ASSESSING THE NATIONAL SECURITY IMPLICATIONS OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

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Abbreviations

IRTPA: Intelligence Reform and Terrorism Prevention Act of 2004
IC: Intelligence Community
ODNI: Office of the Director of National Intelligence
DNI: Director of National Intelligence
DCI: Director of Central Intelligence
NCTC: National Counterterrorism Center
WMD Commission: Weapons of Mass Destruction Commission
COIN: Counterinsurgency
NIP: National Intelligence Program
NIE: National Intelligence Estimate
HIG: High-Value Interrogation Group

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Abstract:

The U.S. intelligence community faced tremendous scrutiny following the intelligence failures of 9-11 and the Iraq War. Following the recommendations of a joint Congressional inquiry and the 9-11 Commission Report, Congress quickly passed the Intelligence Reform and Terrorism Prevention Act of 2004. The act created new national security leadership positions, re-structured agencies within the intelligence community and vastly expanded the functionality of the intelligence community. Six years after the act's passage, however, there have been few, if any, assessments of the bill's achievement.

I. Introduction

Background on IRTPA

Intelligence reform was crucial before September 11th, yet no catalyst for change existed. The cloud of political and bureaucratic barriers that had previously failed the intelligence community was only heightened by a rushed need to act after the attacks. While post-mortems into the intelligence community after September 11th highlighted long-standing deficiencies within the IC, the solutions to these problems were met with varying, staccato notes.

The findings of a Congressional investigation and one conducted by the 9-11 Commission led to the most significant national security legislation ever signed. The consequences of implementing the bill, however, were obscure. After IRTPA passed, an

earlier Executive Order signed by President Bush also introduced the Weapons of Mass Destruction Commission, which critiqued the intelligence used to validate the Iraq War, and more relevantly, garnered further recommendations to the Office of the Director of National Intelligence's methodologies. These three commissions gravely affected the way intelligence functioned after September 11th.

The findings of the 9-11, Congressional and WMD Commissions are crucial to interpreting IRTPA as they reveal long-standing conceptual, structural and operational flaws in the community. The remedies to these problems, however, are much more difficult to address. In order to properly understand the historical significance of IRTPA, the historical relationship between Congress and the intelligence community must be explored.

II. Prior to IRTPA

Church and Pike Commission

The disjointed relationship between foreign and domestic intelligence agencies has existed since the end of World War II. Investigations into the intelligence community as early as the 1970's were adamant about vigilant congressional oversight over foreign and domestic intelligence. The 1975 Church and Pike Committees, named after Sen. Frank Church (D-ID) and Sen. Otis Pike (D-NY), were the first two Congressional investigations into the departmental practices of the CIA and the FBI.[1] The investigation's findings, hot off the heels of Watergate, highlighted the need for

[1] United States Congress, Select Committee. "Intelligence Activities and the Rights of Americans," Book II, United States Senate, 94th Congress, 2nd Session, Report No. 94-755, Washington , D.C. , April 26, 1976 , pp. 1, 5, 20, and 289.

developing new guidelines for intelligence conduct and assuring Congressional oversight over the IC by creating a permanent House Intelligence Committee. As the Church report noted, "intelligence activities have undermined the constitutional rights of citizens" because proper checks and balances "…have not been applied."[2,3] In addition, the amount of improper intelligence activity in the 1960s and 1970s illustrated the capriciousness of government work during crises. While "the distinction between legal dissent and criminal conduct is easily forgotten," it is Congress's job, the report noted, to ensure that the line always exists.[4]

While the Pike Committee Report was never published, the Church committee determined that the divide between foreign and domestic intelligence had plagued the intelligence community for years.[5] The report recognized the illegal espionage conducted by both the FBI and CIA on ordinary citizens. In order to combat that breach of privacy, a delineation of authority and responsibility had to be systematized. The DCI would hold all responsibility to coordinate the intelligence community, the Church report recommended. These responsibilities included the protection of sources, facilities, personnel, operations and information. However, the "primary responsibility for investigations of security leaks should reside in the FBI."[6] In addition, the CIA "should

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[2] Select Committee 5.
[3] Select Committee 20.
[4] Select Committee 20.
[5] The Pike Committee Investigations and the CIA. Central Intelligence Agency. <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/winter98_99/art07.html> Retrieved November 30, 2010.
[6] Select Committee 289.

be prohibited from conducting domestic spy activities within the United States," except for specifically permitted exclusions.[7]

The Pike and Church committees also found the need for Congress to hold authority over all intelligence and covert action conducted by the IC, and the necessity for the public and Congress to become more conscious consumers of intelligence. Although Pike viewed the CIA as a "rogue elephant," the commissions' recommendations were used to aid the efficacy of the intelligence community.[8] However, many of their recommendations were vague and lacked necessary clout. While the House Intelligence Committee was formed in 1977, it would take a human tragedy to create permanent legislative change to the intelligence community.

The Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001

Prior to the publication of the 9-11 Commission Report, Congress agreed to conduct its own investigation into the intelligence community. Their published report, released in December 2002, was an early rendering of some of the proposals that the 9-11 Commission Report would later recommend. Among the most significant propositions was the appointment of a Director of National Intelligence, whose new role would include complete management, budgetary and personnel responsibilities for the IC. As the report noted, the "cataclysmic events" of 9-11 compelled a mandate for an

[7] Select Committee 288.
[8] Pike Commission 2.

overarching leadership role within the IC.[9] In addition, the report found that:

- The intelligence community was ill-prepared for new threats to national security prior to September 11th
    - "(The IC Community did not) demonstrate sufficient initiative in coming to grips with new transnational threats."[10]
- Foreign and domestic intelligence was poorly coordinated within the IC
    - "Community agencies sometimes failed to coordinate their relationships with foreign services adequately, either within the Intelligence Community or with broader U.S. Government liaison and foreign policy efforts."[11]
- The FBI's strategic and tactical capabilities were weak
    - "Given the FBI's history of repeated shortcomings within its current responsibility…[it] should strengthen and improve its domestic capability…"[12]
- The position of National Intelligence Officer for Terrorism would aid the IC in strategic assessment and analysis
- The quality of counterterrorism analysis needed vast improvement
    - CT analysis could be accomplished by centralizing necessary information, maintaining analytic skills through training programs and retaining a

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[9] United States Congress. The Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001. United States Congress. <http://www.gpoaccess.gov/serialset/creports/pdf/fullreport_errata.pdf.> Retrieved November 28, 2010.
[10] U.S. Congress xi.
[11] U.S. Congress xviii.
[12] U.S. Congress 134.

permanent staff that would utilize its experience to develop strategic analysis

- Congress should maintain intelligence community oversight
- The President should consider expanding necessary intelligence access to federal agencies outside the IC
    - This would include executive orders and "policies and procedures that govern the national security classification of intelligence information…"[13]
- A national watchlist center should be developed
    - The center would be responsible for "coordinating and integrating all terrorist-related watchlist systems…"[14]

