names-based (and increasingly a biometric-linked) compilation that was as comprehensive as possible. Equally if not more important, TIDE—which contains classified intelligence—was (and remains) linked to the FBI's Terrorist Screening Data Base, which in turn provides unclassified screening for State Department consular affairs, DHS's border and travel screening, and—quite incredibly considering the complexities of managing tearlines and the like—any police officer in the country who screens an individual against national law enforcement databases.

Needless to say and no different from the other reforms, watchlisting has had remarkable successes and high-profile failures, and it raised very real civil-liberties issues. The successes are rarely mentioned, but the watchlist has undeniably helped identify terrorist travel, more recently revolutionized and streamlined visa reviews, and led to quite incredible operational success from intelligence insights. But as with other names-based systems, the watchlist can lead to (especially in its early days) misidentifications or failure to identify real threats—as was the case for the Christmas Day bomber of 2009—based on a combination of fragmentary intelligence, aged and inadequate State Department information systems, and political pressure at the time not to prohibit all those listed from being able to travel to the United States.[a] Finally, the watchlist continues to be a powerful example of the challenges facing the IC in a world of massively expanding data; both identifying the needles as well as making sure one isn't hindering innocent individuals via watchlisting remains an enormous resource and policy challenge today.

Making Jointness Routine

Finally, for the IC—and in particularly the counterterrorism community—IRTPA ushered in an era of jointness that most now consider de rigueur. I for one, perhaps unlike the other reforms, cannot identify any negative, unintended consequences of what jointness provided to the counterterrorism workforce. The highest profile of these successes is undoubtedly the incredible joint effort that led to the death of Usama bin Ladin. At every stage, an integrated, joint IC leveraged a variety of capabilities to locate bin Ladin, and ultimately that integration and jointness continued with the operational execution of the mission. It was jointness at its counterterrorism best.

But jointness is also about the everyday. Perhaps it is merely

a. On December 25, 2009, AQAP operative Umar Farouk Abdulmutallab attempted to detonate a nonmetallic bomb on Northwest Airlines Flight 253, which was traveling with 289 passengers from Amsterdam to Detroit.

pining for the past, but I very vividly remember my Friday threat briefings at NCTC, where I collected an increasingly large group to walk through all the most significant threats we saw across the globe. Although these briefings started quite small, to talk about the most sensitive operations, we expanded them because so much was going on. By the end, we would jam some 80 officers into a conference room not just to brief me, but to see who else—from their own organizational and personal perspective—had new ideas to pull intelligence threads. One week it might be an FBI analyst who noted that the Bureau might have information on a suspect, and the next week it could be an analyst from NGA who knew of a special collection method. The circle expanded widely, to include entities like the Coast Guard, major police departments, and countless others. And almost every week that jointness brought an insight that we might otherwise never have gained.

Strategic Operational Planning

As much as these reforms changed how CT intelligence worked post-9/11, there was a grander vision for counterterrorism coordination beyond the Intelligence Community in IRTPA. This effort, termed Strategic Operational Planning (SOP), was the NCTC director's statutory responsibility, and given that it extended beyond the IC, in this role the director of NCTC—to virtually everyone's chagrin—reported directly to the president. Even those new to a bureaucracy will quickly appreciate the challenges!

The basic idea behind SOP was to have a government-wide coordinator on counterterrorism once a threat or threats were identified. The idea largely originated with the 9/11 Commission, which noted that before 9/11, when one "declared war" on al-Qa'ida, it wasn't actually clear if anyone was in charge or if resources and operations shifted to the new imperative. Thus, entered strategic operational planning.

What in theory was a clear mandate was in practice vastly more challenging. In different administrations (and with different NCTC directors) the term has meant many different things. Initially, NCTC compiled a detailed and lengthy high-level operational summary of what all of the ways in which the US government would counter terrorism. Comprehensive as it was, it wasn't clear to many how much it actually changed behavior as opposed to simply compiling what was.

With time, SOP became far more tactical, and famous (or infamous?) for "horse blanket" graphics that provided deputies and principals a series of options for a variety of tactical threats and broader strategic campaigns, organized by region, terrorist group, or themes such as radicalization and weapons of mass destruction. Critically, these efforts needed NSC blessing, to allow for the deep dive that NCTC officers did with their interagency colleagues going well beyond the IC. In some instances, these efforts led to rather embarrassing results as they sometimes illustrated that perhaps a department or agency's rhetorical efforts were vastly more robust than the minimal resources that their budgets actually reflected that they had dedicated to the mission at hand.

Measuring SOP's impact was and is tricky, and I admit significant bias on this front, but it is quite clear that it represents a novel and important approach to more effective and efficient government. In this regard, it is the mission-focused equivalent of the entirety of the DNI—no absolute authority to control departments and agencies but at least an effort to optimize the US government's efforts in a sprawling bureaucracy and mission area. Counterterrorism SOP remains one of the few mission-focused coordinators anywhere in the US government and arguably, given both the frequency with which missions extend well beyond a single department and the clear inability of the NSC to perform this function, it is an area that deserves far greater attention.

Looking Ahead

Arguably, in an era of decreasing policy and intelligence focus on terrorism, NCTC may actually become more rather than less important. During my time leading NCTC, the flow of resources to counterterrorism was virtually never ending. In today's radically more resource-constrained environment, there is a clear need to maintain vigilance. To do so, we will need to be vastly more efficient. NCTC might well help provide more global coverage of lasting, new, and emerging threats by rationalizing increasingly scarce resources. Failure to do so risks replaying a movie we have all seen before as priorities shift, and in the world of counterterrorism the movie does not end well.

One area in which this is particularly true is some increasing political resistance to NCTC assisting on domestic terrorism. Although IRTPA is clear that NCTC shall not independently lead domestic terrorism efforts, it also specifically provides for NCTC to assist in such efforts. From my vantage, as the line between "international" and "domestic" is increasingly blurred, we should not shun NCTC from this vital role. NCTC's information, understanding, and ability to break down unproductive institutional boundaries has value beyond purely international terrorism and—as long as the proper legal and civil liberties protections are in place (as I believe they are at NCTC)—we are only hurting ourselves by narrowing the institution's role.

Finally, although the political appetite that existed post-9/11 to radically reform government institutions significantly dissipated over the past two decades, this may well be changing, and for those of us who believe in NCTC's successes, even if imperfect, there is value in evaluating what other missions need an NCTC analogue. Despite the fact that few real-world problems align neatly to a single department's authorities, we continue to try to solve problems using centuries-old organizational constructs. Moreover, as the size and complexity of the US government increases, we continue to rely on what is a rather tiny White House staff to coordinate among agencies in a way that can never truly create an integrated operational effort—let alone create integrated planning, budgeting, and capabilities. From this perspective, what is most surprising is the operational successes we achieve in spite of our organizational dysfunction.

On IRTPA's 20th anniversary, it is easy to forget how much has changed since September 10, 2001. The day before 9/11, some jointness, coordination, and collaboration existed, of course—but not nearly enough to detect and disrupt the hijackers. While IRTPA's reforms were far from perfect, and the post-9/11 environment brought about some degree of improvement without the statutory earthquake, the reforms were an absolutely critical step in creating the organizations and environment necessary for the IC and the broader CT community to find the successes it has over the past two decades. As many often note, we are not perfectly safe (from terrorism or any other man-made or natural threat) but we are markedly safer from the scourge of terrorism because of IRTPA's success—and the success of all those who have worked in counterterrorism since 9/11. ■

One of the core tenets of these reports and legislation was the need to share information across the IC, as well as with the larger interagency and state and local authorities, necessitating investments in IT networks, as suggested by this image of technicians working in a server room.

Driving IT Integration

Patrick Gorman

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At the core of the intelligence cycle of collection, processing, analysis, and dissemination is information which over the years has relied upon sophisticated information technology systems to manage an increasing volume, variety, and velocity of data from the various intelligence agencies. Both the 9/11 and WMD Commissions focused on the need to better share that data, while protecting security and privacy. This article looks at the evolution of information technology in the Intelligence Community, IRTPA's role in driving transformation, and the way ahead as new technologies around AI and quantum take hold.

Since the modern national security enterprise emerged in the mid-20th century, the US IC and the Department of Defense have been at the forefront of digital technologies, including having had a significant role in early innovation in Silicon Valley. As the Cold War advanced, the need for advanced microelectronics and data processing systems were critical for early signals-intelligence and electronic-warfare capabilities.

In that era, the IC drove many innovations in mainframe telecommunications, computing, data storage, and analytic tools, followed by a wave of digital technologies of mainframes, minicomputers, microcomputing, and finally internet technologies.

More importantly, given the sensitive nature of the information collected, the IC took the lead in critical areas of cryptology and what would later be called (after iterations of computer security and information assurance) cyber security. The establishment of the US Communications Security Board in 1953 was an interdepartmental effort to protect US national security systems. In 1967, the DOD-commissioned Ware Report established the foundation of a broader set of computer security controls, including information labeling, encryption, access controls, auditing, secure systems development and accreditation, and storage segregation.[a]

These recommendations became the basis of the Trusted Computer System Evaluation Criteria (often referred as the "Orange Book"), which set standards for protecting classified information and were developed by the National Computer Security Center at the NSA in the early 1980s. To better drive policy and adoption, in 1990 the White House issued National Security Directive 42, which created what is now known as the Committee of National Security Systems to better align DOD and the IC.

As the internet expanded and commercialized with MOSAIC browsers in the early 1990s, DOD and the IC modernized their networks through layered infrastructures based on varying classification levels (e.g., NIPRNET, SIPRNET, and JWICS).[b] Other innovations in the 1990s include Intelink, which leveraged internet technologies to improve information sharing and collaboration across all three layers of classified networks: top security, secret, and unclassified.

Catalyst for Change

In the wake of the 9/11 terrorist attacks and US invasion of Iraq, the resulting review commissions provided recommendations that led to the Intelligence Reform and Terrorist Prevention Act becoming law in December 2004. One of the core tenets of these reports and legislation was the need to better share information across the IC, as well as with the larger interagency and state and local authorities. Two organizations were created within the Office of the Director of National Intelligence to address this: a chief information officer of the IC and a program manager for the Information Sharing Environment.

The IC Chief Information Officer (IC CIO) was deemed so critical to Congress that the position is a presidential appointment subject to the advice and consent of the Senate, one of only a handful of positions to be so designated. IRPTA gave the DNI (and IC CIO) authorities to establish enterprise-architecture and security requirements and standards, to direct all enterprise architecture related procurement for the IC, and to drive integration and develop multi-level security capabilities.

The ISE program manager was established in 2005 to improve terrorist-related information sharing across federal, state, and local government; the private sector; and foreign partners. The ISE shared space was designed as a decentralized, distributed repository of connected systems with a federated query system to provide greater access to terrorism related data. Congress later added WMD and homeland-security information into the mandate.

From Mandate to Action

ODNI sought to further clarify roles, update laws and directives like Executive Order 12333 and the Foreign Intelligence Surveillance Act, and translate mandates into action through

a. Willis H. Ware, Security and Privacy in Computer Systems (RAND Corporation, April 1967).
b. MOSAIC browsers were pioneered by the National Center for Supercomputing Applications in the early 1990s.

a series of initiatives that were designed to quickly drive outcomes and field new capabilities. The initiatives around information technology and information-sharing fell into three categories: policy and directives, architecture and standards, and technology solutions.

The policy and directives work focused on striking a balance between need to know and need to share ensuring that data discovery and access was supported by improved cyber security efforts to protect critical national security data. Intelligence Community Directive 501 established the roles of collection and analytic production stewards in each element whose role was to ensure that all intelligence could be "discovered" through the use of meta data with enough detail so that analysts and operators could find information that was relevant to their mission and request further access. An exemption process was established to ensure that sources and methods were protected if deemed so by the data steward and approved by the DNI.

The other policy bookend was ICD 503, "Intelligence Community Information Technology Systems Security Risk Management," which established the rules for security assessments and security authorizations of new information technology systems. This work was further expanded through the Committee on National Security Systems, a joint DOD-IC effort to ensure greater standardization and harmonization on IT systems that resulted in the National Institute of Standards and Technology Publication 80053A, "Guide for Assessing the Security Controls in Federal Information Systems and Organizations: Building Effective Security Assessment Plans." This work helped enable the concept of reciprocity to better facilitate authority to operate across different agencies. Moreover, the NIST 800-53A standard and its revisions have become the bedrock for the broader cyber security community in the commercial and federal organizations, protecting critical information and national security information and continuing the impact of the IC outside of the national security community.

