

**New Boxes for Old Tools? Considerations on Reorganizing U.S. Intelligence**

J. Ransom Clark

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J. Ransom Clark, Muskingum College

### I. Introduction

Citing the dual circumstances of the end of the Cold War and a strained national fiscal environment, the chairmen of the Senate and House intelligence committees in February 1992 introduced companion bills<sup>1</sup> emblematic of the pressures to reduce and reorganize U.S. intelligence activities. Neither bill was enacted, but the proposals continue to define and limit the debate on the future of U.S. intelligence. The existence of the bills pushed the Director of Central Intelligence (DCI) and the Defense Secretary into making structural adjustments in areas under their control, in an effort to forestall more sweeping legislative action. Additionally, aspects of the proposals made their way into the Intelligence Authorization Act for Fiscal Year 1993,<sup>2</sup> after the Administration negotiated wording which reduced the impact of the changes on intelligence structures.

There are several levels of concern inherent in these circumstances. At a basic level, there is a question as to the results that might be anticipated from the proposed changes. There is also an issue with regard to timing. The post-Cold War world may prove to be less globally dangerous than the era that preceded it, but it will also be less predictable. Encouraging stability and managing change in a worldwide context will be major considerations for U.S. policy into the next century. We can assume that informed decision making will remain a necessity and that accurate intelligence is needed for the complex political, economic, and military decisions U.S. leaders will face. Given the importance of structures to outcomes, we need to focus on what intelligence should be doing in this new world before we lock into law radically altered bureaucratic structures.

At yet another level, there is a question as to whether the legislative branch should be the force driving functional and structural change in intelligence matters. Do Congress' fiscal and oversight powers make it an equal partner to the executive branch in determining how intelligence is going to be conducted within the bounds of available resources?

That the texture, content, and structure of U.S. national security policy will change in the coming years is certain; the nature of that change is in doubt. Here, the legislation serves as a lens through which to survey the changes being discussed for the U.S. intelligence structure; it is suggested that better diagnostic efforts are needed before surgery begins.



## II. Functions and Structure in American Intelligence

The baseline legal foundation governing U.S. intelligence is the National Security Act of 1947.<sup>3</sup> The Act established the Central Intelligence Agency (CIA) as the leading U.S. governmental entity to gather, process, and disseminate intelligence. It also created the position of DCI and gave it the tripartite responsibilities of chief intelligence advisor to the President, coordinator of U.S. intelligence activities, and head of the CIA. At the same time, the CIA was placed under the control of a new White House entity, the National Security Council (NSC). Before establishing the 1947 structure, President Truman and his advisers had to come to terms with the root question of whether a *centralized peacetime* intelligence structure was needed in this country. The answers to this question involved compromises in 1947, and the results have been played out over time as a continuing series of bureaucratic and political compromises. The question has yet to be definitively answered and remains integral to today's debate on the nature of the U.S. intelligence establishment.

The National Security Act did not establish a rigidly centralized American intelligence structure. It was expected that departments and agencies with ongoing collection and analysis activities serving their specific needs would continue such efforts. At most, the formation of the CIA and the NSC created a framework for an intelligence community within which the DCI would be the President's chief intelligence officer and would *coordinate* U.S. intelligence activities.<sup>4</sup>

It is instructive that in the fifteen years following the legislative founding of the CIA, three new, large intelligence agencies were created, none of which was included explicitly in existing or additional legislation. The National Security Agency (NSA), the Defense Intelligence Agency (DIA), and the National Reconnaissance Office (NRO) were established by executive or departmental action. The first two of these agencies came under the direct command authority of the Secretary of Defense. In the latter case, the new agency represented a negotiated solution to a continuing dispute between the CIA and the Air Force over control of systems and budgets associated with the nation's growing satellite reconnaissance program.

Since the mid-1970s, Presidents Ford, Carter, and Reagan have put the Intelligence Community on a more formalized basis by specifying its composition in a series of Executive Orders. Executive Order No. 12,333, issued by President Reagan in 1981,<sup>5</sup> continues in effect. It defines the Intelligence Community as: CIA; NSA; DIA; "offices within the Department of Defense for the collection of specialized national foreign intelligence



through reconnaissance programs" (NRO); State Department's Bureau of Intelligence and Research (INR); intelligence elements of the Army, Navy, Air Force, Marine Corps, Federal Bureau of Investigation (FBI), Department of the Treasury, and Department of Energy; and staff elements of the DCI.

