



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

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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 occasion of IRTPA’s 20th anniversary, it is important to evaluate the strengths and weaknesses of this landmark legislation.

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.

## Leadership Reflections on Intelligence Reform

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?<sup>a b</sup>

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.

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## 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

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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>

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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.<sup>a</sup> 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.<sup>b</sup>

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).



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### 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.

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### 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

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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.

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### 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.

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### *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.

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### 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.



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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.

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### 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. ■