III. Leading to IRTPA

Findings of the 9-11 Commission

The most significant findings of the commission pointed to deep failures in the government's ability to predict the likelihood of a terrorist attack. These lapses revealed further fractures. The details of the 9-11 attacks—where it would come from, when it would happen and what it would look like—had eclipsed the government's radar. As the Commission Report notes, if the intelligence community had "understood the gravity of the threat they faced and understood at the same time that their policies to eliminate it were not likely to succeed any time soon, then history's judgment will be harsh."[15] The

[13] 9-11 Commission Report. National Commission On Terrorist Attacks Upon the United States. <http://govinfo.library.unt.edu/911/report/index.htm.> Retrieved November 30, 2010.
[14] Commission Report xv.
[15] Commission Report 357.

report highlighted deficiencies in the government's ability to predict the disaster in four general categories, pinpointing the cause of 9-11 on governmental failures in imagination, policy, capabilities and management.

A lack of risk management and imagination heavily contributed to the absence of any real counterterrorism strategy prior to 9-11. If the government could not imagine an attack, it certainly could not prepare for an adequate counterterrorism effort. As the report noted, "imagination is not a gift usually associated with bureaucracies."[16] The lack of foresight within the government prevented the IC from tangibly strategizing against al Qaeda. While the government had understood the multiple signs of a future terrorist attack, such as the 1993 World Trade Center bombing, they could not forecast the event's implications given the existing organization of the IC. Agencies that possessed valuable information did not know its significance. Agencies that needed the information did not know it existed. As the report noted, "the methods for detecting and then warning of surprise attack" that the U.S. had developed after Pearl Harbor, "did not fail; instead, they were not really tried."[17]

Failures in U.S. policy are among the easiest flaws to show evidence of in the years prior to 9-11. The 9-11 commission report noted that the political nature of "the terrorism fostered by Bin Laden and al-Qaeda was different from anything the government had faced before."[18] While the government possessed "reasonable" opportunity to act politically, it failed to adopt a clear strategy in combating al-Qaeda and its affiliates. Despite "the availability of information that al-Qaeda was a global

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[16] Commission Report 344.
[17] Commission Report 348.
[18] Commission Report 347.

network," the U.S. government did not fully understand the organization's internal hierarchy or true potential.[19] After a classified 1997 National Intelligence Estimate briefly mentioned Osama Bin Laden's connection to a wider Al-Qaeda network, there were no further mentions of possible domestic terrorism until after 9-11. On all conceivable political opportunities, the government had failed. As the commission noted, "these policy challenges are linked to the problem of imagination" since both the Clinton and Bush administration had been troubled by the terrorist possibilities of al-Qaeda, the possibility of serious intervention in Afghanistan, such as an invasion, "must have seemed…if they were considered at all—to be disproportionate to the threat." [20,21]

The government's capabilities prior to 9-11 were caustically insufficient, according to the commission report, "but little was done to expand or reform them."[22] While agency capabilities were fractured, there was no method to salvage them without knowing how and perhaps even why. The White House had relied on the CIA and the Counterterrorist Center for matters of covert action involving terrorist activity, however, according to the report, the head of the CIA's directorate believed that an authentic counterterrorism strategy involved the military, not only the CIA.

At the Defense Department level, the commission noted that at no time had the DOD been preoccupied with countering al-Qaeda prior to 9-11. Rather, both the Clinton and Bush administrations had relied heavily on the CIA to address the dilemma. Domestic agencies, such as the FBI, FAA and the INS did not possess collective knowledge regarding homeland security. The government's dependence on incongruent

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[19] Commission Report 135.
[20] Commission Report 366.
[21] Commission Report 366.
[22] Commission Report 368.

agencies to coalesce terrorism information, therefore, was passive and costly. The government accepted aspects of the status quo regarding national security because it could not imagine the gravity of 9-11. Missions of the FBI and CIA were duplicated and at some point during one Presidential Daily briefing, "the CIA had simply restated what the FBI said. No one looked behind the curtain."[23] Even if the curtain was lifted, it was almost impossible for the government to know what to look for without a reason.

Insufficient agency management prior to 9-11 was a symptom of the government's incapacity to deal with new transnational threats. Information overload had made matters worse. As the report noted, it was extremely difficult for "working-level officers, drowning in information" to fully utilize pieces of intelligence especially if "no particular action" had been requested of them." [24,25] The report provides a telling example of the relationship of the IC with a January 2000 terrorist network communication in Kuala Lumpur. While some IC officials concluded that the men involved may have been connected to an "operational cadre," the NSA waited to research the identities of these men until it was asked by the IC. The NSA saw itself as a support agency to the IC that acted when it was requested to do so. As time lapsed, the IC missed opportunities to track the movement of these operatives across Asia. Eventually, one of the operatives made his way to the United States. Had authorities been told to track the travelers earlier, they may have prevented an operative from entering the United States. The intelligence community lacked a proper managerial system to define its individual roles and responsibilities prior to 9-11. As the report notes, "such a management strategy would

[23] Commission Report 369.
[24] Commission Report 372.
[25] Commission Report 373.

define the capabilities the intelligence community must acquire for war from language training to collection systems to analyst."[26] The lack of infrastructure severely impaired the government's counterterrorism strategy.

The 9-11 Commission recommendations were reactive to the precise flaws of September 11th. Most critically, the commission called for incongruent intelligence agencies to merge into a community that functioned with a nucleus.[27] It was a tall order for a dysfunctional family. In order to embrace those recommendations, the IC would have to shed into a new skin. The Commission coupled their vision to combat terrorism with the aid of a heavily integrated and more mobile intelligence community.

On the political front, the U.S. would have to create a dialogue with the Muslim world and develop a global strategy of diplomacy to destroy al-Qaeda and defeat its militant Islamic ideology. To establish a better dialogue between the West and the Islamic world, the government would have to assure Muslims worldwide that terrorism was not aligned with Islam. While doing so, the government would also have to identify all real or hypothetical terrorist sanctuaries. As the report noted, "for each (sanctuary) it should have a realistic strategy to keep possible terrorists insecure."[28] The U.S. would also have to prevent the proliferation of weapons, increase border security, track terrorist financing, combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility. This community would build its human intelligence capabilities and develop seamless relationships at the operational collection and analysis level. This was much

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[26] Commission Report 358.
[27] Commission Report 383.
[28] Commission Report 384.

easier asked of than accomplished.