There is great diversity of function, primary interest, organizational size, amount of budget, and relative bureaucratic power included within the Intelligence Community. Perhaps the single greatest obstacle over time to the DCI's assuming a stronger role in managing the Intelligence Community has been the situation where more than eighty percent of the \$30 billion a year intelligence budget has been under the control of the Secretary of Defense.<sup>6</sup> However, since 1976, the DCI has had the responsibility of developing and presenting the National Foreign Intelligence Program (NFIP) budget to the President and Congress.<sup>7</sup> At present, the DCI reviews and approves requests for reprogramming within the NFIP and monitors its implementation, but cannot reprogram such funds on his own authority.

### III. Proposed Structural Changes

The proposed legislation is animated by two core concepts: centralized control of the Intelligence Community and a restructuring of intelligence organizations along functionally specific lines. The bills also evidence a sweeping view of the role of the legislative branch in the national security process generally and the intelligence process in specific.

A. Centralized control: The legislation envisages the creation of an intelligence "czar," separate from the CIA and with strengthened authorities. The new head of the Intelligence Community--the Director of National Intelligence (DNI)--would exercise the DCI's responsibilities as the President's principal intelligence advisor and coordinator of the Intelligence Community. In essence, the DNI would assume the role of a unified commander in the military. Individual agencies would retain command of the "assets" of intelligence but would be budgetarily subject to the DNI's authority. The DNI would develop the NFIP budget and allocate, obligate, expend, and reprogram all NFIP funds. The legislation also provides for the aggregate dollar amount of the NFIP to be made public; the details would continue to be classified.

Two deputy directors would assist the DNI. The two offices together would constitute a new entity to be called the National Intelligence Center. Both positions seem to be projected as dual staff and line management jobs.

A Deputy Director of National Intelligence for the Intelligence Community would have under his authority a new entity called the Office



for Warning and Crisis Support. This office centralizes at the national level activities involving "indications and warning" intelligence, which are now scattered among civilian and military agencies. The coordinating role analytically for this function is handled on the current National Intelligence Council by the National Intelligence Officer (NIO) for Warning. The Senate legislation provides an even broader charter to the Office of Warning and Crisis Support. Reaching beyond the office's focused name, the Senate bill makes the office responsible for assisting the DNI in the full range of that position's responsibilities for oversight of the national intelligence budget, coordination of intelligence collection efforts throughout the civilian and military agencies, and directing procurement and operation of overhead reconnaissance systems.

B. Function-based organizational structure: The second core concept involves a restructuring of intelligence into "vertically integrated" function-based organizations or, in the current jargon, functional "stovepipes." Essentially, there would be a national agency for human collection (which would retain the capability for covert action), another for collection of signals intelligence, a new agency for imagery collection, a separate agency for baseline analysis work, and another body for "higher-level" estimative analysis.

Baseline analysis work would be headed by the second of the DNI's two deputies--the Deputy Director of National Intelligence for Estimates and Analysis. An Office of Intelligence Analysis would include the analytical units now in the CIA's Directorate of Intelligence and other (unspecified) analysis entities. The House bill has the Deputy Director of National Intelligence for Estimates and Analysis heading a second analytical activity--the National Intelligence Council. This entity would draw DNI-selected "senior analysts" from among the agencies to focus specifically on the production of national estimates. The Senate bill creates the same functional body but has it reporting directly to the DNI.

The legislation gives the Defense Department jurisdiction over national imagery programs. It creates a new bureaucratic entity--the National Imagery Agency--within the Defense Department, under a director appointed by the Defense Secretary. The agency is given responsibility for tasking imagery collectors, exploiting and analyzing the results of imagery collection, and disseminating the product. The Senate bill also gives the new agency sole responsibility for procurement and operation of overhead reconnaissance systems. On the other hand, the House version designates the new agency only as the sole agent for defining the technical specifications for overhead reconnaissance systems. It makes another



agency within the Defense Department--the Reconnaissance Support Activity--the sole agent for conducting research, developing, testing, evaluating, procuring, launching, and operating such systems.