The increasing importance of big data required greater leadership and direction on data interoperability and standardization so it could be better integrated and analyzed in support of various missions. To that end, ICD 504, "Intelligence Community Data Management," established the IC Chief Data Officer to oversee this effort. The IC CDO was responsible for working with the agency CDOs to implement data tagging, to include legacy electronic data, for the purpose of improving discoverability, accessibility, and usability while protecting security and privacy.

The second role of IC CIO is to drive overall strategy, architecture, and information technology roadmaps for the enterprise. Beginning in 2008, a series of initiatives were folded into what became the IC Information Technology Enterprise. IC ITE was based on a framework of a common platform infrastructure, common back-office design, an applications mall, and a single IC desktop. At the core of this was the adoption of an IC cloud architecture and IC data center that leveraged commercial cloud provider systems (e.g., Amazon Web Services and Microsoft) to ensure that the IC technology base kept pace with commercial innovations.

The third role of the IC CIO was to ensure that real capabilities were being fielded and ensure oversight of major enterprise IT programs and projects (mission-systems acquisition was provided by a separate ODNI office with the IC CIO in a supporting role). These programs fell into four areas: common cloud infrastructure, cross-domain solutions, incident response, and collaborative tools:

- The common cloud infrastructure was started in 2008 with the IC Data Center initiative and detailed out the IC ITE program resulting in an award to Amazon Web Services in 2014. This innovative approach moved from a more traditional siloed infrastructure toward a community-wide cloud that

leveraged best of breed technologies and commercial best practices, greatly accelerating technology adoption, and providing services that more resembled what commercial enterprises and consumers were accustomed to in terms of data access and apps.

- The Unified Cross Domain Management Office (UCDMO) was established in July 2006 as a joint DOD-IC effort for the creation of secure connections between different network domains (e.g., top secret, secret, and unclassified). Before the UCDMO, various multilevel security tools were developed by various services and agencies, creating duplication of effort and inefficiencies.
- The IC Incident Response Center was created to ensure better cyber security operational coordination across the various intelligence agencies who ran their own security operations center and incident response teams. As networks, systems and data become for available across agencies, the IC CIO wanted a mechanism to better understand threats and vulnerabilities, improve shared situational awareness, and synchronized and coordinate actions in the event of a cyber security incident.
- Intellipedia was established in 2006 to create an analytic collaboration environment with the functions of the popular Wikipedia and consisted of three wikis: Intellipedia TS, Intellipedia-S, and Intellipedia-U that were hosted on their respective networks. This provided a space for analysts to collaborate on shared missions and topics.

Looking Forward

The IC has made significant progress in improving the basics in place in terms of policy, strategy, architecture and standards, solutions, and shared infrastructure. However, the next wave of technologies is challenging IT leaders to harness the power of AI, leverage automation for greater speed and efficiencies, and ensure the IC gets the benefit of quantum technologies, both in terms of new capabilities and protecting national security systems.

Artificial intelligence, particularly the domains of generative AI and large language models, presents a significant opportunity for the IC to generate insights from vast amounts of data, both structured and unstructured, and other forms of media. The ODNI established the Augmenting Intelligence Through Machines (AIM) Innovation Hub and developed a strategy in 2019 to guide the community's efforts in AI. However, like previous technology waves of mainframe, client-server, and cloud, AI presents new risks (e.g., data poisoning, evasion, extraction) that must be addressed through new policy guidance, procedures, technology, and training. AI will reshape the information technology landscape, architectures, security and budget in the same way that the cloud transformed how we delivered technology.

Another technology that can help the community become more agile and efficient are business process automation tools. BPA helps to better define, streamline, and orchestrate critical processes in core areas of collection, processing, analysis, and dissemination, as well as in back-office functions. Combined with AI, BPA is a transformational technology that should be harnessed with the AIM Innovation Hub.

While practical applications are still some years out, quantum computing will significantly alter the IC technology landscape over the next decade. It has the potential to solve complex problems and address modeling and simulation challenges that are difficult for classical computing. However, like AI, quantum poses real risks in an adversary's ability to use a cryptanalytically relevant quantum computer. The IC CIO will need to develop a plan to baseline and risk assess existing systems and migrate to quantum-resistant public-key cryptographic system. Given the adversary strategy to "exploit now and decrypt later" this effort must be put on the fast track.

For 70 years, information technology has gone hand in hand with the US national security enterprise. A large part of that success was the close partnership with the private sector, with the government providing core R&D funding and allowing the private sector to scale up new technologies through venture capital investment. Organizations like In-Q-Tel and the Defense Innovation Unit help with these commercial partnerships, but more needs to be done. The barriers, such as the long process for obtaining security clearances, an onerous contract and acquisition process that disincentives private business from doing government work, and a more robust process to secure software for classified networks need to be addressed to ensure the IC can ride the next technology wave. ■

Legislation and presidential direction set the overall framework for authorities and responsibilities, but actual implementation of IRTPA was more frequently a discussion of policy, culture, and organizational change, not an exercise in legal interpretation. (Image: Unsplash)

Legal Perspectives on Creating and Implementing the ODNI

Benjamin A. Powell

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A Question of Authority

Perhaps no other newly created government structure confronted the immediate operational and strategic legal and policy challenges like those faced by the Office of the Director of National Intelligence in its early years. Others in this edition have covered the compromise and jurisdictional turf battles involved with the creation of the DNI structure and legislation, reflecting debates going back many decades. As someone involved in virtually every meeting discussing the DNI structure from concept to implementing legislation to serving as general counsel to the first three DNIs, I would be remiss if I did not offer a few observations on that process.

First, the process was influenced—or hobbled by, depending on your perspective—by the question of

how the national intelligence agencies would be affected by creation of the DNI. Primarily this centered on the question of the DNI's relationship to the Defense Intelligence Agency, National Imagery and Mapping Agency (today NGA), National Security Agency, and (to a lesser extent) National Reconnaissance Office. But developments in 2002 and 2003 had already effectively limited consideration of a full set of options in determining the DNI's authority.

At the request of Secretary of Defense Donald Rumsfeld, in 2002 Congress created an under secretary of defense for intelligence as part of the National Defense Authorization Act for Fiscal Year 2003. [a,b] Rumsfeld followed up the legislation by directing in 2003 that the USD(I) would exercise "authority, direction, and control" over the agencies and would be the "single point of contact" for all other government agencies on intelligence matters.[c]

Any attempt at creating a "Department of Intelligence" that included DOD intelligence agencies under DNI direction would have to confront entrenched opposition from Rumsfeld, Vice President Dick Cheney, and congressional committees with primary jurisdiction over DOD. Ultimately President George W. Bush did not want to pursue such a controversial option and instead chose a path that resulted in the ODNI, with all the compromises and ambiguity entailed in what is essentially a matrix structure. This matrix provides certain responsibilities and authorities to the DNI, while leaving overlapping or other authorities and responsibilities with department heads containing IC elements.

Second, although legislation and presidential direction set the overall framework for authorities and responsibilities, actual implementation of IRTPA was more frequently a discussion of policy, culture, and organizational change, not an exercise in legal interpretation. In some cases, IRTPA may have limited certain options, but that in fact was rare given the lengthy list of responsibilities provided to the DNI, matched with less clear authority. With the support of the DNI, we were careful to ensure that policy issues were not turned into mythical legal issues.

Third, the challenging matrix structure set up by the IRTPA placed even greater emphasis on the importance of the support of the president, the president's senior national security team, and the Congress for a unified national intelligence enterprise. Fortunately, Bush and his team were strong supporters of DNI John Negroponte and subsequently Mike McConnell, and Bush's public and private shows of support for the DNI were critical in the formative years of the ODNI.

Finally, there was no illusion that building a unified national intelligence enterprise would be a short-term project. IRTPA made fundamental changes to the IC that had been discussed—and resisted—for many decades. We expected that progress would perhaps be measured in some cases in years and decades. The DNI, however, did not have the luxury of time to admire problems of organizational structure because it immediately confronted both short-term and long-term critical operational and leadership issues. Legal issues were at the heart of a number of them, and they were not just the typical struggles with organizational structure, budget, authorities, and mission definition. Instead, a number were the subject of intense national controversy and operational importance.

One primary reason for the creation of the DNI was the lack of a single leader pre-IRTPA who could both recognize critical intelligence deficiencies and galvanize the IC and national leadership to address critical issues. The leader

a. https://crsreports.congress.gov/product/pdf/IF/IF10523/10. Stephen Cambone was confirmed as the first USD(I) in March 2003; he served in the position until December 31, 2006.
b. 10 USC 137
c. SecDef Memorandum, April 18, 2003, Subject: Office of the Under Secretary of Defense for Intelligence.

of a department that contained IC elements (like DOD, Treasury, and State, for example) is not primarily focused on intelligence issues; any IC issues compete with the many other pressing departmental issues. The DCI in theory could have fulfilled such a role, and there are some historical examples related to budget and other issues, but as discussed elsewhere in this edition the DCI was tasked with other competing priorities, including the daily challenge of leading the CIA's global activities. No one involved in the creation of the DNI could know how quickly the DNI leadership would be needed or how this theory would be put into practice.

Addressing FISA

A main focus for Negroponte and McConnell was obtaining the authorization and implementation of one of the most important intelligence tools in history: the Foreign Intelligence Surveillance Act. To this day, FISA is critical to protecting the United States from the greatest threats it faces. FISA provides a substantial amount of the daily intelligence informing the president and national security leaders. The operational capability obtained by the DNI in 2008, after almost three years of daily work, from FISA-related legislation remains critical to protecting the country 16 years after its enactment.[a]

Deficiencies in FISA were known since at least 1990, but they remained unaddressed through a combination of ignorance, bureaucratic inaction, and fear of controversy. Without the DNI's leadership to address these deficiencies and obtain new collection authorities, it is highly unlikely these issues would have been addressed and the country would remain significantly more vulnerable to attack. Any history of the DNI must account for this accomplishment, including the massive effort and personal attention it required from the first two DNIs.

Tackling EO 12333

Other legal issues confronting the ODNI were not quite as dramatic, but they played a role in many of the other DNI initiatives. The National Counterterrorism Center and its collocation by 2010 of more than 30 intelligence, military, law enforcement and homeland security networks in one place to facilitate robust information sharing and access to a variety of related databases. This required working through a web of laws, regulations, and guidelines governing the use and distribution of each piece of information. Locating NCTC—and its lawyers—in the DNI enabled a concentrated focus on these issues and made this information-sharing possible.

The rewrite of Executive Order 12333, the "charter" and a foundational legal document for the Intelligence Community, was another challenge requiring involvement by Bush, his national security team, department heads, and IC leaders. This was identified by McConnell as one of his top priorities. Many attempts since 1981 had been made to update EO 12333, and each was unsuccessful. Opening up to discussion the roles and responsibilities of the IC was a difficult subject that would lead to inevitable disagreements in the Cabinet that would require the president to personally resolve, a situation no other administration had wanted to address. IRTPA's changes to the structure of the IC highlighted the need to update EO 12333, and McConnell pushed addressing this foundational legal document for the IC.

Ultimately the ODNI played a critical role in drafting the rewrite of the EO 12333 and working to resolve disagreements over IC roles and responsibilities. This included provisions in the EO enhancing the DNI's authorities, clarifying roles between agencies (particularly in the domestic and foreign spheres of intelligence operations), and aligning the missions of IC elements. As with FISA legislation, the DNI was able to gain the support and personal involvement

a. See also this author's statement before the Senate Committee on Homeland Security and Governmental Affairs, "The Lessons and Implications of the Christmas Day Attack: Intelligence Reform and Interagency Integration," March 17, 2010.

of the president in support of this important initiative.

