

June 2017

Commentary # 2017 - 01

Restructuring the U.S. Intelligence Community

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What's in store for the U.S. intelligence community (IC) under President Donald Trump? Trump has voiced his intent to shake up and slim down the Office of the Director of National Intelligence (ODNI), claiming it has become "bloated and politicized," and that it often hinders the 16 agencies it is intended to manage.¹ What exactly that would entail is unclear, but the Administration should be aware that scrapping the ODNI altogether would have harmful consequences for intelligence sharing. Trump is correct, however, that changes are needed. Restructuring the authorities of the Director of National Intelligence (DNI) could better equip the United States to predict and prevent harm from future large-scale national security threats.

In its current state, the structure of the IC—made up of 16 government agencies and sub-agencies with all but the Central Intelligence Agency (CIA) reporting to a separate Cabinet Officer—is not optimally organized for delivering strategic-level, relevant, timely, and trusted intelligence to national leadership. The former National Security Advisor, Lieutenant General Michael Flynn, expressed his frustration with the IC in June 2009 when serving as the Deputy Chief of Staff for Intelligence for the International Security Assistance Force in Afghanistan: "Eight years into the war in Afghanistan, the U.S. intelligence community is only marginally relevant to the overall strategy."²

Multiple efforts have tried to improve deficiencies of U.S. intelligence agencies and the bureaucracy within which it operates. Recent examples include overhauls at the National Security Agency (NSA) and CIA, as well as the establishment of the ODNI in 2005. More than a decade later, the DNI's goal to "effectively integrate foreign, military and domestic intelligence in defense of the homeland and of United States interests abroad"³ remains unachieved. While evolutionary efforts will no doubt continue, it is an abdication of senior level accountability to not find ways and means to accelerate the integration of this function for national and operational needs. Quoting Marine Corps doctrine, Flynn wrote, "Creating effective intelligence is an inherent and essential responsibility of command. Intelligence failures are failures of command—[just] as operations failures are command failures."⁴

In the 2017 Consolidated Appropriations Act, signed into law in May 2017, Congress included a requirement for the Administration to establish a panel that would review the DNI's "roles, missions and functions" and make recommendations regarding the DNI's "authorities, organization and resources."⁵ Consistent with the direction of this panel, the Administration should focus its attention on such a review of DNI authorities and also assess the critical issue of analytic collaboration.

¹ Damian Paletta and Julian E. Barnes, "Donald Trump Plans Revamp of Top U.S. Spy Agency," Wall Street Journal (January 4, 2017). <https://www.wsj.com/articles/lawmakers-officials-frown-on-donald-trumps-dismissal-of-u-s-intelligence-1483554450>; Evan Perez and Daniella Diaz, "Trump Team Looking at Ways to Limit the Power of DNI, Sources Say," CNN (January 4, 2016). <http://www.cnn.com/2017/01/04/politics/donald-trump-director-of-national-intelligence-russia/>

² Maj. Gen. Michael T. Flynn, et al., "Fixing Intel: A Blueprint for Making Intelligence Relevant in Afghanistan," *Center for a New American Security* (January 2010). Pg. 7.

³ "ODNI Fact Sheet," *Office of the Director of National Intelligence* (2011). https://www.odni.gov/files/documents/ODNI%20Fact%20Sheet_2011.pdf

⁴ Flynn, et al., "Fixing Intel." Pg. 10.

⁵ Committee Report, Intelligence Authorization Act for Fiscal Year 2017. Congressional Record, May 3, 2017, page H3300. Available at <https://www.congress.gov/crec/2017/05/03/CREC-2017-05-03.pdf>

Strengthening the Authorities of the Director of National Intelligence

The position of the DNI was created to be a central authority for all IC agencies, but it has never enjoyed the proper authorities to effectively fulfill that task. For example, the powerful capabilities of the NSA, the National Geospatial Intelligence Agency, National Reconnaissance Office (NRO), and Defense Intelligence Agency (DIA) remain under the primary authority, direction, and control of the Secretary of Defense, who has delegated that authority to the Under Secretary of Defense for Intelligence, which is not a Cabinet level position. In fact, the role was watered down under the Obama administration, with power shifted toward the CIA and covert action. Additionally, the CIA variously describes itself as a member of the IC and independent of it. The ambiguity in who runs, and is accountable for, the national intelligence function creates dangerous confusion, inefficiencies, and loss of effectiveness at time when coherent and forward-looking intelligence is needed to inform U.S. national instruments of power in an increasingly dangerous world.