The National Security Agency (NSA) is given a statutory basis. The barebones establishment wording affirms NSA's role as the nation's preeminent signals intelligence (SIGINT) and codemaking organization. In addition, the Senate bill gives NSA the charter as the sole agent for procuring and operating signals intelligence-related overhead systems. The House bill confines this mandate to "defining the technical specifications," with procurement and operation of such systems resting with the Defense Department's Reconnaissance Support Activity. The bills seem to close out the development, engineering, and operational role that the CIA's Directorate of Science and Technology (DS&T) has played almost from the inception of the high-tech era in intelligence collection.

The CIA would continue to exist as a separate agency, under a Presidentially appointed Director of the Central Intelligence Agency (DCIA). The agency's activities are, however, limited to human source intelligence (HUMINT) collection, coordination of the efforts of HUMINT collectors elsewhere in the government, and the conduct of approved covert action operations.

The original vague wording of the National Security Act of 1947 regarding covert action is made marginally more explicit in the proposed legislation. The DCIA is given the responsibility for "performing such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct, including the carrying out of such covert actions as are authorized by the President. . . ."<sup>8</sup>

Beyond including the Federal Bureau of Investigation (FBI) in their lists of the proposed new Intelligence Community, neither bill addresses the function, organization, or role of counterintelligence within the U.S. intelligence structure.

#### IV. Conclusions

Although the supporters of intelligence reorganization tend to point to the end of the Cold War as a major reason for change action at this time, the current debate is grounded in decades-old arguments.

A. Centralized control: The idea of an intelligence czar was clearly considered--and rejected-- prior to the creation of the CIA in 1947. One of its most consistent recent proponents may be Stansfield Turner, President Carter's DCI. Turner requested that Carter give the DCI "full management



and operating authority over all the agencies operated by the Defense Department for collecting national intelligence. . . ."<sup>9</sup> Like presidents before and since, Carter chose not to go down the centralization road, opting instead to use the DCI as coordinator of the diverse components of the Intelligence Community.

Earlier, the Church Committee had studied the idea of an independent DCI to serve as a central force in American intelligence. This reflected the committee's concern about possible conflict between the DCI's broad community role and his more specific role as head of an operating agency. The committee considered creating the equivalent of a DNI separate from any agency affiliation or responsibility, but dropped the idea. It decided that such a move would create a disembodied head, deprived of independent support and lacking the bureaucratic clout to operate effectively.<sup>10</sup>

In its present incarnation, the DNI concept includes the expectation that the position would manage the national-level intelligence analysis now performed in the CIA and elsewhere. This potentially addresses the problem of bureaucratic isolation identified by the Church Committee. However, it runs counter to the clear trend for presidents to seek to have at their disposal multiple intelligence inputs and to keep the authority over intelligence activities dispersed throughout an interlocking bureaucracy coordinated through the office of the DCI and the NSC.

Despite a clear bias in favor of centralized control of the Intelligence Community, the legislation also shows some ambivalence on the part of the authors toward that concept. For all the emphasis on DNI control of the intelligence budget, the proposals exempt from the NFIP and, therefore, from the DNI's direct authority those intelligence activities belonging to the Defense Department's Tactical Intelligence and Related Activities (TIARA) program. The TIARA budget, which comprises more than a third of total intelligence funding, would continue to be managed as a separate program by the Defense Secretary. The line dividing national and tactical intelligence is not always clearcut, and the Defense Secretary's authority to define what is tactical intelligence could have significant impact on the scope of the DNI's authority.

In addition, the proposed legislation leaves the National Security Agency under the operational control of the Defense Secretary, places the newly created National Imagery Agency within the Defense Department, and gives legislative cachet to the existence of the Defense Intelligence Agency. The latter organization was widely regarded as a target for termination even before the current fiscally constrained environment became the focal point for change in the Intelligence Community.



B. Function-based organizational structure: The concept of creating "vertically integrated" or functionally based intelligence organizations ("stovepipes") is seen by its supporters as simplifying and consolidating intelligence entities and, thereby, eliminating duplication of effort among them. The goal is greater efficiency.<sup>11</sup> There are a number of practical and philosophical problems with this approach.