Numerous other initiatives, discussed elsewhere in this issue, required close teamwork on legal issues with the policy teams. These high priority initiatives ranged from the implementation of joint duty, security clearance reform, deployment of technology in innovative ways, critical work that culminated in Comprehensive National Cybersecurity Initiative, and other classified matters.[a] In each case, the legal approach was to ensure that policy issues did not get turned into unnecessary legal issues. As noted by the WMD Commission, a classic way in the IC to resist initiatives was to declare certain policy options as out of bounds because of unspecified or unexamined "legal" issues.[b] Fortunately, the DNI general counsel's office was staffed with experienced legal officers with a range of intelligence, defense, justice, law enforcement, foreign affairs, and White House experience. This experience enabled in many cases the clarification and narrowing of any "legal" issues so that the maximum range of policy options could be identified and raised for decision. This approach was particularly critical in dealing with a DNI who had many responsibilities but ambiguous authority.■

a. See Melissa Hathaway, "Integrating the IC's Cyber Security Mission" earlier in this special issue.
b. See *Report to the President of the United States, Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction* (March 31, 2005), 335.

Civilian joint duty in the Intelligence Community was inspired by the US military's joint-duty requirements under the Goldwater-Nichols Act of 1984, often referred to "purple"assignments, as suggested by the IC seals on a purple field.

Commentary: Creating a True Culture of Collaboration Through Civilian Joint Duty

Michael Hayden, Michael McConnell, Michael Richter, and Ronald Sanders

Retired Gen Michael Hayden served as the director of CIA and NSA and as the principal deputy director of national intelligence (2005–7). Retired VADM Michael McConnell served as the director of national intelligence (2007–9). Michael Richter served as the ODNI Civilian Joint Duty Program manager (2006–8). Ronald Sanders served as the IC chief human capital officer (2005–10).

Introduction

The Intelligence Reform and Terrorism Prevention Act of 2004 established the Office of the Director of National Intelligence and, among other things, required the DNI to "make service in more than one element of the Intelligence Community a condition of promotion to such positions within the Intelligence Community as the Director shall specify." In addition, the law provided that the DNI "shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities." In short, the

IRTPA required the new DNI to replicate "to the extent practicable" the strategies and policies of the US military's joint duty program, as that program had been codified in title IV of the 1986 Goldwater-Nichols Department of Defense Reorganization Act and subsequently operationalized in DOD policy and regulation.

At first blush, that mandate would seem to be clear and unequivocal, replicating the successes of the US military in creating an institutional culture that supports "joint" (or interagency) operations, but other parts of the IRTPA—especially Section 1018, which expressly protects the authorities of Cabinet secretaries—muddy that water. This article reviews the efforts undertaken by the authors to deal with that ambiguity. We include a set of recommended improvements that would, in our view, fully fulfill IRTPA's promise, even if that comes at the expense of some departmental personnel authorities.

Our bottom line is simple: We strongly believe that the IC civilian joint-duty program is one of the most critical keys to a more coherent IC's ability to collect, analyze, synthesize, and communicate all-source intelligence in an integrated way with respect to events of national security interests around the globe. And further, we believe that it could (and should) become the standard for the rest of the federal government's senior services.

Pre-IRTPA Activities

It has been two decades since the IC tried in earnest to implement a true civilian joint-duty program as described in the IRTPA, explicitly patterned after the one pioneered by the US military almost two decades before. A version of the CJD program, known as the IC Officer Assignment Program (ICAP), was established by a DCI directive on February 4, 2000, and managed by the Community Management Staff in the years before the IRTPA. But it had no teeth—i.e., no forcing function like a prerequisite for senior promotion—and thus failed. Few within the IC saw the ICAP as a pathway to promotion. In fact, many viewed it as a detriment to their careers, recognizing that staying within their own agency and reporting to those who actually had the power to promote them was a more certain way to achieve their career objectives, which were almost always internal to their home agency.

When the IRTPA established the ODNI in 2004, it provided a stronger, statutorily sanctioned platform for this critical program, but joint duty had to compete with other IC-wide human capital priorities. In that regard, the IC's workforce had been sorely neglected in the decade leading up to the terrorist attacks (and the wake-up call) of September 11, 2001.

Thus, the IC suffered through a thousand pinpricks wrought by mundane fiscal challenges during the 1990s, not from deliberate, sweeping changes in the IC's mission and funding, but rather from much subtler things like unfunded pay raises for military and civilian members that ultimately had the effect of nonprogrammatic cuts. After all, the money had to come from somewhere, and like so many US government agencies, the majority of the IC's budget was devoted to personnel and operations. So, unallocated operations and maintenance funds were simply redirected to pay for the many unfunded mandates imposed on the IC. The net result: hiring freezes, haphazard staff reductions, and a less capable workforce. And it was not necessarily directed at the IC; rather, this was a fate suffered by virtually all federal agencies.

Thus, in the days after 9/11, when President George W. Bush declared a global war on terror, the IC could not field a US government cadre of military and civilian employees with the capacity (i.e., the numbers) or the capability (e.g., skills, like the ability to speak Arabic) to accomplish its newly expanded counterterrorism mission. The only saving grace was that on 9/11, much of the IC's mission was being accomplished by contractors, most of whom (fortunately) were former IC employees and annuitants inculcated with a strong IC mission ethos.

The IC was unprepared on September 12, 2001, and one of the first priorities of the new ODNI was to fix that with an unprecedented surge in hiring, training, deployments, and the like. Those classic human-capital functions included other IRTPA-driven challenges, like increasing the diversity of the IC's workforce, not only because that was the right thing to do (it was) but because that was what was required of a globally deployed workforce, many of whose employees worked under cover. But the ODNI's main challenge was creating a more cohesive, collaborative culture. One of the cornerstones of that cultural transformation was the IC's CJD program.

IRTPA and Beyond

As noted, perhaps the ODNI's most difficult challenge was the overarching requirement to create a true "culture of collaboration" amongst the heretofore almost completely independent IC agencies (especially the CIA, FBI, and NSA) via the intermingling of employees through interagency rotations and the like, while not disturbing the traditional personnel authorities—including the reassignment of employees and the ability to make senior-level promotions—of the cabinet secretaries that "owned" these agencies.

The IC's strategy was modeled after the US military's solution to a similar cultural challenge, imposed by the Goldwater-Nichols Act of 1986: That is, to require one or more interservice ("joint") assignments as a prerequisite to promotion to flag-equivalent rank. Congress believed that a similar approach would help break down the IC's intra-agency personnel stove-pipes that had become so evident to the various commissions that had evaluated the post-9/11 IC. Thus, the IRTPA mandated some form of CJD ("to the extent practicable") and did so based on two conclusions: (1) that the IC had failed to detect and prevent the terrorist attack on 9/11 and had incorrectly assessed Iraq's WMD programs in the runup to the US invasion; and (2), one of the reasons for these intelligence failures was the lack of information-sharing and collaboration between and among the nation's intelligence agencies.

Section 1018

However, Section 1018 of the IRTPA also declared the DNI must implement the law in a manner that "respects and does not abrogate" the statutory responsibilities of the departments, including the long-held power to select civilians for senior leadership positions. Section 1018 led to months of wrangling over such seemingly mundane but critical details as who could grant a waiver to the IC's new civilian joint-duty requirement.

Sec. 1018. Presidential Guidelines on Implementation and Preservation of Authorities

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, including, but not limited to:

(1) the authority of the Director of the Office of Management and Budget; and

(2) the authority of the principal officers of the executive

departments as heads of their respective departments, including, but not limited to, under—

(A) section 199 of the Revised Statutes (22 U.S.C. 2651);

(B) title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.);

(C) the State Department Basic Authorities Act of 1956;

(D) section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)); and

(E) sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code.

Those details, nestled amid the ambiguity of the law, made the design and implementation of a JDA program much more problematic, despite the irony that very few senior IC leaders actually disagreed with the concept of IC-wide civilian joint duty. However, that conceptual agreement was clouded by the tactical zeal of their lawyers to preserve their departmental independence.

The disagreements regarding how to reconcile this contradiction became so challenging that, at one point, the ODNI requested that the White House intervene and simply, deus ex machina, end the debate by directing the IC what to do. The White House instead directed ODNI to work it out. It did so, but not without much handwringing, and the IC CJD Program was thus eventually laid out in IC Directive 610, almost four years after the IRTPA had been passed (and two years into the existence of the ODNI).[a]

ICD 610 was officially issued in May 2007 by McConnell in a formal ceremony attended by Defense Secretary Robert Gates, Homeland Security Secretary Mike Chertoff, Joint Chiefs Chairman General Peter Pace, Attorney General Alberto Gonzales, and Deputy Secretary of State (and former DNI) John Negroponte. Thereafter, agency officials in the IC collectively began referring to that ICD as a "treaty" that codified their voluntary commitment to the program without explicitly compromising on their independent statutory authorities. They finessed the waiver issue by requiring that the DNI "coordinate" on IC senior executive promotions made by those same departments—including DOD, under the aegis of the position of Director of Defense Intelligence—thereby ensuring that senior selectees met the interagency assignment criterion established by ICD 610 without technically compromising on departmental authorities.

We emphasize that this was and remains discretionary, dependent on the relationships between the IC's seniormost leaders—a voluntary, multi-departmental agreement and not something established by law. Goldwater-Nichols, in stark contrast, implemented a DOD-wide military joint duty program within one cabinet department; it covered uniformed members who, unlike most IC civilians, could be ordered to take an assignment. Thus, given the deliberate ambiguity of the IRTPA, interagency consensus on this issue was (and remains) fragile.

Implementing IC Civilian Joint Duty

Thereafter, the program made slow but steady improvements through 2011 as it tried to strike a balance between a more controlling, centralized IC-wide policy and the historical independence of IC agencies, all of whom (except CIA) were and still are embedded in their respective departments, under the protected authority of their respective cabinet secretaries.

However, none of us wavered from the desired end-state of the program. As codified in the IRTPA, the goal was always to create a senior IC leadership cadre that almost without exception had completed one or more interagency assignments and thus provided a joint (i.e., interagency) perspective and the personal, trusted relationships that came with that. In so doing, the CJD program was intended to connect the dots of all-source intelligence at a very personal level, to mitigate if not eliminate intra-agency stove-pipes, and to bring the full might of the IC's arsenal to bear against our nation's hardest targets.

Even before the issuance of ICD 610, the DNIs Negroponte and McConnell along with PDDNI Hayden established an

a. ICD 610 was presaged by a memorandum of agreement (MOA) between Defense Secretary Gates and one of the authors of this article, DNI McConnell. The voluntary nature of that MOA is perhaps best underscored by its final statement: "The MOA does not alter the statutory responsibility or authorities of either the secretary of defense or the DNI but will provide a framework to ensure a seamless integration of critical intelligence efforts."

aggressive three-year timetable for implementation, starting with the IC's most senior career positions—that is, direct reports to agency heads. That plan was also supplemented by DNI McConnell's 100-Day Plan, which emphasized full implementation of military-style civilian joint duty. In fact, the very first bullet of the plan's announcement on September 13, 2007, stated that the "ODNI has issued instructions (that is, ICD 610) to implement an IC civilian joint duty program patterned after the successful one utilized in the US military. The program requires civilians to complete at least one assignment outside their home agency as a prerequisite for promotion to senior rank."[a]

McConnell supplemented his 100-Day Plan with a follow-up 500-Day Plan that also featured the civilian joint duty requirement prominently. This focused effort and attention on the IC CJD program, thereby providing the senior leadership attention necessary to overcome the challenging legal footing of the program. In our view, given the law's ambiguities, direct focus from the seniormost leadership of the IC was, and is, essential to its success.

Notwithstanding these substantial challenges, the good news was that at the time of ICD 610's issuance, many incumbents and successor candidates for those most senior positions in the IC already had some form of interagency assignment and would qualify for joint-duty credit under a more formal, DNI-sanctioned policy. However, that was sheer good luck, and ODNI officials, including the authors here, worried about institutionalizing that "jointness" throughout the entire leadership development pipeline, especially given that the program was so dependent on the relationships among the IC's most senior leaders.

That said, faced with early (and substantial) departmental and agency resistance, largely the result of Section 1018, the ODNI's initial efforts met with limited success. Described by one agency head as a "post and pray" competition for talent, it required an agency to first identify a vacant position that it was willing to fill via joint duty assignment. That assignment was posted on various websites, and it then triggered two separate, sequential competitions, first within each individual home agency to provide a voluntary nominee for the vacancy, and then by the agency that first identified the opportunity, to select the best qualified person from amongst those agency volunteers (the security clearance and funding implications of these individual transactions were formidable and just added to complications involved; however, they are beyond the scope of this article).

It also bears emphasizing that the program faced yet another practical contradiction: it required home agencies to give up their best people to another agency for up to two years, Naturally, that is exactly what any agency would resist because they want to keep, not give away (even temporarily), their best personnel. Note there that while Goldwater-Nichols immediately (and dramatically) changed this mindset in DOD, that was decidedly not the case in the IC.