The report specifically recommended the following changes to the IC:

- The creation of a national counterterrorism center
- The creation of a National Intelligence Center and the appointment of a new director
- The centralization of Congressional oversight of intelligence and homeland security;
- Clarifying the missions of the Departments of Defense and Homeland Security
- The appointment of a new Senate-confirmed national intelligence director
- The creation of a network-based information sharing system
- An integrated national security unit within the FBI;
    - The report did not support creation of a new domestic intelligence agency
- Strengthening Congressional oversight
- Strengthening the FBI and homeland security

In terms of intelligence structure, the report notes that ultimately, the intelligence failures of 9-11 show that the intelligence culture historically promoted a "need to know" basis before sharing. This approach assumed that it was possible and even accurately possible to know which agencies or individuals would need to utilize that information to better understand future threats. This was especially commonplace as there were "no punishments for NOT sharing information."[29] Therefore, intelligence agencies must

[29] Commission Report 434.

promote a "need to share" dialect rather than a detrimental "need to know" culture that only promotes strained relationships within agencies.

Of all the recommendations in the 9-11 Commission, the most difficult one to implement was the laborious suggestion of congressional reform in conjunction with new changes within the IC. A fragmented structure, such as Congress, would inherently fail as a watchdog over an even more disjointed structure. As the Commission report noted, "The…reforms we have suggested…will not work if congressional oversight does not change too."[30] Congress's approach to the intelligence community at the time of September 11th was scattered, unhelpful and essentially, superfluous. If Congress would claim oversight responsibilities over the intelligence community in the future, then it would have to adapt to a new national security apparatus. The committee suggested heavy reapportioning over Congress' committee structure on intelligence issues. In specific, the report noted that the following changes must occur if the IC were to function healthily:

- Either Congress would have to create a joint intelligence committee or create committees in the House and Senate with dual appropriation powers as the existing oversight structure was not sufficient
- The IC's budget must be made public. Budgetary authority of the IC must fall under the new DNI, not the Secretary of Defense.
- Members of the Congressional intelligence committee should accumulate expertise by sitting on the committee without term limits. Letting members of the Armed Services, Judiciary, Foreign Affairs and Defense

[30] Commission Report 437.

Appropriations subcommittees serve on the new committee would also add experience to the new team.

- The committees must be smaller and held more accountable for their oversight responsibilities

As the 9-11 Commission noted, "strengthening congressional oversight may be among the most difficult and important" recommendation in the report. As they noted, "So long as oversight is governed by current congressional rules and resolutions, we believe the American people will not get the security they want and need."[31,32] The commission further stressed the inevitability of intelligence reform's failure if congressional oversight did not amend itself to a new IC. Congressional oversight, they noted, would completely fracture the executive management of intelligence matters if Congress did not recognize its own failures in the way it dealt with national security. An unchanged Congressional relationship with the intelligence community would lead to weighty consequences.

IV. Passage of IRTPA

The Intelligence Reform and Terrorism Prevention Act of 2004 was signed quickly into law, almost oblivious to the difficulties of implementing changes into a utilitarian system. The act's objectives aimed to streamline and strengthen the intelligence community. In particular, the act looked for improvements in the following areas:

- "Reorganization and improvement of management of intelligence community

[31] Commission Report 436.
[32] Commission Report 436.

- Revised definition of national intelligence
- Joint procedures for operational coordination between Department of Defense and Central Intelligence Agency
- Role of Director of National Intelligence in appointment of certain officials responsible for intelligence-related activities.
- Executive Schedule matters.
- Information sharing.
- Alternative analysis of intelligence by the intelligence community.
- Presidential guidelines on implementation and preservation of authorities.
- Assignment of responsibilities relating to analytic integrity.
- Safeguard of objectivity in intelligence analysis."[33]

The act tried to fulfill the objectives by implementing the following legislation:

- Established the position of Director of National Intelligence (DNI) to serve as the head of the intelligence community as well as the President's chief intelligence advisor
- Created the National Counterterrorism Center (NCTC) to serve as the headquarters of terrorism intelligence analysis
- Established the Privacy and Civil Liberties Oversight Board (PCLOB) as an independent federal agency.
- Established the Information Sharing Council (ISC) to advise the Executive branch about coordination among federal agencies

[33] The Intelligence Reform and Terrorism Prevention Act of 2004. <http://intelligence.senate.gov/laws/pl108-458.pdf.> Retrieved November 5, 2010.

The Congressional, 9/11 and WMD Commissions highlighted deep, structural failures within the intelligence community. IRTPA, however, created a legislative smokescreen while addressing issues within the IC. Part of the reason for this oversight was due to the lack of Congressional understanding and involvement of and with the community. As Michael Hayden, the former director of the CIA and NSA, noted, IRTPA "has an odd lineage," as it was developed by two Congressmen who were not intelligence committee members, thereby lacking insight into the inner mechanics of the intelligence community.[34] In addition, Patrick Neary, the principal deputy director and chief strategist for the Office of the Director of National Intelligence (ODNI), noted that the bill did not allow for flexibility, despite the good intentions of lawmakers. "While both the 9/11 and WMD Commissions called for fundamental reform, IRTPA did not lay out the statutory structure to enable it," he said.[35]

In spite of these reservations, Congress made recommendations in the bill to develop structures in intelligence reform: the National Counterterrorism Center (NCTC), which would serve as an umbrella organization for both foreign and domestic intelligence analysis, the Privacy and Civil Liberties Oversight Board and the Director of National Intelligence (DNI), an option that had already been discussed in Congress for years.[36] The DNI would act as the president's key intelligence advisor, with the possession of "the full range of management, budgetary and personnel responsibilities needed to make

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[34] Hayden, Michael. The State of the Craft: Is Intelligence Reform Working*? World Affairs.* September/October 2010.
[35] Neary, Patrick. "Intelligence Reform 2001-2009: Requiescat in Pace?" *Studies in Intelligence Vol. 54, No. 1 (Extracts, March 2010).*
[36] Hayden 1.

the entire U.S. Intelligence Community operate as a coherent whole."[37] The committee also recommended strengthening the powers of the pre-existing Department of Homeland Security, by mandating the agency to usurp the role of conducting pre-flight watch lists for international and domestic flights. In addition to this, the Secretary of Homeland Security would have the responsibility to "submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security."[38]

The goal of IRTPA was simple: to better organize the intelligence community to deter future attacks to the United States. Unfortunately, it became the catalyst for a large, governmental machine that would leave room for future criticism. Like any other Congressional legislation, IRTPA became the product of concessions. The compromises were best witnessed by the way Congress treated the new ODNI. As Neary noted, "The Senate acted as if the DNI was a departmental secretary, while the House acted as if all that had changed was a single letter (DCI to DNI). Attempts to satisfy one perspective were sure to annoy the other."[39] This meant that IRTPA had laid a shaky foundation for an infant organization that was overburdened with real-time expectations. The new organization was expected to shed years of historical structure within weeks. Neary conjured the first impressions of the ODNI to a newborn child. As he said, "Newborn babies are cute but defenseless; newborn organizations are just as defenseless. The notion that the DNI and his new Office of the DNI could drive intelligence reform was

[37] IRTPA 225.
[38] IRTPA 234.
[39] Neary 3.

flawed."[40] These flaws were ultimately noted in the subsequent Weapons of Mass Destruction Commission Report.