One problem is the assumption that "efficiency" will produce better intelligence. Even as strong a proponent of separating the position of head of the Intelligence Community from that of CIA head as former-DCI Stansfield Turner opposes trying to centralize analysis. He argues that analysis requires "competition, freedom to express iconoclastic views, and independence from the influence of policy."<sup>12</sup> Former-DCI and Defense Secretary James R. Schlesinger went even further in testimony to the Senate intelligence committee. He noted that competition and duplication can be useful in the world of intelligence and that their elimination might mean the loss of "potentially fruitful differences of opinion." Schlesinger warned that: "The single-minded pursuit of efficiency will not have the sought-after effect. . . . Rather, it will result in the accepted, winked-at or under-the-table diversion of resources to intelligence activities that will inflate the actual, if not the nominal, bill for intelligence."<sup>13</sup> In the same vein, a former NSA Director, Lt. Gen. William E. Odom, told the committee that military leaders and policymakers need their own in-house analysts in order to ensure that their specific questions are being answered.<sup>14</sup>

Concern also exists that the consolidation of activities envisaged by the legislation would disrupt existing synergistic cross-functional relationships. This is particularly the situation between the CIA's human-source collectors and analysts. Some experts argue that there is a need to keep the analytic side close to the covert collection function. Both are needed to, in effect, keep the other one honest, and separating them invites trouble on both sides. The interacting and dynamic relationship between the two often antagonistic components, which has developed over the forty-six years of the CIA's existence, would be lost if the CIA's analysts were displaced into a separate, standalone organization in the interest of providing clearly defined functional separations among intelligence organizations.

It is in the area of defining the new functionally differentiated Intelligence Community that the bills show their greatest deficiency: They omit any consideration of where counterintelligence and the agencies engaged in that function fit within the proposed structure. This is a serious omission, and is difficult to understand for several reasons.



One reason is that the Senate Select Committee on Intelligence has been studying the counterintelligence problem for some time. In 1989, the Committee created a special panel (the "Jacobs Panel") to examine the conduct of U.S. counterintelligence activities. In May and July 1990, the Committee took testimony from panel members and others on ways to improve U.S. counterintelligence measures.<sup>15</sup>

A second reason why attention to the intelligence-counterintelligence meld might have been expected is related to changes made recently in the Defense Department's counterintelligence structure. Assets responsible for counterintelligence, security programs, and information systems security have been brought together under the office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). The move places counterintelligence in an organization that deals with intelligence and intelligence policy. It signals the emergence of a new concept that recognizes the need for counterintelligence and intelligence to be moving in the same direction and working together if civilian and military decisionmakers are to have effective support.<sup>16</sup>

C. President versus Congress: It is instructive as to the current state of relations between the legislative and the executive branches that Congress is forcing the pace of post-Cold War retrenchment and restructuring of U.S. intelligence, an area once regarded as almost the exclusive province of the executive. It can, in fact, be argued that the current pressures from Congress to reorganize the Intelligence Community are substantially fueled by the ongoing struggle between the executive and the legislative branches over primacy in the broader foreign policy arena.<sup>17</sup> The very existence of the proposed legislation suggests that the Congressmen are acting on the basis of a conception of the role of the legislative branch that places that branch on a par with the executive branch in the making of decisions concerning the intelligence process. Taken as a package, the proposals are the forerunners of a level of legislative involvement in intelligence matters that would represent a further evolution in the concept of "intelligence oversight" by Congress.

There is no real question that Congress "can" force massive changes in the Intelligence Community, if it so desires; the power of the pursestrings certainly makes this well within the institution's reach. The central question, however, becomes a normative one of whether the President or Congress *should* be the governmental branch taking the lead in organizing and managing the Intelligence Community.

At a time when "change" is the watchword on all sides of the political spectrum, there is little doubt that change is inevitable for the U.S.



Intelligence Community. If for no other reason, this is the case because the absence of an overarching direct threat to the country's security combined with a towering national fiscal deficit leaves little support for continuing the level of funding for intelligence activities that was the hallmark of the Cold War and particularly of the 1980s.<sup>18</sup> The root question, however, is, "What kind of change?" And secondarily, there is the question addressed in this paper, "Is the change represented by the two bills before Congress the kind that is needed?" The answer to this latter question is basically "no."