This initial attempt at an IC-wide CJD program, although in accordance with Section 1018, simply did not work, at least not very well. It took far too long (just describing it is exhausting), especially at a time when the United States was in the middle of a war and facing the other daily challenges presented to the IC. Thus, speed was of the essence, and this legal (and relatively nonthreatening) approach was just too complex and time-consuming.

At the working level, ODNI staff and the IC components tried to agree on lists of internal agency positions that would qualify as interagency in nature and thereby qualify for joint credit. One senior IC leader at the time characterized these meetings as among the "worst bureaucratic knife fights"

a. ODNI News Release No. 20-07, available at https://www.dni.gov/files/documents/Newsroom/Press%20Releases/2007%20Press%20Releases/20070913_release.pdf.

he had seen in 30 years of federal service. ODNI, trying to build an interagency workforce, was incented to take a narrow view of these assignments, granting credit only where the assignment was truly "out-of-body" in nature. However, conversely, departments and agencies tried to identify as many of these creditable positions as possible. This naturally resulted in intense disagreements, not only with ODNI, but also among the agencies.

Largely because of the IRTPA's contradictions, the entire process was stalled. In addition, it was procedurally dependent first on individual agencies voluntarily identifying a joint duty opportunity, and secondly, on individual employees voluntarily applying for that opportunity (and thus qualifying for subsequent senior promotion), whether or not their agencies saw them as potential leaders. More substantively, it was delayed by an impasse over Section 1018's reach.

In that regard, it should be noted that historically, interagency assignments, both temporary and permanent—especially between cabinet departments—were rare, in large part because of the personnel and budgetary independence traditionally (and legally) afforded individual cabinet departments and executive agencies. As a result, the Office of Personnel Management basically left individual employees to fend for themselves. In other words, that process was not managed. So, the ODNI was bound to face hurdles, and the early, post-and-pray model was one of them. In contrast, the military managed that process with the authorities afforded by Goldwater-Nichols, albeit with a process that had its roots in law, and that had, in stark contrast to the IC, implementing authorities expressly vested in a single cabinet secretary, the secretary of defense.

The 2007 Refinement: The Military's Managed Model

As previously noted, it took a change in senior political leadership—in DOD and within the IC—to shift from this laissez faire post-and-pray model to one that was more in the tradition of the US military, especially when it came to enforcement.

Perhaps the most important aspect in that regard was the aforementioned MOA (see footnote 6), struck by McConnell, Gates, and Clapper, to designate the latter as the Director of Defense Intelligence. The DDI would have a seat at the IC executive table and the authority (subject to coordination with the DNI) to waive the IC civilian joint duty requirement in a particular senior promotion. This compromise is documented quite eloquently in Clapper's article elsewhere in this edition and has been briefly referenced here, so we will not detail it again. However, as he emphasizes, it was that personality-driven handshake, dependent almost entirely on the trusted relationships between the leaders then in place, that opened the door to a much more coordinated IC CJD program.[a]

Of course, while that compromise had its roots in the oft-frustrated efforts of DNI Negroponte and PDDNI Hayden (who had risen through the Air Force under Goldwater-Nichols), it was also dependent on McConnell's vision as DNI, which was built on their foundation as well as his own Goldwater-Nichols–governed career. For example, in an early speech to a CIA audience in the agency's iconic auditorium known as the Bubble, he outlined a vision for an IC CJD program that closely tracked Goldwater-Nichols—that is, a program with the teeth of coordinated DNI regulation and enforcement—that seemed to capture the energy of senior CIA officials in the audience. And while it was speeches like that, across the IC, that led to the voluntary "treaty" and the 100- and

a. As far as the authors know, this authority has never been utilized, but it underscores the importance placed on it in the ODNI's early efforts.

500-Day Plans referenced above, that agreement could not have happened without Negroponte's earlier efforts.

In that regard, we note that those personal relationships were just as strong (if not more so) than the ambiguous language of the IRTPA, and that was what led to a more effective and more managed—albeit voluntary—approach to CJD, the very first such effort in the federal government to cut across cabinet department lines (and their inherent statutory authorities).

Uncertain Future

However, in our view, that approach has retrenched, with the IC CJD program once again taking on a more decentralized approach, with individual IC agencies left to establish most policy and program specifics. For example, under the current decentralized model, some of the IC's largest agencies—like the National Geospatial-Intelligence Agency—have opted for a more centralized, military-like career management approach, while others, like CIA, seem to have reverted to their previous, more agency-centric stove-piped model. The result has been a program that widely varies across IC agencies and increases the risk that dots of intelligence will not be connected.

We offer this only as an observation, not a criticism, as there is no single right way to approach an unprecedented program like this. However, whether by design or default, we also believe that that laissez faire approach has fallen short of the vision engendered by the IRTPA—that is, the establishment of a more coordinated interagency (or joint) approach to the development of the IC's senior civilian officer cadre (executive as well as technical).

Nevertheless, one thing has not changed: the IRTPA-based requirement that a joint assignment serve as a prerequisite to the promotion to senior officer (that is, to the civilian equivalent of a flag/general officer) ranks, no matter who the selecting official may be. However, how someone meets that requirement remains unsettled. So too does the issue of waiver authority, resting as it currently does in the aforementioned treaty-like MOA and ICD, rather than in law.

The result is that by default, the IC seems to have devolved to the old "post and pray" model, and as far back as 2017, several agency heads—particularly those in undesirable locations and/or with especially challenging missions—have raised concerns about the quality of the voluntary applicants they were able to attract for IC CJD assignments using that model. Their concerns led them to recommend that the DNI commission an independent study of the program.

We are not privy to that study's report and recommendations, but we have been briefed on them, and we believe that they did not go far enough to achieve the results desired by the IRTPA. We have shared that observation with most recent (now retired) USD(I&S) and the directors of NSA, DIA, and NGA, and in so doing, we have taken the liberty of outlining below some of the recommendations that we believe would improve the program. These concerns and recommendations follow.

Toward a More Effective, Coordinated Program

Much like our endorsement of a more coordinated, coherent approach in 2008, our recommendations would recast and refine the current IC CJD program to achieve its true (albeit implicit) purpose more effectively: that is, as an IC-wide leadership development strategy, rather than a voluntary, square-filling exercise. In other words, it should be designed to ensure that the IC's senior *leadership cadre* has substantive interagency or equivalent experience.

That means that participation in the program should not be left to volunteers who self-select for JD assignments that would ultimately qualify them for senior promotion. Rather, key JD assignments, especially those at and above the

GS/GG-13 level, should focus on individuals who have already been identified (e.g., through open competition, promotion boards, performance evaluations, and other measures of leadership potential) as having the likelihood of being part of the IC's senior leadership cadre. Note: being part of that pool would in no way guarantee selection to senior executive rank, but rather, only that individuals would be developed, evaluated, and if appropriate, become eligible for promotion to senior officer rank. And even that does not guarantee them selection, only consideration.

There is probative evidence that such a coordinated approach will work. For example, in late 2008, the most career senior administrators in the IC—typically an agency's associate deputy director equivalent—along with their senior HR and Equal Employment Opportunity executives), met at the CIA's Scattergood-Thorne conference facility to discuss individual agency succession plans. In an exercise of unprecedented trust, each agency revealed its top leadership depth chart (i.e., individuals with the senior leadership potential to succeed their bosses), as well as those on that list who needed an interagency assignment to satisfy that relatively new requirement, and they then proceeded to trade their most talented leaders-in-waiting among themselves to satisfy that requirement.

The net result was exactly what the IRTPA had envisioned: top leadership cohorts that had IC-wide points of view acquired via one or more interagency assignments (and the trusted relationships that came with it). So, the process can work. Unfortunately, the Scattergood exercise was a one-off event, and while it proved that the individual IC agencies could, under the stewardship and coordination of the ODNI, work together to jointly develop their top leaders, much like the divisions of a top corporation do, our recommendation that that process be institutionalized has so far fallen on deaf ears.

To that end, we recommend that each IC agency should develop and submit for DNI approval a comprehensive leadership succession plan that covers its senior positions, both managerial and technical, at GS/GG-13 and above; identifies individuals who have successfully competed for inclusion in the leadership succession pools (i.e., the depth charts referenced above) for those positions; catalogs the diversity of those who comprise those pools; and describes the developmental strategies (including interagency assignments) that the agency will undertake to prepare them for their next posting.

In addition, we believe that those agency plans should be rolled up by the IC chief human capital officer (under the PDDNI's and Deputy Executive Committee's direction) to create a master IC leadership succession plan. Again, this is what private sector companies do; indeed, CEOs and boards of directors spend a good bit of time moving the (human) chess pieces around to maximize overall mission, and we advocate the same. Note however that IC plans should focus on succession pools that are based on open competition, as a way of ensuring diversity and equal opportunity for access.

We also believe the IC must create a Senior Executive Management Office in ODNI and in each of the intelligence agencies, patterned after the military's General Officer Management Offices (GOMOs) in each armed service's headquarters, and reporting directly to the PDDNI and his or her equivalents, to gather and track key performance data, develop policies and practices to ensure that quality candidates apply to be part of succession pools, and coordinate the execution of agency succession plans, as well as the IC's overall succession strategy. The military services' GOMOs typically include the development and deployment of flag-equivalent civilians, treating them as more or less interchangeable with many flag-rated positions, and these may serve as models.

Conclusion

The important point to take from all of the above is individual and institutional leadership matters. Notwithstanding the language of IRTPA, the IC needs a formal, centrally coordinated interagency

assignment policy and program that prepares its seniormost leaders—not just in ODNI but in all of the other 17 agencies that comprise it—to lead in a more collaborative and more integrated IC-wide environment. In other words, it needs a true leadership development/succession management strategy, one that makes such an interagency (and equivalent) assignment a prerequisite for promotion into one of the IC's several senior services.

That means something with teeth—a forcing function—that rivals those the defense secretary enjoys with the armed services: Simply put, if someone wants to lead in the IC, whether it's in a technical or a managerial position, then they should have completed one or more out-of-body experiences in the process.

We all agree that such a prerequisite is essential. However, whether it will ever by established by law is another matter. That would require reopening IRTPA— no easy task. We are left with regulatory and administrative solutions—for example, IC-wide and/or agency directives, or perhaps even an amendment to the EO 12333 that governs the IC. Given IRTPA's ambiguity in some areas, what is most important is also the most intangible: an unequivocal commitment to jointness by the IC's senior leadership. That ought to be at least one of the criteria that presidents and their appointees apply in choosing the next generation of IC leaders. ■

IRTPA's Broad Impact: CI, Law Enforcement, and Counternarcotics

Counterintelligence: Changing Landscape, Unprecedented Threat

William Evanina

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The United States faces counterintelligence threats of unprecedented sophistication and persistence from nation states, cyber criminals, and hacktivists. The landscape of these challenges has changed dramatically in the 20 years of the IRPTA's existence. Corporate America and academia have become the new CI battlespace for our adversaries, especially China. Cyber has merged with CI threats to become one of the main vectors perpetrated by nation-state actors and their intelligence services.