V. After IRTPA

Findings of the WMD Commission Report

The 2005 WMD commission report had four principal IC recommendations after the 9-11 Commission recommendations and the Intelligence Reform and Terrorism Prevention Act were implemented. The WMD recommended the following:

- The commission asked that the DNI be given both the powers and support to match its new responsibilities.
- The FBI should be more thoroughly integrated into the IC
- Expectations of the IC must be raised
    - The community must be "pressed by policymakers—sometimes to the point of discomfort."[41]
- The President's Daily Brief should be re-structured
    - As the commission report notes, "While the DNI must be ultimately responsible for the content of [the] daily briefing…[the DNI should not] prepare, deliver, or even attend every briefing."[42]

The DNI did not possess the necessary powers to fulfill its expectations. The report, thus, acknowledged the difficulties in consolidating agencies under one

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[40] Neary 4.
[41] Final Report of the WMD Commission. <http://www.fas.org/irp/offdocs/wmdcomm.html.> Appendix B: List of Findings and Recommendations. Retrieved November 30, 2010.
[42] WMD Commission Appendix B.

overarching umbrella. As the report notes, the changes in IRTPA allow the DNI "powers that are only relatively broader than before."[43] This is a problem as the DNI has limited legal authorities over the budget, personnel and programs within the ODNI. The "new levers of authority" given to the DNI under IRTPA do not make line management of agencies historically outside of the IC an easy task. In addition to budget and acquisition authorities, the DNI must fully implement "management-related reform measures that have long been neglected by Community managers," such as maximizing information sharing and improving coordination between the DOD and the CIA.[44] As the report notes, "the DNI will likely need every bit of the leverage bestowed by these new powers" as there were few proposals within the bill that can be "implemented without affecting the current responsibilities of a particular agency..."[45] Ultimately, the new DNI must be ready to desist old operational practices and implement a very difficult new management system.

Domestic agencies and their intelligence have historically taken backseat to agencies that deal with foreign intelligence. The FBI's integration into the IC, therefore, is contingent upon the agency's adaptation of a newer role. The FBI must completely transform itself into a "hybrid law enforcement and intelligence agency."[46] While the FBI currently lacks the analytic capability to function as a true member of the intelligence community, its tactical skills emphasize operational prowess. However, to maintain operational fluidity, the agency must learn to treat analysts as more than "support staff" and to couple their intelligence capabilities with a strong technology infrastructure. When

[43] WMD Commission Appendix B.
[44] WMD Commission Appendix B.
[45] WMD Commission Appendix B.
[46] WMD Commission Appendix B.

these analysts do work on information, this intelligence must undergo severe "asset validation" that, as the report notes, is critical to the legitimacy of the agency as the FBI's "failure to validate assets…proved especially costly in the Iraq WMD debacle."[47] However, beyond these recommendations, the FBI's integration into the IC must be encouraged and perpetuated by the ODNI. Until this happens, the FBI's domestic capabilities will not find a home within the ODNI.

The IC must be expected to perform better and be held at that standard. One of the most complex battles involves the Catch-22 of being able to simultaneously share and shield information. As the report notes, "The new DNI—have an additional responsibility that is often in tension with the first: the need to protect intelligence sources and methods."[48] The report calls for "structures and processes for sharing intelligence information that are driven by commonly accepted principles of risk management."[49] Risk management can find success when long-term planning and leadership are invested into the community. Both information sharing and information security are achievable within the ODNI. In terms of collection, the community still has not perfected information sharing. As the commission report noted, "information collected by the intelligence community…belongs to the U.S. government."[50] Agencies should not hold jurisdiction over critical information critical to national security. As the report noted, the DNI must look at their access to information as stewardship instead of ownership. In addition, the report notes that the DNI by promoting the use of "information integration" rather than sharing. In addition the "confused lines" of authority within the DNI can be

[47] WMD Commission Appendix B.
[48] WMD Commission Appendix B.
[49] WMD Commission Appendix B.
[50] WMD Commission Appendix B.

remedied by creating an information sharing environment that encompasses all areas of intelligence information, not only terrorism-related issues. In order to secure the flow of information, a new agency should be formed that reports directly to the DNI on all issues regarding information sharing, technology and security.

The WMD Commission recommended more oversight power be given to the DNI as "current agency-specific policies and practices do not suit a modern, networked environment."[51] The DNI would therefore be responsible for the modernization of classification systems in the new ISE (information sharing environment). This new information- sharing environment would use self-reinforcing mechanisms such as training and performance incentives to maintain itself. In terms of information analysis, however, integration must still be achieved.

The DNI should also look closer at today's open-source culture. The WMD Commission suggested that "Mission Managers" be appointed to address high priority topics, such as terrorism. Because of the mobility of terrorism, however, a greater emphasis should be placed on open-source information that can be used to analyze political, economic and social trends. However, these analysts must endure an additional level of understanding in order to properly analyze potentially useful information. As the report noted, "Analysts who cover these (terrorism) issues will need to know far more than the inclinations of a handful of senior government officials; they will need a deep understanding of the trends and shifts in local political views, cultural norms, and economic demands."[52]

As the report noted, the Internet has "brought significant new capabilities and

[51] WMD Commission Appendix B.
[52] WMD Commission Appendix B.

expectations for open source information."[53] However, the IC's open source programs have "not expanded commensurate with...the increase in available information or with the growing importance of open source data..."[54] A way to address this lapse is the creation of an Open Source Directorate in the CIA that would help to aggregate the availability and analysis of this new, overwhelming amount of information.

In addition to these departmental changes, the ODNI should also re-think its output to policymakers and the president. Most notably, the Presidential Daily Briefing (PDB), one of the most critical products that the ODNI produces, must be streamlined to become more effective. The very nature of the intelligence brief presents problems. Briefs are not meant to be comprehensive opuses; they have to convey information in clear, succinct language. While, as the report noted, "in-depth analysis can be presented in this abbreviated fashion," the task is considerably difficult.[55] As a result, the report noted, "individual PDB articles fail to provide sufficient context for the reader."[56] However, having identified the problem with summarized intelligence, the commission was "hesitant to suggest how the PDB process should be altered."[57] In order to properly include dissenting agency views within the brief, ODNI staff must be responsible for ensuring the document clearly reflects the IC's comprehensive viewpoints. This can be accomplished by combining the three sources of intelligence provided to the president daily—the PDB, the President's Terrorism Threat Report (prepared by the NCTC) and the FBI's "Director's Daily Report." As the commission report noted, the redundancies