The need is for a flexible and responsive intelligence structure working against targeted agendas driven by clearly defined national security requirements. An agenda drawn up today might include issues of regional instability, proliferation of weapons of mass destruction, terrorism, narcotics, and economic competition. Standing alone, however, that agenda would be inadequate. The immediate future will be a time of uncertainty when the threats the nation faces will lack the clarity of the East-West confrontation. Thus, the problem to be confronted in creating an Intelligence Community for the twenty-first century is larger than efficiency alone. We must first identify what it is we need from our intelligence organizations and, then, move forward to effect structural changes keyed to those needs. This can best be done from within the executive branch, with the encouragement of Congress through its searching evaluation of budgets and programs presented by the President and the DCI.

#### Endnotes

1. Congress, Senate, To amend the National Security Act of 1947 to reorganize the United States Intelligence Community to provide for the improved management and execution of United States intelligence activities, and for other purposes, 102d Cong., 2d Sess., S. 2198; and Congress, House, To Reorganize the United States Intelligence Community, and for other purposes, 102d Cong., 2d Sess., H.R. 4165.

2. Public Law 102-496, signed by President Bush on October 24, 1993. See L. Britt Snider, "Assessing the 1992 Intelligence Reorganization Legislation," National Security Law Report 15, no. 5 (May 1993): 1, 3.

3. National Security Act, U.S. Code, vol. 50, secs. 401-405 (1988).

4. "[T]he principle of federation prevailed over the concept of tight centralization in shaping the structure of the intelligence community." Henry Howe Ransom, The Intelligence Establishment (Cambridge: Harvard University Press, 1970), 81.



5. President, "Executive Order No. 12,333," Federal Register (1982) vol. 46, p. 59941, reprinted in National Security Act, sec. 401.
6. One estimate of the FY 1992 intelligence budget gives the following agency/activity breakdown in a \$29.318 billion total: NRO \$6.2; NSA \$3.9; Defense Reconnaissance Support Program \$0.536; DIA \$0.582; Air Force intelligence \$1.5; Army intelligence \$1.5; Navy intelligence \$0.5; TIARA \$11; CIA \$3.2; Intelligence Community Staff \$0.1; State Department \$0.05; Department of Energy \$.15; and FBI \$0.1. Patrick E. Tyler, "The Task: Slip Spies Into the New World Order," New York Times, 19 May 1991, sec. 4, p. 5.
7. The NFIP consists of the programs of the CIA, the Consolidated Cryptologic Program, the General Defense Intelligence Program, and the NRO; other programs designated by the DCI and the agency head as national foreign intelligence or counterintelligence activities; and activities of staff elements of the DCI. Tactical military intelligence activities are specifically excluded from the NFIP. E.O. 12,333, Sec. 3.4(g)(1)-(5).
8. S. 2198, sec. 202(a); H.R. 4165, sec. 142(3) (emphasis added).
9. Stansfield Turner, Secrecy and Democracy: The CIA in Transition (Boston: Houghton Mifflin Co., 1985), 262. Since leaving the DCI position, Turner has continued to argue the merits of a DNI. See Turner, "Intelligence for a New World Order," Foreign Affairs (Fall 1991): 150-166.
10. Scott D. Breckinridge, The CIA and the U.S. Intelligence System (Boulder, CO: Westview Press, 1986), 315.
11. According to Senator Boren, "our goal must be a better product at a lower cost." Congressional Quarterly Weekly Report, 22 February 1992, 416.
12. Turner, "Intelligence," 165-166.
13. Congressional Quarterly Weekly Report, 22 February 1992, 416.
14. Ibid.
15. Congress, Senate, Select Committee on Intelligence, S. 2726 to Improve U.S. Counterintelligence Measures: Hearings Before the Select Committee on Intelligence, 101st Cong., 2d sess., 23 May and 12 July 1990.
16. Nina Stewart, "In Transition: Counterintelligence and Security Countermeasures in the Information Age," American Intelligence Journal 13, no. 3 (Summer 1992): 11.
17. See Russell J. Bruemmer, "Intelligence Community Reorganization: Declining the Invitation to Struggle," Yale Law Journal 101 (January 1992): 867-891.
18. The reduction in the Fiscal Year 1993 intelligence authorization was six percent below the President's request. Congressional Quarterly Weekly Report, 31 October 1992, 3489-3490.