Today's CI landscape grows every day with new and sophisticated tools, techniques, and surface areas of attack for our adversaries. The 2020–2022 National Counterintelligence Strategy of the United States of America, prepared by NCSC and promulgated

IRTPA's Broad Impact

Year	Organizational Change
1994	National Counterintelligence Center established
2001	Office of the National Counterintelligence Executive (NCIX) established
2002	50 USC 401 directs the ONCIX to produce, on an annual basis, a national counterintelligence strategy
2004	As a result of IRTPA, NCIX moved into newly established ODNI
2005	First *National Counterintelligence Strategy of the United States* is approved by President George W Bush
2006	Joel Brenner appointed as NCIX
2009	Robert Bryant appointed as NCIX
2014	National Counterintelligence and Security Center established, combining NCIX, Center for Security Evaluation, and National Insider Threat Task Force; William Evanina is appointed as director
2015	Congress makes director of NCSC subject to the Appointments Clause.
2020	Evanina confirmed by the Senate as director
2021	Michael Orlando appointed as acting director
2023	Michael Casey appointed as director

Under the Office of the Director of National Intelligence, the National Counterintelligence and Security Center is Congressionally designated to facilitate the strategy and policy of our nation's counterintelligence apparatus. NCSC was created in 2014 to be a center within the ODNI that combined the Office of the Counterintelligence Executive with the Center for Security Evaluation, the Special Security Center, and the National Insider Threat Task Force. This effort effectively integrated and aligned counterintelligence and security mission areas under a single organizational construct. Since 2015, the director of NCSC, dual-hatted as the National Counterintelligence Executive, has been a Senate-confirmed position.

by President Donald Trump on January 8, 2020, set five priority pillars for the CI community:

- Protect the nation's critical infrastructure
- Reduce threats to the US supply chains
- Counter the exploitation of the US economy
- Defend American democracy against foreign influence
- Counter foreign intelligence cyber and technical operations

When Congress enacted the Counterintelligence Enhancement Act in 2002 or 20 years earlier when President Reagan signed Executive Order 12333, none of the above pillars were CI concerns nor even parts of the deliberative process. The CI community was primarily the CIA and FBI (where I spent 24 years as a Special Agent), and espionage was the greatest concern, coming on the heels of Robert Hanssen, Aldrich Ames, and others who betrayed the nation. Additionally, the CI community then had not considered the concept of nontraditional nation-state intelligence collectors and cyber operators.

Blurred Lines

Threats to critical infrastructure, protection of our supply chain, malign foreign influence, and cyber and technical operations emanate with few exceptions from our nation-state adversaries' intelligence services and/or rogue criminal entities supported by those same intelligence services. This overlap creates analogous blurred lines in authority and responsibility of US federal agencies combating these foreign efforts. No specific federal

entity has authority, jurisdiction, or strategic planning on the threats manifested every day in our nation. The most difficult part of this landscape is that the majority of the CI activities seen in the United States are manifested within corporate America and academia. The theft of trade secrets and intellectual property has become a significant strain our economy and holistic CI defensive efforts.

Cyber and ransomware threats, combined with the consistent, if not growing, insider-threat epidemic facing our nation, creates a modern view of counterintelligence. CI is no longer just catching spies from adversarial countries; it's not just espionage and counterespionage. Granted, catching spies in the US and around the globe is still an important role for the intelligence and law enforcement entitles. However, counterespionage it is just a small portion of "countering" the intelligence collection efforts from our adversaries.

Numerous foreign intelligence officers continue to collect intelligence and attempt to recruit US citizens and identify the plans and intentions of US leaders to benefit their home countries. They primarily work from within their respective embassy complex. However, the increasingly problematic and costly threat to our nation is asymmetric, via nontraditional collectors and cyber capabilities; this requires a radical strategic shifting of our nation's strategy, resources, and commitment to defend, deter, and defeat this threat.

The CI lexicon has also dramatically expanded in since the creation of IRPTA with the development of the private sector as the new battlespace for this aggressive and nefarious behavior by Russia and China and their intelligence services. The emergence of Wikileaks has added the genre of "hacktivists" to the ever-evolving counterintelligence threat. Hostile intelligence services continue to attempt to recruit US government and military personal to spy. This concept, which has evolved into today's insider-threat problem, has dramatically affected our government and military apparatus in the past 20 years.

Economic espionage has blossomed the past 20 years as well. The impact, just from an economic espionage perspective, is that the US economy loses upward of $400 billion to $600 billion per year from the theft of trade secrets and intellectual property just to the PRC. This equates to upward of $6,000 per year for each American family of four, after taxes. This does not consider the economic and reputational damage due to cyber breaches and data exfiltration. Meanwhile, PRC companies such as Huawei, ZTE, as well as Russia-based Kaspersky, among others, conduct legitimate business in the United States but also serve as intelligence collection platforms for their host country's intelligence services.

Grave Threats

The existential CI threats to our nation emanate from the PRC services, which are the most complex, pernicious, strategic, and aggressive our nation has ever faced. The US private sector, academia, research and development entities, and our core fabric of ideation have become the geopolitical battlespace. The Ministry of State Security, People's Liberation Army, and the United Front Work Department drive a comprehensive and whole-of-country approach to their efforts to invest, leverage, infiltrate, influence, and steal from every corner of US success.

The PRC also employs its intelligence services along with the strategic and programmatic efforts of science and technology investments, academic collaboration, research partnerships, joint ventures, front companies, mergers and acquisitions, and outright theft via insiders and cyber intrusions. Beijing also continues to utilize nontraditional collectors to conduct the plurality of their efforts in the US, hiding in plain sight. Engineers, businesspersons, academics, researchers, and students are shrouded in legitimate work and research. The nontraditional collector can also become an unwitting tool for PRC intelligence while innocently participating in

business or academia in the United States.

In conclusion, it is hard to image that when IRTPA was created, and subsequently serving as an organizational umbrella for CI, that such a landscape transformation would occur to include the sophistication of tools and expansive resourcing by our adversaries.[a] ■

a. For a retrospective on CI, see John Ehrman, "What Are We Talking About Now, When We Talk About Counterintelligence?" *Studies in Intelligence* 68, No. 1 (March 2024).

IRTPA and the FBI

John S. Pistole and Valerie E. Caproni

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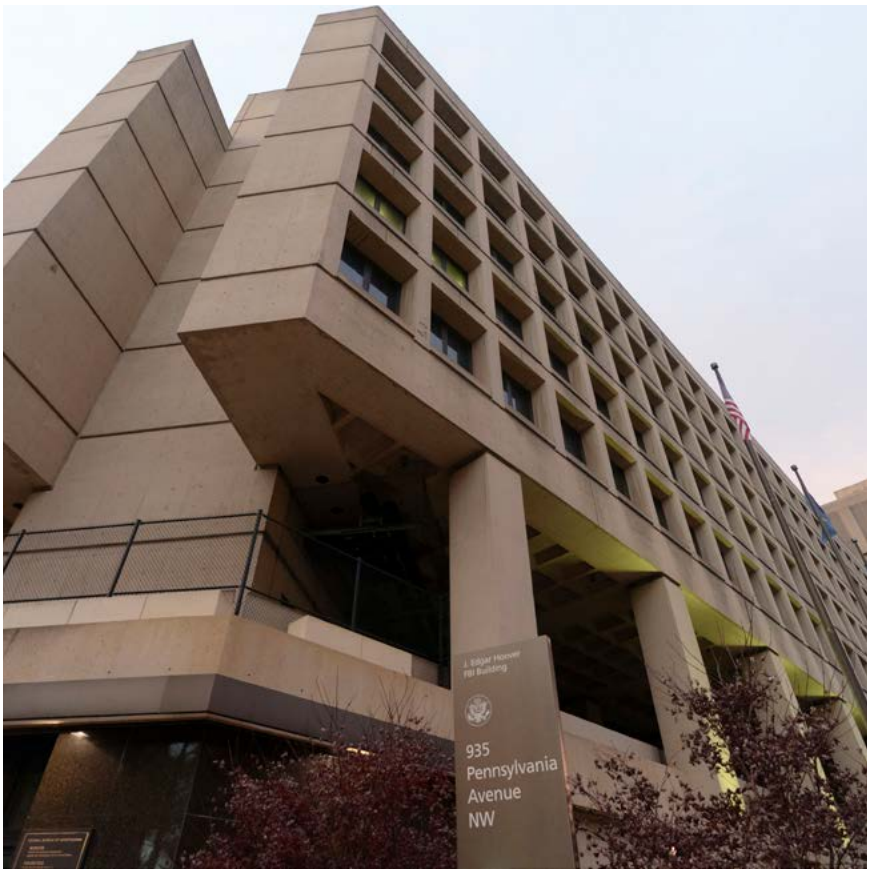
Before and After 9/11

This essay cannot be a history of the FBI, but the FBI's history is important in understanding the Bureau that existed on the morning of September 11, 2001, and appreciating how it transformed itself, with assistance from IRTPA, into a key member of the US Intelligence Community, while remaining the preeminent law enforcement agency in the country. Since its founding in 1908, the FBI has had the responsibility of enforcing federal laws, ranging from classic crimes like bank robbery and major thefts, to its later role (even before the National Security Act of 1947) of protecting the country from intelligence threats, both homegrown and those emanating from overseas. That responsibility includes international and domestic terrorism, as well as more than 300 other crimes and intelligence matters.



J. Edgar Hoover FBI Building

That said, before 9/11 and IRTPA, the FBI was primarily viewed, both inside and outside the agency, as largely a reactive law enforcement agency; when a crime occurred, the FBI could quickly deploy large numbers of well-trained special agents and others to gather the evidence, ascertain the individuals who were responsible, and pursue those people through the use of standard law enforcement techniques until sufficient evidence had been developed to arrest and prosecute the responsible persons.

But the FBI also had counterintelligence and counterterrorism responsibilities. In fulfilling those obligations, the FBI acted more like a national security agency and member of the IC; arrests and prosecutions were not the goal of the investigations. Those missions were, however, dwarfed by the FBI's law enforcement mission. While agents working CI and CT interacted with the larger IC, agents in those roles were a small percentage of the total workforce, and analysts in similar roles were also small in number.

Breaking Down the Wall

For reasons that are well beyond the scope of this article, over the years, policies and practice had built a divide, which DOJ dubbed "the Wall," between those two missions and had imposed limits on the circumstances in which the FBI could collect information inside the United States. Attorney General Guidelines as well as orders from the Foreign Intelligence Surveillance Court had erected barriers to the ability of agents working intelligence investigations to seamlessly share that information with agents working on criminal investigations. Those rules became the metaphorical wall that hobbled the FBI's ability to use all of the tools in its toolbox to keep the country safe, and it came under intense scrutiny and criticism when information sharing difficulties became widely known after 9/11.

The Patriot Act in 2001 was the first sledgehammer to the Wall.[a] That act eased many of the legal restraints on information sharing, including with respect to information that was gathered as part of an intelligence investigation through use of the Foreign Intelligence Surveillance Act. While dismantling the Wall and easing restrictions on information sharing were important benefits of the Patriot Act and of policy changes made at DOJ and FBI in its wake, those changes alone could not transform the FBI overnight into an intelligence-driven organization that operated comfortably both as a law enforcement agency and as a member of the IC.

The FBI's challenges went beyond legal and policy constraints. Many FBI employees who were ostensibly intelligence analysts had not been trained to be analytic, and their work was mostly tactical, not strategic. Special agents who were ostensibly both collectors of intelligence and investigators took pride in the latter but weren't trained to appreciate the unique value of the former. In addition, they were culturally resistant to taking direction from analysts. The statistics that measured success for special agents were arrests and prosecutions, not published intelligence products or information gathered outside of the parameters of an investigation. The FBI's information technology infrastructure was barely ahead of where it was in J. Edgar Hoover's time. Most employees did not have desktop access to the internet or classified connectivity to employees in other components of the IC.

Against that background were studies from numerous entities, many of which culminated in suggestions for how the FBI could improve.[b] But also against that backdrop were many who believed that the FBI was hopelessly locked by history and would never be able to change its culture to being intelligence-driven rather than reactive. That group vocally supported breaking the FBI apart into a domestic intelligence organization, without law enforcement powers (analogous to MI5 in the United Kingdom), and a law enforcement entity without domestic intelligence responsibilities.

By the time we became general counsel and deputy director in 2003 and 2004, respectively, the FBI had undoubtedly made significant progress toward becoming an intelligence-driven agency with law enforcement powers that was well-integrated into the IC. The FBI had partnered with the CIA, the recently created Department of Homeland Security, and other agencies to establish the Terrorist Threat Integration Center, designed to improve information sharing within the IC. The CIA and FBI had improved bilateral cooperation by reworking the memorandum of understanding that

a. Formally, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001.

b. To name a few, the Joint Inquiry into Intelligence Committee Activities Before and After the Terrorist Attacks of September 11, 2001; the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission); and an Office of the Inspector General of the Department of Justice report, "A Review of the FBI's Handling of Intelligence Information Related to the September 11 Attacks."

governed their respective operations domestically and overseas.

Moreover, the FBI had established an Office of Intelligence, headed by a career intelligence officer, to improve the process of collecting and disseminating intelligence. It had also established a reports-officer cadre to facilitate timely dissemination of intelligence both within the FBI and to the IC. Field Intelligence Groups (FIGs) had been set up in all of the FBI's 56 field offices.