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[53] WMD Commission Appendix B.
[54] WMD Commission Appendix B.
[55] WMD Commission Appendix B.
[56] WMD Commission Appendix B.
[57] WMD Commission Appendix B.

between are these documents are sometimes "clogged with trivia" and "should be eliminated."[58]

The WMD Commission's findings stressed for a stronger and more centralized management of the Intelligence Community as well. True cultural change, however, would occur within the walls of community itself, the report noted. The IC would have to invest in more efficient means of analysis, improved intelligence capabilities and modernization of the management and operational practices of the entire ODNI. As the WMD Commission noted with the most clarity, the greatest change would stem from the community's crucial "self-examination."[59]

VI. Addressing Issues Raised By IRTPA

Foreign/Domestic Intelligence

Among the most prevalent assessments of the IC has been the lack of unification between domestic and foreign intelligence agencies. Up until the early '90s, U.S. intelligence had four main objectives: assisting the executive branch, participating in covert action to maintain national security, buttressing military operations and finally, keeping the Soviets at bay. These four objectives were the IC's chief concerns until transnational threats became a national security issue. It was not until the 1993 World Trade Center attack that intelligence between the FBI and CIA was first shared. This relationship deepened with the Khobar Tower attacks in Saudi Arabia, the East African

[58] WMD Commission Appendix B.
[59] WMD Commission Appendix B.

embassy attack and the U.S.S. Cole attack.[60]

It is undeniable that tall shadows have followed U.S. intelligence from its earlier espionage days. Despite the transnational nature of new targets, the intelligence community cannot deny remnants of its "collection system developed to track a large political-military structure," as intelligence specialist Mark Lowenthal noted.[61] Disaggregating the DNI while simultaneously keeping the intelligence community in tandem has proven to be one of the most difficult challenges the intelligence community has and will face. While IC insiders, such as Hayden, dismiss the critics of the community's "Cold War legacies," consolidating information between the CIA and FBI has less to do with legacy and more with organizational stigma. [62,63]

Consolidating Information More Effectively

Even when hard intelligence is available, piecing together nuanced information is a Herculean task for any government, let alone a single intelligence agency. When Congress passed IRTPA, it allowed intelligence agencies to re-arrange themselves, but it was difficult for it to legislate anything more than nominal changes. An integrated community involves forecasting threats that the United States will face in the near future in an efficient matter that exists above logistical dynamics. Increased cooperation between intelligence agencies is vital to protect the integrity of American national security. However, this cannot be accomplished solely by Congressional legislation. The

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[60] Lowenthal, Mark. *Intelligence: From Secrets to Policy*. CQ Press: Washington D.C. 2009.
[61] Lowenthal 74.
[62] Hayden, Michael. "The State of the Craft: Is Intelligence Reform Working?" *World Affairs.* September/October 2010.
[63] Hayden 1.

IC itself should work on streamlining its efforts, not expanding them. Intelligence is seen through a very rigorous and focused pair of eyes. Efforts should be made to closely hone the abilities of this vision, rather than expanding the department. As Mike McConnell notes, "Agencies will never have enough analysts to fully examine all the data they collect, but the ones they do have can do their job better."[64] Job performance depends on hard work and innovation. A way to achieve better analysis is to beta-test new ways to improve the capabilities, methodologies and products of the IC's work.

However, more bureaucratic red tape means it will just take longer for the organization to learn to function efficiently. While no single agency has the capacity to survey all the available information, it will take even longer to quantify substantial changes until a significant mis-step by the IC occurs. As McConnell noted, it would "take years to fully clarify and coordinate the DNI's responsibilities and powers."[65]

Leading the Community More Effectively

The abrupt tenure of the first four Directors of National Intelligence, each serving less than two years, have been disquieting. Prior to the passage of IRTPA, the DCI's role as the de-facto leader of the intelligence community was saddled with directing the CIA in addition to the entire intelligence community. The hope of creating a separate leadership role in the DNI, however, did not take into consideration the relatively few powers the new director would possess. Now, the position of DNI has bred inter-agency room for greater coordination and less room for decisive leadership. The DNI has the role of juggling 16 agencies that are wholly separate and distinctive in scope without the

[64] McConnell, Michael. "Overhauling Intelligence." *Foreign Affairs*. July/August 2007.
[65] McConnell 3.

directorial ability to lead any of them.

The Office of the DNI possesses many responsibilities, none of which illustrate a great deal of control over the entire infrastructure in the ODNI. As Dennis Blair noted in April 2010, the role of the DNI possesses seven specific tasks, as follows:

The DNI—

- serves as the President's principal intelligence advisor;
- manages the National Intelligence Program (budget);
- establishes IC priorities with clear and measurable goals and objectives;
- sets direction through policies and budgets;
- ensures coordination of integration of IC personnel, expertise, and capabilities;
- provides leadership on IC cross-cutting issues; and
- monitors IC agency and leadership performance."[66]

None of the tasks above showcase a position with complete control over the entire intelligence community. Even where the DNI is given clear jurisdiction over its management, such as the responsibility of the IC budget, the DNI still falls prey to the demands of its more powerful siblings, the Pentagon and CIA. The DNI is bereft of any concrete power over the management and budget of a "sprawling intelligence infrastructure that the Pentagon and C.I.A. still dominate."[67] It is crucial for a future DNI to possess more control over the intelligence community for it to become more effective. Without the power over budget control, however, the intelligence apparatus is tied to a higher power, so to speak. However as Michael Hayden has said, "good people often

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[66] ODNI Fact Sheet. Accessed November 8, 2010. <www.dni.gov/press_releases/2010_Fact_Sheet.pdf>

[67] Hayden 2.

overcome weak structures."[68] Blair and his predecessors were perhaps not as visible or as active as they should have been. Without functional muscle and the authoritative clout, the job of the DNI, for anyone, will be taxing.

James Clapper, the new DNI since August 2010, has the assurance of many in the community in his ability to execute and lead the ODNI successfully. This achievement can be accomplished by maintaining strong leadership, hard work and constant development. One of the most integral transfers in the chain of command, therefore, involve the ODNI's own leadership capabilities: assuming control over aspects of the intelligence budget. Clapper has already made verbal plans to secure an agreement with the Defense Department to take the National Intelligence Program out of the defense budget by 2013. As Hayden said, "If Clapper cannot make (the DNI position) work, there are no obvious remedies in the current structure."[69]

VII. Current National Security Challenges

In order to understand the difficulties the intelligence community faces, it is integral to showcase the challenges the organization possesses in dealing effectively with policy makers and the IC's ability to advance its technological aptitude in the face of skilled adversaries.

The IC's Relationship With Policymakers

The "guards" of national security— policy makers and intelligence analysts— are not homogenous forces. The threshold of both spheres of influence is well-defined:

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[68] Hayden 3.
[69] Hayden 4.

intelligence analysts must help inform policy without forming policy preferences, while policy makers must legislate without hen-pecking intelligence assessments. The relationship between senior intelligence officers and the President cannot be under-valued as both the President and senior policy makers rely deeply on intelligence for decision-making. Ultimately, however, intelligence is the ammunition for a cannon only policymakers can control.