To centralize authorities and increase the effectiveness of the DNI, the new DNI, former Senator Dan Coats, should be designated by Congress as the leader of the national intelligence function empowered with authorities, responsibilities, and accountability to:

- Perform all budgeting functions and centralized resource allocation activities across the IC.
- Answer to the President as *the* accountable party for the provision of relevant, timely, and trusted intelligence to senior leadership for decision making.
- Direct organizational and functional changes, to include hiring and firing of IC leadership.

Budget Authority

The DNI has limited control over what matters most inside the national security bureaucracy: budgets. When the DNI was first conceived, it was intended to have full budget authority. As Michael Allen, former Staff Director of the House Permanent Select Committee on Intelligence, wrote in *Blinking Red*, "much of the DNI's authority lies in the area of building budgets."⁶ Although Director James Clapper brought decades of budget management and acquisition experience to the role and the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) gave the director relatively strong authorities, his role was limited by language inserted into the president's bill to preserve the ability of cabinet secretaries to maintain full authority over their department's budget. Ultimately, "the provision arguably weakened the DNI's hand in forcing departments and agencies to submit to its direction," wrote Allen.⁷

The head of each National Intelligence Program and Military Intelligence Program agency should be required to submit to the DNI their proposed budget request. After confirming that agency requests appropriately reflect the President's intelligence priorities—as well as the operational and tactical needs of the military, law enforcement, and Homeland Security—the DNI can develop a consolidated intelligence program budget proposal.⁸

Personnel Authority

A lack of personnel authority also diminishes the DNI's ability to lead the IC. In initial debates over the creation of the DNI, former Secretary of Defense Robert Gates stated, "The DNI must be able to remove uncooperative agency heads. Vision and positive leadership are necessary to change nearly 60 years of relationships and bureaucratic politics; but there must be, in the background, the possibility of sanctions." As Congress debated the issue, Congresswomen Jane Harman and Susan Collins warned that "half-

⁶ Michael Allen, "Blinking Red: Crisis and Compromise in American Intelligence after 9/11," *Potomac Books* (2013). <https://www.amazon.com/Blinking-Red-Compromise-American-Intelligence/dp/1612348238>

⁷ *Ibid.*

⁸ See generally: "Communicating the Drug Control Budget" in *Office of National Drug Control Policy*, "Open Government Plan," *The White House* (accessed January 11, 2017) <https://www.whitehouse.gov/open/around/eop/ondcp/plan>

hearted reform" that didn't give the DNI budgetary, resource allocation, hire-fire, and information sharing enforcement authorities "would leave us worse off than we are today." Ultimately, the DNI's hire-fire authorities were stripped away, leaving Gates to believe the DNI would not "directly control any part of the Intelligence Community."

In 2008, an update to Executive Order 12333 attempted to address personnel issues by giving the DNI a clear role in hiring and firing, instead of other agency heads. While this could constitute real authority if exercised effectively, the DNI faces pushback from some agency heads when trying to exercise this authority. Further reforms to IRTPA could give the DNI greater budgetary, resource allocation, and hire-fire authority over intelligence agencies, as was the original legislative intent. Admiral Michael McConnell (ret.), who formerly served both as DNI and Director of the NSA, stated, "the DNI's role must be captured in law. 'Allowing' the DNI to operate with greater authority is an option that other agencies have to agree with, not be forced to comply with because of the law."