The FBI had tripled the number of counterterrorism intelligence analysts and significantly increased the number of Joint Terrorism Task Forces throughout the country to better facilitate information sharing with our local, state, and tribal law enforcement partners. It had begun the process of reworking its training program, both for intelligence analysts and for special agents, to better enable the workforce to understand the critical importance of collection and information sharing and to maximize the synergies between the two positions. Finally, the Bureau had begun the process of creating career paths for agents and analysts in subject matter specialties (e.g., counterterrorism, counterintelligence, criminal, cyber).

Although substantial progress had been made, there were lingering challenges. As a member of the IC, the FBI received collection priorities from the IC, but the Office of Intelligence could not require collection necessary to respond to the priorities. The analytic approach and collecting intelligence against priorities was a mission not fully embraced by the workforce. And, although the Wall had been significantly reduced in importance, there remained Attorney General guidelines that distinguished between what the FBI could do in criminal investigations and what it could do in intelligence investigations, creating what some saw as career traps for the unwary.

Responding to IRTPA

With IRTPA came significant structural changes to the FBI. The Office of Intelligence was upgraded to a directorate and was combined with the CI and CT divisions into a single National Security Branch (NSB) that reported to an executive assistant director. Using the resources and talents of the Directorate of Intelligence, the EAD-NSB was, in turn, responsible for intelligence collection, processing, analysis, and dissemination. That occurred under the joint guidance of the attorney general and the DNI.

The DI was given responsibility for developing intelligence requirements and a collection management process that managed the transmission of national and FBI requirements to the field. The structure of the FIGs was standardized throughout the country and the reporting structure was changed to ensure the FIGs reported to a senior executive responsible for intelligence matters.

At the same time, other divisions, including the newly created Cyber Division, began to embrace the notion of having intelligence inform and drive their investigations. Those divisions began to use intelligence, national security, and law enforcement authorities seamlessly, and they became more comfortable sharing information more robustly with the IC, even if it related to traditional law enforcement investigations, and early enough to have meaningful conversations with partners about disruption opportunities that might include but were not solely focused on law enforcement action.

The FBI changed its philosophy on how it collected intelligence. Historically, the FBI gathered intelligence through its case-driven investigations. Under the guidance of the DI, the FBI shifted to collecting information pursuant to the intelligence cycle to achieve a comprehensive understanding of threats within each field office's geographic responsibility, and contribute unique intelligence on national-level priorities.

Collaboration within the IC and support to policymakers were enhanced by detailing FBI employees to other IC agencies and by increasing participation in the interagency process. The FBI expanded its analytic investment

in the National Counterterrorism Center, with multiple analysts and special agents assigned there. It also created and expanded the scope of the National Joint Terrorism Task Force at FBI Headquarters to increase and improve information sharing with law enforcement partners. FBI analysts have served as National Intelligence Officers, as directors on the National Security Council Staff, and as director of the ODNI's Cyber Threat Intelligence Integration Center.

Legacy of IRTPA at the FBI

Our knowledge of the current state of play at the FBI is necessarily second hand, as we have both been gone for about a decade; we are grateful to current FBI management for its input into this section.

The implementation of IRTPA forced the whole FBI to learn how to share intelligence with other agencies that have a need to know; and with partners in industry, academia, and state and local governments who are on the front lines of many of today's threats. The FBI can now take classified intelligence and turn it into useful information that can be disseminated at the unclassified level. It would have been unfathomable in 2004 for any FBI division to have written dozens of intelligence products in one year. But by 2023, the FBI was regularly disseminating hundreds of analytic intelligence products at both the classified and unclassified level, many of them coauthored with at least one other US agency.

As noted above, FBI's Cyber Division was created at about the same time as IRTPA, so it has grown and developed almost entirely in the post-IRTPA environment. As such, it provides an interesting case study of how the FBI has learned to work effectively as a member of both the global law enforcement community and the IC.

The FBI's current cyber strategy focuses on imposing costs on this country's cyber adversaries; the goal is to make it both harder and more painful for hackers to succeed. Central to that strategy is working with private sector, law enforcement, and IC partners to develop joint, sequenced operations to maximize the impact of disruptions. The FBI did so in early 2024, for example, when it and its IC partners, using IC and law enforcement authorities, forcibly evicted Russian military hackers from more than a thousand compromised routers belonging to unsuspecting victims in the United States and around the world. IRTPA created the foundation for the close interagency relationships and intelligence-driven investigations that were critical to that successful operation.

Many within and outside the FBI saw IRTPA as FBI's last, best chance to remain a single unified organization with law enforcement and domestic intelligence responsibilities. The changes IRTPA mandated were, nonetheless, viewed skeptically by many and required deep cultural shifts in an organization that had proud traditions. It is fair to say that, in our opinion, IRTPA achieved its goal, overcame the concerns of the skeptics, and allowed the cultural shifts to take hold and to create new proud traditions. We believe the FBI is in a better position now than it was pre-IRTPA, even in the face of difficult headwinds, to achieve its mission of protecting the American people from all threats, foreign and domestic. And to do so while upholding the Constitution and respecting the civil rights and civil liberties of all Americans.

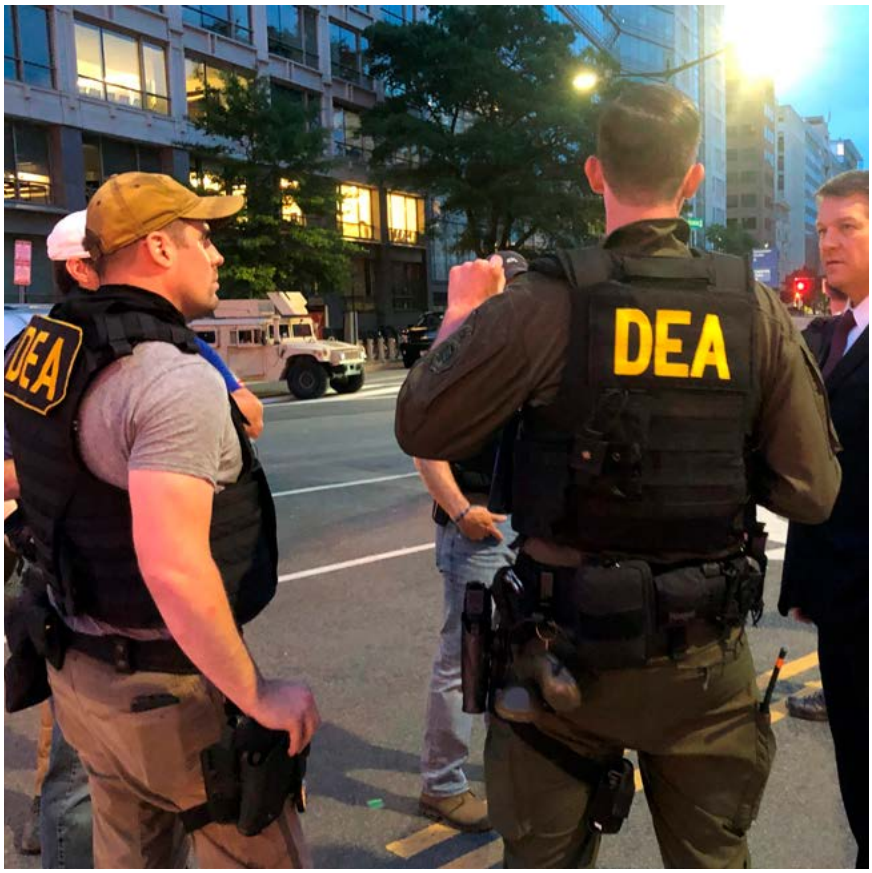
Most encouraging to us is that the FBI acknowledges their work is not over. In February 2024, Director Wray publicly announced a new Five-Year Intelligence Program Strategy to better position the organization to stay ahead of increasingly complex threats and a shifting operating environment characterized by a deluge of data, technically savvy adversaries, ubiquitous technical surveillance, disinformation, and competition for talent. The Strategy identifies technology, training, and tradecraft (both HUMINT and analytic) as key levers to enhance the integration of intelligence functions across the FBI and ensure the FBI maximizes its unique set of legal authorities as a law enforcement and intelligence agency. ■

IRTPA and Drug Enforcement

Barry Zulauf

Barry Zulauf, PhD, is a senior ODNI executive on a joint duty assignment as the DIA defense intelligence officer for counternarcotics and transnational organized crime. He previously served as the IC analytic ombudsman and chief of Analytic Integrity and Standards.

Just as 9/11 changed the world and altered the trajectory of so many lives and careers, it changed my personal and professional life. The resulting passage of the Intelligence Reform and Terrorism Prevention Act, which shaped today's Intelligence Community, compelled me to come back to the IC from drug law enforcement, gave me the ammunition I needed to bring the Drug Enforcement Administration back into the IC, and led to a new phase of my career in analytic integrity and standards for the IC.



A DEA team at work. Photo © Associated Press

From Naval Intelligence to Drug Law Enforcement

After my earlier career as a civilian naval intelligence analyst and in uniform as a naval intelligence officer, on September 11, 2001, I was serving in the DEA. At that time, DEA was not part of the IC. As part of our investigations of drug trafficking in Afghanistan reaching back into the 1990s, DEA had reported on traffickers' ties with the Taliban and Usama bin Ladin himself. We argued that this reporting pointed to the need to bring together intelligence and national security capabilities across the government, particularly between the IC and law enforcement. The pre-IRTPA IC wasn't well organized to do that.

On 9/11, I was at work in DEA headquarters across I-395 from the Pentagon. We witnessed the plane smash into the Pentagon, narrowly missing our building. At the time I was still a reserve officer, and my place of duty was in the Pentagon. If that had been a drill weekend it would have been me. Another narrow miss. Incidentally, 11 September is my birthday and I had planned for a birthday brunch later that morning with my friends in the Pentagon. Another narrow miss. I took all that very personally and decided that day to get back into the IC myself and try to bring DEA with me. Easier said than done.

DEA Rejoins the IC

The fateful events of that day started a five-year effort to bring at least part of DEA—the Office of National Security Intelligence—back into an IC transformed by IRTPA. DEA witnessed the rushed creation of the Department of Homeland Security in the immediate wake of 9/11 and strove mightily to stay out of it, preferring to remain a small, focused drug law enforcement agency. We saw early plans for creation of a DNI and intended to avoid it.[a] The story of that five-year effort is for another time; let's skip to the end, the part where IRTPA helped ease DEAs return to the IC.

Negotiations between DEA, the attorney general, the National Security Council, and the DCI—then still the leader of the IC—had taken from 2001 to late 2005, along the way securing congressional approval. The process of bringing DEA back in the fold, which had begun literally the day after 9/11, had still not come to a conclusion when IRTPA went into effect in December 2004 and the DNI took over leadership of the IC. Among the first things that DNI John Negroponte and CIA Director General Michael Hayden did was to meet with DEA Administrator Karen Tandy and Chief of Intelligence Anthony Placido (and me) to seal the deal.

Bringing DEA into the IC was the first use of the DNI's joint designation authority under IRTPA. I had the honor to serve at the first acting head of the ONSI. The actual instrument is the joint designation signed by Negroponte and Attorney General Alberto Gonzales. Other members of the IC had been created by statute (e.g., CIA with the National Security Act of 1947 and the CIA Act of 1949), or by presidential order, as with President Harry Truman's creation of NSA. Other members have since been brought into the IC by joint designation, e.g., Space Force Intelligence.

Thanks to IRTPA, ODNI had all the machinery in one place to integrate DEA into the IC, such as membership in coordinating bodies like the National Intelligence Analysis and Production Board and Community HUMINT. DEA's intelligence program did what it could to improve connections with the IC and provide higher quality analysis on the drug–terror nexus, aided materially by the early incarnations of ODNI's office of Analytic Integrity and Standards led by Richard Immerman, Deputy DNI for Analysis Tom Fingar, and National Intelligence Council Chairman Chris Kojm.[b] Those contacts, especially with DDNI/A, would prove formative for my later career with ODNI.

After bringing DEA into the IC, I was bought over to ODNI, first at the National Intelligence University and then AIS, where I became the chief. In that role, I was also designated by the DNI as the IC Analytic Ombudsman. From those assignments comes my possibly parochial view that the most far-reaching changes brought in by IRTPA are not the structural ones, but rather those dealing with analytic tradecraft to be implemented in large part through AIS. I would argue that more important than structural changes for the fundamental way that intelligence professionals work were the handful of little-noticed but far-reaching provisions of ITRPA having to do with tradecraft. From where, though, did these tradecraft provisions in IRTPA come?