Intelligence-gathering should not be political, but it is limiting to think intelligence neglects policy. Without a continual reference to policy, intelligence is nebulous —a sea of facts without a current. Policy exists as a compass for intelligence-gathering, not its coordinates. A one-directional "red line" dividing intelligence and policy was instated during the beginning of the Cold War.[70] The line limited intelligence officers from advocating policy. This strategy was advocated by intelligence analyst Sherman Kent, who believed the fact-gathering process was mutually exclusive from decisions made in Washington.

The president's utility of the intelligence community is critical when determining the relationship between the two. For example, prior to the 1970 invasion of Cambodia, a memo was drafted by the Office of National Estimates titled, "Stocktaking in Indochina: Longer Term Prospects." The memo contended that a rejection of North Vietnamese base areas in Cambodia would "hurt the Communist military but not cripple it."[71] The DCI Richard Helms failed to forward the memo to the White House in a timely fashion, as he

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[70] Steiner, James. "Challenging the Red Line Between Intelligence and Policy." Georgetown University: Edmund A. Walsh School of Foreign Service. http://www.guisd.org/redline.pdf.

[71] Betts, K. Richard. *Enemies of Intelligence: Knowledge and Power in American National Security*. Columbia University Press: 2007.

had been informed of the impending attack only on the basis that he remained mum to analysts. As Betts notes, Helms had "considered it unwise to forward an assessment that had been drafted in ignorance of the plan." Since the plan did not contain "dynamite," nor did it invalidate any reason for the president wanting to invade the country, it was understandable that Helms withheld information that he felt would be counterproductive. In retrospect, as Betts noted that Nixon would have found the information nauseating as he saw the CIA as "staffed by Ivy League liberals who behind the façade of analytical objectivity were usually pushing their own preferences."

Yet as Lowenthal noted, the relationship between policy-maker and the intelligence community changes the more time the policy-maker stays in office. George Tenet possessed one of the most direct relationships of the DCI to the president.[72] In turn, both the DCI and DNI must possess access to the president to do their job effectively.

Intelligence is merely the collection and analysis of data—possible hypotheses to tenuous questions. As Betts asked, "No one can be against either maximizing credibility or utility in intelligence analysis. So why must a choice between them ever be made?"[73] The ultimate goal of intelligence is information gathering is simple—it is a closer approximation to the truth. The black box of intelligence-gathering is a frustrating job. For years, U.S. intelligence did not have a single, dominant foreign threat to act as a locus for prioritizing, sizing, and shaping intelligence capabilities after the Cold War ended. When Iraq came forth, policymakers once again understood how crucial vetting intelligence could be.

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[72] Lowenthal, Mark. *Intelligence: From Secrets to Policy.* CQ Press: Washington D.C., 2009.
[73] Betts 70.

Ultimately, the top intelligence consumer, and the intelligence community's best customer is the President himself. He has been empowered with the most imperative decisions on Earth because he has been elected to that position. In turn, the senior officials whom he appoints aid him in making those decisions. No one, however, elects intelligence analysts. They possess the opportunity for pure analysis, free of agenda.

This gift of free analysis is not particularly fun for intelligence officers, however. As Harold Ford, former chief of the National Intelligence Council, once said, advocacy is not only always more simple, but it is more fun than intelligence assessment. As he noted, "Intelligence analysts must "be all-seeing, responsible, free from any taint of being 'cooked.'"[74] Policy makers, in the meantime, "can pick, choose, and skew its facts and arguments."[75] The sober facts will always look less attractive than advocating architected realities. The relationship between a senior intelligence officer and the President is therefore delicate, nuanced, and dependent on the administration's utility of the intelligence community.

Analysts must anticipate engagement with policy makers, even if they do not play a larger role in politics. Engagement is not politicization, it is just smart policy. Analysts must explain the implications of a piece of intelligence to the people who need it and utilize it the most. Analyst must be prodded to dissect their conclusion, and to be concerned about the reliability of their reporting. Policy makers are outsourcing the most crucial aspects of their decision-making by relying on intelligence. Policymakers who do not take the time to read, comprehend, and utilize intelligence analyses are failed politicians. While ultimately, it is the policymaker's prerogative to reject intelligence

[74] Betts 64.
[75] Betts 61.

analysis, it is imperative that they understand what credence and emphasis that information holds. As Johnson and Wirtz note, the political leaders of the modern world have stopped seeking out diviners centuries ago.[76] It is vital that the intelligence networks rely on their four categories of their job description: basic estimates of decisions that policy makers have already made, estimates of possible reactions of those decisions, estimates of the results of processes, and estimates of long-term developments of these decisions. That is where their job ends, and the policy maker's begins.

The strained relationship over Iraq between intelligence analysts and the executive branch was therefore damaging for both parties. The October 2002 national intelligence estimate titled, "Iraq's Continuing Program for Weapons of Mass Destruction," detailed with high confidence that Iraq had chemical and biological weapons and missiles, but maintained low confidence about when or if these weapons would be used. In turn, intelligence played a minute part in the policy that unfolded. Intelligence analysis was not fully relied on in making even the most significant national security decisions, and that intelligence was distorted publicly to justify decisions that were already determined. As Paul Pillar, former national intelligence officer for the Near East and South Asia wrote, "What is most remarkable about prewar U.S. intelligence on Iraq is not that it got things wrong and thereby misled policymakers; it is that it played so small a role in one of the most important U.S. policy decisions in recent decades."[77]

While intelligence on Iraq was manipulated for policy decisions, even the intelligence was far from ironclad. The intelligence community in the NIE, for example,

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[76] Johnson, Loch. *Intelligence and National Security: The Secret World of Spies.* Oxford University Press: 2008.
[77] Pillar, Paul. "Intelligence Policy and the War in Iraq," *Foreign Affairs* 85, no. 2 (March/April 2006).

assumed that their estimate regarding Iraq's chemical program solidified that fact that Iraq had "renewed production of mustard, sarin, GF and VX" despite acknowledging in the same estimate that analysts had "little information on Iraq's CW stockpile."[78] Analysts should not have asserted opinion as fact, and not have treated facts, or lack of facts, as periphery or subordinate theories.

While theories are invaluable and provide details to a skeleton that has yet to be fully fledged, as Betts argued, "theories are necessary for judging the meaning of data, but they are also the source of mistaken judgments of evidence." [79] This mistaken judgment of evidence was substantiated by the Senate Select Committee on Intelligence Report when they concluded that "analysts relied on uncertain imagery intelligence products as well as imprecise extrapolation of thin signals intelligence and human intelligence information."[80] In addition, analysts failed to convey explicitly to policy makers the ambiguity of their evidence.