Advising the President

During congressional debates over the creation of the DNI after 9/11, heads of other intelligence agencies and members of Congress were concerned with giving the DNI full "direction, control, and authority" over the entire IC, and ultimately won the debate. This signaled "that the DNI was at least symbolically below the cabinet secretaries," Allen wrote. "The DNI still possesses less authority than the average department head and will likely have to continue to rely as much on interpersonal relationships and cooperation with department and agency heads as on budget authorities."⁹ The heads of intelligence agencies therefore felt no accountability to the DNI.¹⁰ Subsequently, the DNI's unique IC-wide view is largely absent from, or diminished in, advising to the President. The DNI is forced to think about the goals, effectiveness, and future of the IC as a whole—a unique view that agency heads cannot offer because they are concerned with their individual agencies.

Although the DNI was intended to be the principal intelligence advisor to the President—a role historically held by the head of the CIA—the CIA Director has maintained this position throughout much of the past decade, effectively diminishing the perceived authority of the DNI among IC agencies. Allen wrote, "while the DNI leads the preparation and presentation of the president's daily intelligence briefing, the CIA Director has continued to play a prominent role at the White House, especially in National Security Council meetings." However, as Gates stated, "there can only be one" leader of the IC at the table.¹¹ Of course, the CIA ceding authority to the DNI is a distant aspiration. Chris Inglis, former Deputy Director of the NSA, pointed out that the CIA "won't give up easily," but that the DNI will not be as effective as intended until the IC has a clear and unifying leader for both roles and intelligence integration: "Until you get to that point, you don't have a true DNI," but rather more of a coordinator of national intelligence.

The DNI could better fulfill his or her statutory responsibilities as a designated member of the Cabinet—not just cabinet rank, but full member of the President's Cabinet. Such status would clarify that—for intelligence matters—the president and secretaries of executive branch departments should turn to the DNI, even if they have intelligence agencies within their department, as the Defense, State, and Justice Departments do.

Centralize Domestic and Foreign Intelligence Analysis

By statute and policy, intelligence agencies are authorized to collect foreign intelligence *or* domestic

⁹ John Bansemer, "Intelligence Reform: A Question of Balance," *Harvard University Belfer Center* (May 2005). Pg. 75. <http://www.belfercenter.org/publication/intelligence-reform-question-balance>

¹⁰ Allen, "Blinking Red," Pg. 167.

¹¹ *Ibid.* Pg. 176.

intelligence.¹² Although keeping domestic and foreign intelligence collection separate allows agencies to specialize and protect citizen privacy, failing to merge the analysis and reporting of both hinders information sharing and the tracking of threats—such as terrorist targets—as they enter the United States.

There are some exceptions to this separation of intelligence, such as the National Counterterrorism Center (NCTC), the National Counter-proliferation Center (NCPC), and the Cyber Threat Intelligence Integration Center (CTIIC). However, each of these centers focuses on a specific thematic issue (i.e., terrorism, weapons of mass destruction, or cyber). There is no all-source analysis entity that is not limited to one thematic issue. Creating such an entity would be challenging, and arguably unachievable in the near-term. However, the DNI was developed to at least bridge some of the gaps between foreign and domestic intelligence.

When President George W. Bush proposed the concept of the DNI, he intended for the CIA to be under the "authority, direction, and control" of the DNI and report to the President *through* the DNI. This did not come to fruition. Unfortunately, the CIA has retained its role as the most robust all-source intelligence analyzer and reporter, giving it a greater understanding of the larger context than other agencies and allowing it to act independently. This creates unhelpful duplication, competition, and inter-agency tensions. Since the CIA only conducts foreign human intelligence (HUMINT) collection, the perceived value of HUMINT is inflated, skewing the perception of the value of other sources. Additionally, the ability of the IC to cross-analyze foreign intelligence with domestic intelligence collected by the Federal Bureau of Investigation (FBI) and Department of Homeland Security, for example, is limited.