9/11 and Iraq WMD

Unique in the history of IC legislation, IRTPA included specific language on analytic integrity and objectivity, i.e., analysis that is free from any direct subjective influences resulting from human experience, interpretation, or bias. These, of course, stem from the IC's failure to anticipate and prevent the 9/11

a. DEA had been moved once before into the IC by President Jimmy Carter's Executive Order 12036. DEA spent five years arguing to get out, which it did under President Ronald Reagan's EO 12333, according to this author's interview with then DEA Administrator Peter Bensinger.

b. See Tom Fingar, "From Mandate to Results: Restoring Confidence and Transforming Analysis," elsewhere in this edition.

attacks and to accurately assess Iraq's WMD programs. Among the consequences of those intelligence failures were exhaustive studies by blue-ribbon commissions to identify the problems and identify recommendations to fix them.

First, the 9/11 Commission report placed emphasis on analytic integrity and the need for a set of analytic standards.[a] The commission examined the failures that were seen as leading to the terrorist attacks on the United States. The report called for the creation of a single director of national intelligence, more intelligence sharing, better coordinating an integrating intelligence across all intelligence agencies, and the creation of a national counterterrorism center. More important, in my view, is that the 9/11 Commission found there was a "lack of common standards and practices across the foreign-domestic divide in the IC," with CIA, NSA, DIA, and others on one side and law enforcement elements on the other. Without a common set of standards, intelligence analysts could not speak clearly to one another and couldn't be properly understood by our customers, nor were they clear about what they knew as fact and what they assessed. As important, the WMD Commission[b] examined the degree to which there were perceived and real intelligence failures in the runup to the 2003 invasion of Iraq. The commission found many of the IC's prewar judgments about Iraq's weapons of mass destruction program were flawed:

> *We conclude that the Intelligence Community was dead wrong in almost all of its pre-war judgments about Iraq's weapons of mass destruction. This was a major intelligence failure. Its principal causes were the Intelligence Community's inability to collect good information about Iraq's WMD programs, serious errors in analyzing what information it could gather, and a failure to make clear just how much of its analysis was based on assumptions, rather than good evidence. On a matter of this importance, we simply cannot afford failures of this magnitude.c*

Against this backdrop, IRTPA gave the DNI the responsibility for making sure that the IC considers alternative views and is not rushing to a single judgment. Section 1017 explicitly requires analysis of alternatives, precluding starting with a pre-selected answer, such as one intended to suit a particular policy preference, and only selecting evidence to support it. The second provision, Section 1019, lays out the standards in outline form, while Section 1020 established an ombudsman for analytic integrity.

IC Directive 203

In addition to the statutory requirement, analytic standards today are also guided by Intelligence Community Directive 203, administered by ODNI's Office of Analytic Integrity and Standards. Analytic tradecraft standards are covered extensively in analytic tradecraft training courses: understanding sources and methods, explaining uncertainties, distinguishing between what's intelligence and what's a judgment, and analyzing alternatives. What is taught in these training courses is straightforward. The tradecraft standards are presented as a statutory requirement, as well as an ethical responsibility.

Intelligence delivered too late to help the decisionmaker is of no value. There's an old joke that 100-percent accurate intelligence is probably just history. By the time you get perfect information, the window for getting it to the decisionmaker is closed. Based on all available sources of information means that analysts can't cherry-pick the information that they think suits their analysis. Nobody in the chain of command can require you to put together intelligence analysis based on only a certain set of information, even if that is somehow going to be preferable to customers or other decisionmakers.

a. Formally, the National Commission on Terrorist Attacks Upon the United States.
b. Formally, the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction.
c. Laurence Silberman and Charles Robb, cover letter, Report to the President of the United States, March 31, 2005

IRTPA's Broad Impact

It is trite to say that IRTPA transformed the Intelligence Community in the 20 years since the legislation was passed. From my view, looking back on 37 years as an intelligence professional, IRTPA made possible bringing drug law enforcement intelligence into the IC, along with my beloved Office of National Security Intelligence. As important as that move was in the war against terrorism funded by drug trafficking, it is even more vital today, with more than 100,000 Americans dying each year from fentanyl and other synthetic opioids. IRTPA grounded the intelligence profession much more firmly than ever before in the standards of analytic integrity. Intelligence professionals everywhere can see the transformation in the way we do intelligence. ■

The CIA Headquarters Complex, 2004. (Photo: CIA)

In Their Own Words: Views from CIA

Joint Interview with Michael J. Morell and Andrew Makridis

Interviewed by Joseph Gartin

Michael J. Morell was deputy director of CIA during March 2010–August 2013. He was acting director of CIA from July 2011 to September 2011 and November 2012 to March 2013.

Andrew Makridis served as head of the Weapons and Counterproliferation Center of CIA and as CIA's chief operating officer. He also served as Associate Deputy Director of CIA for Science and Technology.

Editor's Note: This interview was conducted by *Studies'* Managing Editor Joseph Gartin on September 23, 2024. It has been edited for length and clarity. The interviewer's questions are in italics.

We're here to talk about IRTPA, the Intelligence Reform and Terrorism Prevention Act of 2004, which by design had pretty profound effects on CIA, including on the Director of Central Intelligence's leadership of the Intelligence Community, the CIA's relationship with the president and other customers, and what we came to refer to as the lanes in the road on issues like counterterrorism. Before we jump in, though, for the benefit of our readers, can you orient us to the arc of your careers and your intersections with the Office of the Director of National Intelligence and the effects of IRTPA.

In Their Own Words

Michael, could we start with you? You were with President George W. Bush on 9/11, and the following year you joined the then-Directorate of Intelligence front office as an associate deputy director for intelligence. So, you had a front row seat on pivotal issues of the day—al-Qa'ida, Iraq, among others. And then from a variety of roles, you watched IRTPA unfold.

MM: Yes, but even before that, I had a ringside seat into the al-Qa'ida issue pre-9/11. I ran the President's Daily Brief for two years. I was seeing everything that President Bill Clinton was seeing on terrorism and al-Qa'ida. Then I went to work for George Tenet as his executive assistant, and I saw how obsessed he was with al-Qa'ida and all that he was doing to drive the CIA and the Intelligence Community.

You mentioned George Tenet and the leadership of the Intelligence Community. I think it would be fair to say that there was both great impact by that DCI leadership of the Community and yet there were limits of what the DCI could do. How did you view that at the time?

MM: I never saw George get frustrated at not being able to get what he needed from the IC. And to be fair, there were only a handful of agencies that he really needed—the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office. The rest were important in their worlds, but not critical to strategic intelligence and keeping the president informed. There were certain legal limitations to what he could do. But he was so mission oriented that people wanted to follow him. If he picked up the phone and called Mike Hayden at NSA, for example, Hayden would follow because George was so focused on the mission and, as the president's intelligence adviser, George could say, "The president needs this." That's power.

Director Richard Helms said, "You have to be in the room." It sounds like a lot of that authority of the DCI pre-IRTPA came from the innate leadership of the CIA director and his relationship with the president.

MM: Absolutely. And George was a special person, with special leadership skills. So, maybe with a different director, it would have been different.[a] Maybe I would have had a different experience. Maybe I would have seen frustration. Tenet was a great leader, and that included not only leading people at CIA, but also leading people throughout the Community.

Those early years —2004–2006— were fairly tumultuous. I want to read a short quote from your book because I think you really get that at the heart of the conversation and those early years of implementing IRTPA. You wrote, "Inside the CIA, the view was that the DNI was demanding changes that were either duplicative of what CIA was already doing or were actually putting the country at some risk. And there were many issues to be worked out, and there was a fight over almost every one of them."[b]

MM: In terms of CIA's view of this, let me say two things. CIA opposed the creation of the DNI. Remember, everybody except the 9/11 families were against this. They really drove this. The Bush administration was against the DNI. In that debate period, the views at CIA were, "We don't need this. This is not necessary." And that rested on two arguments. One was the DCI has the authorities he needs. There's not a lot of frustration about not being able to get the Community to support the strategic mission.

The other was that any problems that existed and that contributed to—not caused—9/11 had been solved in its immediate aftermath. The relationship between the FBI and the CIA, for example, that was a result of law and regulation and norms and behaviors, those were gone within days and weeks after 9/11. To be fair, CIA's

a. For a survey of the performance of all past DCIs in this respect see CIA contract historian Douglas F. Garthoff's book *Directors of Central Intelligence as Leaders of the U.S. Intelligence Community, 1946–2005* (Center for the Study of Intelligence, 2005).
b. Michael Morell with Bill Harlow, *The Great War of Our Time: The CIA's Fight Against Terrorism from al-Qa'ida to ISIS* (Twelve, 2015), 125.

opposition to the creation of the DNI was based not only on what I just said, but it was also based on a view that we're at the top of the heap and we don't want to give that up. That, unfortunately, was part of it.

That was pre-IRTPA. Post-IRTPA—and this gets to the quote you read—it was, "This is damaging." That was based on the fact that the DNI was taxing us significantly. Every year a piece of our budget went over to the DNI. They were taking money and resources away from us. And for the things that they were standing up, in many cases they were duplicative of what CIA already did. The National Counterterrorism Center is probably the best example. Our view was that we were doing CT analysis post-9/11 as well as it could possibly be done. Why did we need an NCTC? The resources that went to that were being taken away from us and others. We saw that as not helpful and even damaging to mission.

Those were the views of many, probably the majority, of CIA officers. But I also had my own views. One was that, at the end of the day, the DNI, it seemed to me, had less influence on intelligence issues than the DCI had. Think about it this way: Under the old system, the DCI had complete control over CIA and some influence over the rest of the community, due largely to the fact that the DCI was the president's intelligence adviser. But, in the new system, the DNI has only limited control over CIA and arguably no more influence over the rest of the IC than the DCI had. Let me go back to what I said earlier—the DCI's influence over the IC came largely from his role as the president's intelligence adviser. In the new system, although the law gives that role to the DNI, in practice it has mostly been DCIAs who have played that role. In fact, I can think of only one case in which the DNI has played that role.

My other view at the time, which I still believe, is that whether you're talking about a small unit or an entire agency or even a community of agencies, you can organize those in a variety of different ways. Every one of those ways has its own strengths and its own weaknesses. But how well you actually perform depends much more on leadership and the quality of the workforce than it does on the organizational structure you choose. People focus on structure because it is easier to change than leadership skills and workforce talent. And therefore, they over-focus on it.

Now, having said all that, over time I came to see value in the DNI. It was helpful to a CIA director because it allowed him or her to focus on CIA, which is a full-time job. Remember that some of the DCI's time was taken up with issues related to the rest of the IC and that took him away from CIA. One counter-historical example: Had the leaks by Edward J. Snowden occurred under the old system, it would have been the DCI, the head of the CIA, sitting in all those congressional hearings, which would have been unhealthy for CIA. I also think that there was benefit to the president because before the DNI, only one part of one agency determined what the president saw. After the DNI, the entire community decided, including making sure the president knew of important differences of views. Those are benefits.

Andy, your career also intersected with some pretty momentous events and the creation of the ODNI. You came from the weapons and proliferation side of the house, which I always thought that as a CIA officer you were integrating the IC before integration was cool. Can you give us a sense for maybe some key inflection points for you in the early 2000s?

AM: I was working for John McLaughlin on 9/11 and then succeeded Michael as President Bush's briefer and did that until 2004. I left before the creation of the DNI. I went back to what was the Weapons Intelligence, Nonproliferation, and Arms Control Center at the time. I remember once the DNI was created and things like the National Counterproliferation Center became an organization. There was a recoil from the weapons and proliferation people because of the reason you just cited. A lot

of them felt like, "Wait a second. The expertise is here. We have a vibrant partnership with the Counterproliferation Division at the time. So, what is this other thing. What's it going to do? And how is it going to interfere with what we're trying to do?"

Whenever you perturb the status quo, you get that sort of rejection kind of thing. On the NCPC side, we were fortunate to have some good leaders who weren't acquisitive. They didn't want to own stuff. They were happy allowing things to more or less reside where they were and just provide overarching guidance. It's probably a little understated, but essentially that. The initial rejection gave way to, "We sort of understand what they're doing" and they were a source—to be honest—they were a source of funds. We would compete for NCTC money. So, from that perspective, it was just as Michael said. There was this initial reaction that I think was ameliorated later, but broadly at the DNI.