While 9-11 highlighted the failure of the policy maker to react to intelligence, Iraq illustrated a failure of intelligence. Few events in modern political history have affirmed that statement more than the intelligence failures in Iraq. By pursuing intelligence that was half-baked and porous, intelligence officials failed to let facts countermand seductive preconceptions. The intelligence that was pursued was revealed as nothing more than nebulous vagaries. Intelligence analysts were negligent in their assessment of Iraq's alleged WMD program in a tactical and political context. Yet all faults did not lie in the

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[78] Pillar 2.
[79] Betts, Richard. Enemies of Intelligence: Knowledge and Power in American National Security. Columbia University Press (August 17, 2007).
[80] Silberman and Robb, Report to the President, 52–79. Select Committee on Intelligence, United States Senate, Report on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq, S. Report 108–301, (July 9, 2004), 84–142.

lap of intelligence officials. Policymakers, including the White House, neglected to understand the motivations, objectives and interests of Iraq's government. In addition, by not requesting more information that could possibly dissuade them from a fixed notion of Iraq, policy makers cherry-picked the information they ultimately chose to believe.

Intelligence analysts' persistence in working around the presumption that Iraq possessed WMDs became their greatest failure. Imprisoned by this way of thinking, intelligence analysts restricted themselves by pursuing only one working hypothesis. George Tenet, then acting-director of the CIA, argued that intelligence analysts could have clarified postulations by identifying the use of specific phrases and words. To him, "we judge" and "we assess" meant that analysts were surmising by producing analytical judgments, not stating facts.[81] As he noted, "Estimating is what you do when you do not know."[82]

Dismissed as "one of the most public intelligence failures in recent American history,"[83] intelligence was far from the war's only catastrophe. Pillar further described a rancorous relationship between the intelligence community and policy makers. He acknowledged that the Bush administration manipulated and misused intelligence in making its case for war. By arbitrarily cherry-picking intelligence to varnish a pre-planned coat of action, the Bush administration was too quick to affirm a belief that was never fully substantiated. However, Pillar asserted that while the National Intelligence Estimate indeed was hasty and littered with holes, he pardoned the intelligence analysts of complete responsibility. The reconnaissance culled from Iraq showed that, "official

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[81] Tenet, George. At the Center of the Storm. HarperCollins; (April 30, 2007).
[82] Tenet 42.
[83] Silberman 6.

intelligence on Iraqi weapons programs was flawed, but even with its flaws, it was not what led to the war."[84] Pillar argued that on the issue that mattered most, the intelligence community judged that Iraq probably was several years away from developing a nuclear weapon.

Tenet argued that Saddam Hussein was a mastermind at what the intelligence community calls "denial and deception."[85] Hussein could allow UN to freely traverse that country free run of the country, and yet if they found nothing, the sanctions would have "melted." Tenet pointed to the fact that if that were the case, Hussein may have potentially been alive and possibly still in power today. Without sanctions, Hussein would have well been on his way to possessing WMDs. As Tenet said, "Before the war, we didn't understand he was bluffing, and he didn't understand that we were not."[86] Yet if the intelligence community had done better job in all our analysis and in this NIE, war critics would have had a harder time today implying that "the intelligence community made us do it."[87] The United States did not go to war in Iraq solely because of WMDs. It rapidly, however, became the war's most public face.

As Betts reiterated, "assessments of facts on matters of much importance are always controversial" and therefore the intelligence community must accept this condition as an inherent part of their operating environment."[88] The more intense the policy making environment, the more urgent the need for analytical rigor and excellent tradecraft. As Gelb noted, policymakers should focus on having intelligence experts help

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[84] Silbermann 5.
[85] Tenet 43.
[86] Tenet 41.
[87] Tenet 46.
[88] Betts 72.

them understand the power structures of other countries. Intelligence will never be good enough to reveal the secrets of another country or to be able to predict future big events.

Policymakers should not expect to "fix" the intelligence community simply by reorganizing the agencies. Although intelligence can be important, it cannot consume policymakers. Gelb argued that the Soviet Union had in many ways better intelligence about the United States because it was able to buy off high-level people in the FBI and CIA. Still the Soviet Union failed. Often times it is more important to have a stronger economy and more stable government than to have perfect intelligence about other countries. The intelligence community should also be repositioned to reflect the fact that influence and relevance flow not just from face time in the Oval Office. Betts pointed to the Federal Reserve as an appropriate model structured as a quasi-autonomous body overseen by a board of governors with long-fixed terms.

Intelligence must be sought, analyzed and vetted. It cannot be misused to justify decisions that sculpt materials already in place. Failures can be mitigated at the expense of careful, intelligence planning by policy makers. The correct model of intelligence gathering involves the policymaker requesting intelligence first. Consequently, the intelligence should be collected, analyzed, and presented by experts to policymakers. This didn't happen with Iraq. Ultimately, intelligence officers don't orchestrate policy. As Tenet said, "Our job is to tell the people who *do* what we know and what we think. Its up to them to decide what to do about it."[89] Ultimately, no matter how structured the national security apparatus, the intelligence community cannot predict the future. While the IC can lead the way to the pearly gates of information, the only guardian there is the

[89] Tenet 49.

President.

Technological (Mis)Advances

Technological advances are integral to the assurance of U.S. national security. It is integral to note that U.S. intelligence was impossible to defeat during the Cold War. The IC understood their enemy and the technology needed to succeed. However, U.S. security is now highly contingent upon more complex advancements such as "the promise of advances in fields such as the biosciences, nanotechnology, and information technology."[90] During the Cold War, U.S. intelligence was at the forefront of weapons systems, computer and satellite technology. In the last 20 years, its lead has dwindled as innovation has moved from the public to the private sector and technological know-how has spread across the world. Worse still for the United States, its adversaries have been quick to adapt to technological improvements.

There have been new advances in intelligence, such as the Intelligence Advanced Research Program Agency under the ODNI Rapid Technology Transition Initiative, which has attempted to create a more technologically advanced DOD. Over 80 innovative technologies have been funded with the program, according to Richard Best, a national defense specialist.[91] As McConnell noted, one technological success was the development of Argus "named for the giant from Greek mythology with one hundred eyes—which [would] monitor foreign news media and other open sources for early

[90] McConnell 46.
[91] Best, Richard. "Intelligence Reform After Five Years: The Role of the Director of National Intelligence (DNI)." Congressional Research Service. June 22, 2010.

indications…(of troubles)."[92] The program has the ability to utilize open-source material efficiently, particularly in more impermeable societies. Another example McConnell noted is a more efficient FBI database called the Biometric Quick Capture Platform that has helped with biometric identification of suspects overseas. The platform utilizes a real-time electronic fingerprint database to expedite searches on criminal records. It has helped users collect and store fingerprint data and perform real-time electronic searches of federal fingerprint databases and helped lead to the capture of high-value targets in Afghanistan, Iraq and the Horn of Africa. As McConnell noted, "The U.S. intelligence community's European colleagues…are able to… operate a new satellite system in about five years and for less than a billion dollars."[93] In comparison, a slightly more complex U.S. spy satellite, may take twice that time and twice the amount.