The *9/11 Commission Report* outlined the “failure of imagination” represented by this lingering foreign-domestic divide. Despite these statutory restrictions, foreign intelligence agencies have greatly improved their coordination with their domestic counterparts. For example, the NSA and the FBI have excellent measures to “hand-off” appropriate terrorist targets if they enter the United States. This coordination is, however, labor intensive and requires resources that may be better directed toward discerning the intension and capabilities of the same targets. While competitive intelligence is good, inefficient analysis is not.

Reforms to the current IC structure could help it prevent terrorist threats to the U.S. homeland or U.S. assets abroad. Inglis suggested that the all-source synthesis that currently takes place under the umbrella of the CIA should instead happen under the leadership of the DNI. This would allow agencies to maintain their collection authorities, but merge the analysis.

Specifically, modeling the U.S. structure on the UK’s Government Communications Headquarters (GCHQ) would strengthen its capacity to cross-analyze data and share intelligence among agencies. Although GCHQ only collects signals intelligence, its mandate to analyze foreign intelligence without regard for where it originates allows the cross-analysis of greater swathes of information. Mark Young, formerly NSA senior executive and now executive at IronNet Cybersecurity, wrote:

“Distinction between Foreign intelligence and domestic surveillance – data are ubiquitous and the location of intelligence collection is no longer relevant. Current law and practice maintain this now artificial distinction. Administration and privacy advocates must accept that the location of data collection is a legacy perspective and that the target of collection and surveillance is now the only relevant factor.”

A model similar to GCHQ would have other benefits. The Director of GCHQ ranks as a Permanent Secretary, which is the most senior civil servant position in the UK government, and reports to the Cabinet. He or she is responsible for the budget and day-to-day operations.¹³ The Director oversees both

¹² See generally, “Executive Order 12333: United States Intelligence Activities,” *The White House*, (December 4, 1981). <https://fas.org/irp/offdocs/eo/eo-12333-2008.pdf>

¹³ “Permanent Secretaries,” in “Our Governance,” *UK Government* (accessed January 11, 2017) <https://www.gov.uk/government/organisations/civil-service/about/our-governance>

the domestic and foreign intelligence analysis, allowing them to provide comprehensive analysis to the Prime Minister and his Secretaries. Additionally, aside from information sharing and cross-agency collaboration, changes to GCHQ's physical environment helped to alter the agency's culture and foster collaboration. Facilities are no longer in numerous locations, but rather are centralized and have interior designs that facilitate interaction and collaboration.

Unlike GCHQ, the ODNI's physical isolation results in a disconnect with the rest of the IC. Relocating the ODNI to the White House or within the headquarters of an intelligence agency that respects the DNI's authority, or at least nearby, could strengthen its authority. Putting the DNI in close proximity to the president, specifically, will help him or her solidify their role as the principal intelligence advisor to the president.

There is a common opinion that centralizing domestic and foreign intelligence analysis would risk privacy. Inglis, however, stated that "the pursuit of national security and the government's active defense of privacy can, and must be reconciled. Controls, accountability and cradle-to-grave oversight will work if we're serious about delivering on all the goals laid out in our Constitution." To provide a counter-narrative to this opinion, he recommended that government agencies should be more transparent about what data they collect, how, and why, and which agencies share or cross-analyze that data.

The Trump administration has the opportunity to enhance the IC's ability to predict and prevent harm from national security threats that will inevitably emerge during the next four years. Addressing these challenges will require a strong DNI who is politically savvy and has experience with complex authority. Former DNIs, including James Clapper, noted the wisdom of not making waves, nor picking fights with the CIA. If DNI Dan Coats follows that same status quo, the ODNI will remain just as ineffective and unsynchronized with the wider IC. The most vital reforms include strengthening the DNI's authorities and—though a more daunting task—centralizing domestic and foreign intelligence analysis and reporting. These reforms would help the United States avoid an intelligence failure on the scale of 9/11. To do so, the Trump administration should form a panel to review the DNI, consistent with the direction of Congress in the Intelligence Authorization Act, and should also urge Congress to revisit IRTPA.

About the Author

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