There's only one bureaucratic imperative in Washington, and that's to grow. And so, the idea early on that ODNI was going to stay small was received skipticallly—I think a lot of us looked at it and said, "There's no way." And it grew into an enormous enterprise. Today there are five centers in the ODNI. And so, I get the idea behind it. As early as the mid-1950s, Congress was already starting to talk about how the DCI should relegate the authority of running CIA to one of his deputies, and that he should step back and manage the IC. Now there is no director of CIA who's going to say, "I'm going to turn this over to my deputy, and I want to be the administrative head of the Intelligence Community." But I think it was questioned even then whether a DCI could do both jobs. And that's tricky.

And to Michael's point, I think it becomes personality dependent. George Tenet is a great example. Some people could pull that off easily. Others we've had in that chair, there's just no way. People wouldn't follow. You get the point that it's not a really great organizational structure when it's dependent on a personality to work. I don't have a big objection to the DNI. I just think implementation has changed the scope of the DNI—two large buildings, thousands of people at this point—that muddies the water as to what exactly the DNI is.

I had some discussions with a couple of members of Congress when the DNI was created who said, "This isn't exactly what we had envisioned." They envisioned a small oversight body, essentially to help coordinate, play traffic cop, do that kind of thing; it has become something much larger than that. Do we need it today? I think it is more of a question of whether DNI is an intelligence organization or a policy organization.

Sometimes this is framed as should the DNI be leading or doing?

AM: It's interesting to think about that. Should the ODNI centers be under the DNI or should the DNI say, "Some of these belong back out in the IC. We will ensure that they play right, but we don't need to own them." You could ask whether the National Counterproliferation and Biosecurity Center needs to be a separate organization or could it be folded back into CIA? The DNI could say, CIA, you're the executive manager for the community. We will make sure you fulfill that role.

I think an argument that you could hear on the other side is, "Yes, but for how long before it begins to revert? And if you don't have another body, another organization, like the DNI over time, once the crisis subsides and people start thinking back like they used to organizationally, will we find ourselves in the same place we were pre-IRTPA?"

MM: I would just add that Andy's point about DCIs is right. Former DCIs and how well they led the IC really is person dependent. Agree one hundred percent. I can think of those who did and those who did not. But the same is true of the DNI. Let's also remember that DOD, in the crafting of the legislation that created the DNI, worked its magic to make sure the DNI's authority over the

military intelligence agencies was limited.

Could we shift gears and think about the issue of joint duty, that is, having intelligence officers work outside of their own agencies? I think I benefited from this, running the PDB *staff and working on the National Intelligence Council, as lots of my colleagues did, too. To your point, Andy, about growth, one of the challenges for joint duty was that when you create a program, you have to have somebody implement it and somebody to keep track and somebody to grant credit or deny credit. It creates its own sort of bureaucracy. All that said, is joint duty something that has helped improve the Intelligence Community?*

MM: I was a fan of joint duty. I had all these concerns about the DNI, but I was a fan of joint duty. I pushed it inside CIA when I was the associate deputy director, despite a lot of people not being happy about it. And I did that because my boss, Mike Hayden, supported it. But I also did it because I saw the logic in it, too. I should also mention Ron Sanders, the chief of human capital for ODNI at the time. Ron has the kind of personality that it's hard to say no to. He's tenacious. And we had a great relationship, so I didn't want to let him down either.

But, implementation was hard, and it wasn't just because of the bureaucracy. Implementation was hard because if you say to people, "You have to have a joint duty assignment before you can be promoted to SIS," (Senior Intelligence Service) you have to make sure you have enough joint-duty assignments to actually get the numbers right. And when we implemented it at CIA, we were able to convince Ron and the DNI of some things that were a bit of a stretch, like all chiefs of station and all PDB briefers are joint-duty assignments.

But to your question, Joe, I don't know; I haven't been in the IC for 10 years. But to judge that, I think it's really important to think about how we judge the DNI. How do we judge whether the DNI has been a plus for the Intelligence Community or not? And I think the concept is simple, but the measurement of it is extraordinarily hard. You have to ask has the DNI improved the capabilities of the different agencies to collect and analyze intelligence and, in CIA's case, to conduct covert action? That's the ultimate measure. Nothing else really matters. It doesn't matter how many IC Directives are put out or how many centers are created. All that matters is performance.

So, how did I think about the DNI in the context of this measure when I left government in 2013? I could not judge the non-CIA entities in the IC, but for CIA, I did not believe that the DNI had made CIA better. I believed that the DNI had little to no impact on CIA's ability to collect intelligence, to do all-source analysis, and to conduct covert action. And to answer your question, I don't think joint duty had much of an impact either. But that's what I felt when I left in 2013. Now I'm open to the idea that things have changed for the better in the last 11 years.

AM: Joint duty: I was at a much lower level than Michael at the time. I disliked it because it quickly became a box-checking exercise. "I'm now a GS-13. I need to check the box for joint duty." And there were too many people, not enough substantial jobs. And so, you ended up having people going to jobs that were not career enhancing, other than to say, "Yes, I did a joint duty assignment," so that became an issue. And there's an internal problem. We know that only a small fraction of people are going to make it to the senior ranks. But with GS-13s thinking, "I'll eventually be in the Senior Intelligence Service," we are creating a flood of people wanting these jobs. I understand the initial impetus., including criticism of CIA as being too insular. Got it. Saw it. We all saw it every day. Implementation, though, I think just didn't work well.

I think one of the challenges that I saw at the time was really the throughput issue. In addition, I think there are substantial differences in the way IC organizations looked at assignment policies. At CIA for the most part, individuals are their own career counselors, and it's harder, I think, to make

a plan that says, "Well, I'm going to do this job for two years and after I'm done. I already have an assignment for its follow-on, and after that I will probably do X, Y, and Z." As a result, I always felt that the implementation challenge was particularly hard for CIA in comparison to DOD agencies.

For both of you, looking back on your varying backgrounds and approaches and experiences and at past DNIs, I wonder if it's possible to create a composite of the qualities of an ideal DNI—at least from a CIA perspective.

MM: Let me not give you the CIA perspective. I'm going to give you the "what's best for the nation" perspective. So, I think the DNI has to be, number one, close to the president, has to have such a relationship with the president that the DNI can pick up the phone and say, "I need to come see you;" or call the national security advisor and say, "I need to see the president;" and that happens. Where the DNI feels comfortable saying whatever the IC believes the truth to be and where the president feels comfortable in saying what George Bush said to us occasionally, "This is not very good." So, that relationship is really important. The person needs to have a pre-existing relationship or the ability to build one quickly. So, that's number one: a good relationship with the president.

Two, they have to be substantive. The DNI's power or influence over the rest of the community comes from being the president's intelligence adviser. You can't do that if you're not substantive. If that role goes to the DCIA because he or she is personally better positioned to do that, then the DNI is not going to have the influence a DNI needs to have.

Three, DNIs have to be really good at managing. They have to be very good at leading the IC through consensus and personal relationships as opposed to the law. If DNIs come in like one once did and say, "I'm in charge and here's what we're going to do," they will fail. However, if DNI's come in—and there's been several of these—who say, "We're going to make decisions in a consensus way, and we're going to make decisions that are in the best interest of all of us, and there's no power play here at all"—that's going to be much more successful. So, that's three.

Four is related to number three—that their interests are really focused on producing the best intelligence for the nation and not on building a large bureaucracy. Those are the four that I would put on the table.

Andy?

AM: One hundred percent. And I think that last one is an especially important one. I just don't think the DNI can do the first three with the big bureaucratic bulk that it has. It should be a much smaller, much more streamlined. I do think its work can be done with a much smaller footprint, and I think DNI can be much more nimble and more focused on some of the key things that we need to do without actually running them internally.

MM: To add to Andy's point, you have to know the cultures of each organization because they're all different, and you have to manage to that. At CIA, we believed that we were the first among equals. You can debate that, but that's what we believed. And I remember when Jim Clapper was nominated that I ran into him at some event, and I congratulated him on being nominated. He said, "Michael, I want you to know that I understand how special CIA is. And I want you to know that every time I walk by those stars on the wall in the lobby that I am moved." At that moment, I would have done anything for Jim Clapper, anything. So, DNIs have to know each organization and manage them and lead them just the way leaders would any organization and any group of people and any individual person.

That's a great observation about Clapper. And just more broadly, we alluded a couple of times to the issue of oversight, and I want, starting with you, Andy, to get your impressions on the DNI as the focal point for Congressional oversight. One of the

arguments that I've had a few people make to me is that it's been a plus. The ODNI allows oversight to focus on IC issues with the DNI. For the individual agencies, it becomes less onerous. I'm curious if you have a perspective.

AM: I think that's right. It doesn't mean that congressional overseers are not going to call the director of CIA or NSA on specific issues. But at least you can get some alignment. If I'm in an oversight committee talking to the one person who provides an umbrella view of the Intelligence Community, I can then followup and delve into each of the individual pieces if I want. I think that's an important role for a DNI.

Last question then. Has the creation of ODNI made the country safer?

MM: I'll go back to my fundamental point about what should be measured. Is the IC more capable now than it would have been in the absence of a DNI? That's the way you have to think about it. As I said earlier, for CIA, I don't think so. But I would love to get on a stage and discuss that with people who disagree with me.

AM: It's really hard to tell. Had the DNI not been magically created because of 9/11, I think it'd be easier to measure. But a lot of what we've seen over the past 20 years is because of the way people began working after 9/11. And you can't just give credit to the DNI for that. It was because people began to see that we needed to be talking across the Community and there was a better understanding of what we need to do to protect the country. And so, it's hard to separate that from, "Well, it was the creation of the DNI that has made things better." So, as I reflect back on my career, I can say that relationships within the Community are much better than they were when I started, when they were very friction-filled. By the time I left, it was way better. Should the DNI get some credit? Probably. But it's hard to not look at 9/11 and the new way of operating that event induced and concluded that it had a much bigger influence on us than just the creation of the DNI.

Are there changes to the legislation that are necessary to make it survive and be impactful for another 20 years? Maybe even more impactful?

MM: Let me answer a different question because I don't think there are going to be any changes. Congress's view is that they solved the 9/11 problem with the creation of the DNI, and barring another failure, they're not going to even think about any changes. So, getting to a DNI that is more effective at lifting up the collection and analytic capabilities of the community is really going to come down to the right person. This is why that question you asked earlier, Joe, about the ideal DNI was so important. And so, maybe it's a more interesting question to ask if you could advise the next DNI, what would you say? I think that I would say, "You have to lead the mission and substance. You should absolutely manage collection in the following sense. You should have an understanding of where the intelligence gaps are. Do we have a access in all the right places? Do we have a human asset or technical access where we need it? And if we don't, how do we close those gaps? And the best way to do that is to get all the collectors in the room and say, "CIA, what can you do? NSA, what can you do? NGA, what do you know? DIA, what can you do?" Have a plan for closing that gap and hold people to those plans. That is an important function, I think, of the DNI.

On analysis, don't manage it at all. Let a thousand flowers bloom. The NIC is there to deal with the big questions and the questions that really need an IC view. But other than that, let a thousand flowers bloom. You want both CIA and DIA looking at the same question because analysis is cheap. So, why not? The president benefits from that. And then, shrink your bureaucracy. Give resources back to the community. To Andy's point about where should these centers be, really think about that. Maybe it's best to have an executive-agent approach.

AM: I don't think changing the law, even if that were to happen, is going to make any real difference. It's all about the people leading the organization and how they decide to implement their responsibilities.

So, it's 20 years. Take a hard look at what it is today. What was it envisioned as originally? And then what should it be going forward?

MM: I love Andy's idea of doing a serious review. What we're doing here today is just off the top of our heads. There should be a serious review, and it would be best if the DNI initiated it. It's 20 years. Let's take a look. Let's talk about strengths, weaknesses, and how we move forward in a way that benefits the IC. It makes a ton of sense.

AM: And if you call on the leaders of each of the agencies to help do that, you instantly gain credibility. Let's all sit down and talk about it and have whoever becomes the DNI listen to their views and hear from each where they think they are.

Just one last thing about rightsizing the DNI. I want to stress that I'm not suggesting the ODNI should be smaller so it can be less important.

MM: In fact, it's the opposite. We want to make the DNI more effective. ■

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