The reasons for the backlog, however, are technically not all flaws. The U.S has a tendency to create products that have a lower risk of mission failure. Longer time schedules are a consequence of more complex technology. However, if the IC is to bridge this gap, it will need a more "agile policy."[94] Understanding that time schedules are also critical in maintaining national security, U.S. intelligence must find a way to combine variability and speed into their workload.

Technology, however, cannot solve structural dilemmas. While cutting-edge IT can be an avenue to find more information, it cannot replace the role of proper intelligence analysis. As Lowenthal noted, "IT can be helpful in collating (data), sifting it, creating relationships among databases…but it cannot replace and insightful and

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[92] McConnell 48.
[93] McConnell 56.
[94] Lowenthal 77.

experienced analyst."[95] Technologies should not be oversaturated in IT tools that can drown analysts with an overflow of information. Improved structure and better analysis must become analogous counterparts.

VIII. Conclusion

The Intelligence Reform Act and Terrorism Prevention Act of 2004 did little to reform the efficacy of the intelligence community following September 11th. Without the advice of the intelligence agencies or an understanding of the community's functionality, IRTPA was little more than a temporary salve. Although the act changed little, substantial accomplishments have been made in the six years that the ODNI has been in existence.

Improvements in national security since 2004 have been a result of the diligent work of the community itself, rather than any structural reform. In 2010, Director Blair maintained that the ODNI had made considerable progress toward breaking down "the information-sharing, technical, and cultural barriers across the Intelligence Community that were identified in the wake of the September 11th attacks."[96] While he acknowledged the events of 9-11 were a result of imperfect intelligence analysis, he noted that the IC was also not strategically analyzing Al-Qaeda's capabilities before 9-11. He maintained that analysis and analysts were not always utilized effectively because of the perception that the IC was not as integral to counterterrorism missions than operations personnel.

Information sharing has also improved significantly in the past six years. The

[95] Lowenthal 78.
[96] Best 8.

introduction of intelligence information data retrieval systems, such as Intellipedia and A-Space and the Library of National Intelligence, have greatly enhanced DNI coordination, but have also left it vulnerable to leaks.[97] The Wikileaks scenario, which allowed over 77,000 secret Pentagon documents on the Afghan war alone, among others, to be posted on the Internet without the intelligence community's knowledge, is frightening but a sobering reality in an age of quick and easy access. Technology must evolve to deal effectively with these vulnerabilities. Among the reforms against this intrusion is encrypted email. Ultimately, these realities have allowed "sorts of collaboration that are routine today (that) were impossible until DNI-led efforts changed policies that had prevented analysts with the same clearances from seeing or sharing large volumes of information," according to Best.[98]

The President's Daily Briefing now incorporates more extensive analysis culled from new diagnostic standards. The ODNI has also developed a performance-based budget with the FY2010 National Intelligence Program (NIP) to align strategic outcomes and budget priorities. According to Best, "a National Intelligence Priorities Framework had been designed to align collection and analytical resources to ensure that adequate resources are matched with major challenges and emerging threats."[99] Two prominent retired intelligence officials, Thomas Fingar and Mary Margaret Graham, have argued that the DNI and ODNI have been improving considerably. They noted that the intelligence community "is transforming from a confederation of feudal baronies into networks of analysts, collectors and other skilled professionals who increasingly think of

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[97] Best 9.
[98] Best 11.
[99] Best 12.

themselves as members of an integrated enterprise with a common purpose."[100]

The consequences of IRTPA were laborious and led to lukewarm results. The tide of intelligence collection, analysis, and interpretation is not stagnant. From the Cold War to current actions against terrorism, it is critical that the IC recognizes the changes associated with political climates, intelligence threats and structural methodologies. Utilizing reform, restructuring, or a combination of forces, the intelligence community's ultimate function should be to ebb and flow seamlessly with that tide. Plumbing can change, but the information that the government funnels should remain constant. The intelligence analyst's job remains the same: to work diligently. There is not much else that analysts can do. As Lowenthal notes, "Why won't the analysts' success rate change? Simply because there is not vast room for improvement. A lot depends on the nature of the issue and the question being asked."[101]

While Congress should maintain oversight of the intelligence community, it should not dictate its appearance. It is nearly impossible for Congress to facelift to an agency that is so far removed from the daily reality of intelligence analysis. If the ODNI were a tabula rasa, it would become an easier task to paint an unfilled canvas. Existing structures, methodologies and procedures complicate the scenario, making it necessary to involve more foresight when predicting the needs of the intelligence community in the future. As Hayden noted, "(Congress) can move money; it can move people; or it can restructure organizational charts and strengthen authorities."[102] With IRTPA, Congress decided to restructure the agency. That has proven to be more work than it was worth.

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[100] Best 11.
[101] Lowenthal 112.
[102] Hayden 3.

Agencies, like human beings, re-structure internally for lasting results. Expectations and external white noise cloud the effectiveness, confidence and success of any government agency. The ODNI must function with a clockwork speed and accuracy to be industrious. While embracing new advancements, it must also utilize assets, resources and structures that are preexisting within the community. It is unclear, and at this point, disobliging, to speculate what might have happened had more connections been made with disparate pieces of information prior to September 11th. It cannot currently make the IC work more effectively, nor can it buoy the morale of the community. As the *Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001* wrote in its findings, "We will never definitively know to what extent the Community would have been able and willing to exploit fully all the opportunities that may have emerged. The important point is that the Intelligence Community, for a variety of reasons, did not bring together and fully appreciate a range of information..."[103]

The United States intelligence community cannot bear another loss to its efficiency, morale and reputation. While recognizing its strengths, it must work toward perfecting its methodologies. The national security of the nation must rest on tangible goals that can be embraced by a large, governmental system. Theoretical coups are not fashionable in political reform. Large proposals are nearly impossible to implement. National security will only be strengthened if the IC focuses on its own gradual edification. This will not come easy; patience is not a virtue with citizens. "Most of us, when we enter a room and throw on a light switch," Hayden noted, "expect

[103] U.S. Congress 142.

illumination—not a grand debate over the virtues of 110 versus 220, the physics of power generations; or even the relative merits of building codes. Just light, please."[104] That illumination is not idealism speaking. Lasting light, however, will not stem from Congress or IRTPA, but from the IC's own vigor. It is the intelligence community's responsibility to claim ownership over the nation's judgment of its capabilities. The citizen's responsibility is to rest comfortably in its abilities.

[104] Hayden 4.

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