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Initial Assessment on the Implementation of the Intelligence Reform and Terrorism Prevention Act of 2004

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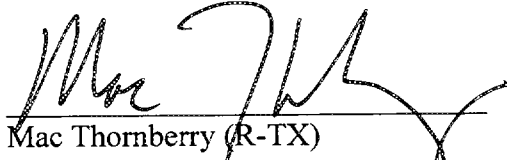
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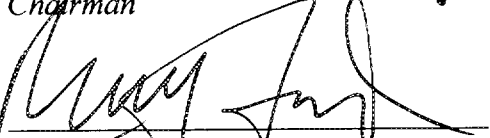
HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE


Initial Assessment on the Implementation of
The Intelligence Reform and Terrorism Prevention Act of 2004

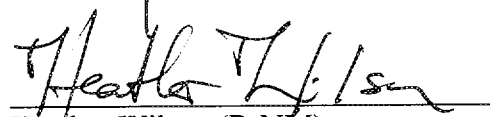
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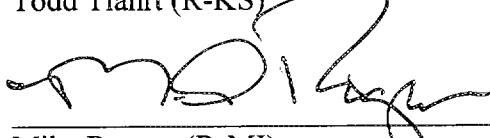

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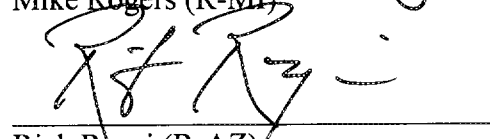

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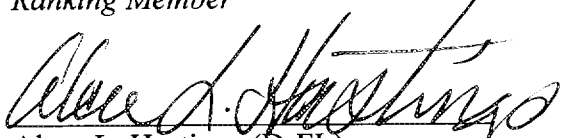

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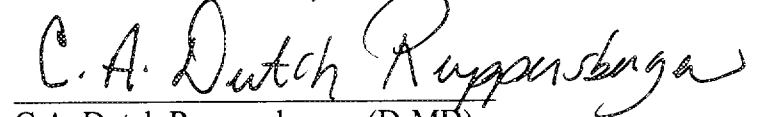
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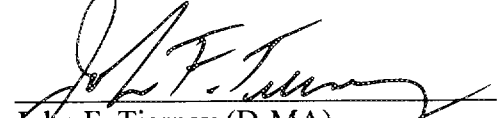
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I. Introduction

On September 11, 2001, 19 suicidal terrorists, using fuel-filled airliners, attacked the United States and killed approximately 3,000 innocent people.

Since that day, the national security organizations of the United States government have, with varying degrees of urgency, attempted to respond to this difficult and deadly threat, for the terrorists have made it clear that they will continue to pursue us.

It is apparent from information gathered through our intelligence efforts, as well as from public declarations, that Al-Qaeda and similar groups are determined to kill as many Americans as possible in the most spectacular fashion possible. (See, for example, Ayman al-Zawahiri's *Knights Under the Prophet Banner*¹ (2001)). The Subcommittee on Policy of the House Permanent Select Committee on Intelligence recently released a report—Al-Qaeda: The Many Faces of an Islamist Extremist Threat (June 2006)—that provides more details on this threat. It is also clear that their goal is to establish a radical Islamic caliphate under their narrow and distorted view of what the world should be. As British Prime Minister Tony Blair said on March 21, 2006, “It is not a clash between civilisations. It is a clash about civilisation.”²

9/11 was a significant failure of American intelligence. Several studies and reviews have analyzed the Intelligence Community (herein referred to as the Community), identified deficiencies that contributed to this failure, and recommended changes to remedy them.

Among the reviews were:

- Joint Inquiry into the Terrorist Attacks of September 11, 2001 by the House and Senate Intelligence Committees, December, 2002;
- The Final Report of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission Report), July 22, 2004;
- The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission), March 31, 2005.

One common conclusion, as expressed by the WMD Commission, emerged:

“But above all, we found an Intelligence Community that was too disorganized and fragmented to use its many talented people and sophisticated tools effectively. There are not enough coordinated and sustained Community-wide efforts to perform critical intelligence functions – ranging from target development to strategic analysis – and critical information still too often does not get to the analysts or policymakers who need it most.”³

¹ Ayman al-Zawahiri, *Knights Under the Prophet's Banner: the al-Qaeda Manifesto*, Al-Sharq al-Awsat, December 3, 2001, Foreign Broadcast Information Service (FBIS), GMP20011202000401, 2001

² British Prime Minister Tony Blair, Foreign Policy Speech, March 21, 2006

³ Report of the National Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, March 31, 2005, p. 309-310.

In December 2004, Congress passed and the President signed into law the Intelligence Reform and Terrorism Prevention Act of 2004 (hereinafter referred to as the Intelligence Reform Act). A number of lingering concerns about the Community helped to shape its provisions, but the Act was significantly influenced by the recommendations of the 9/11 Commission. The Intelligence Reform Act made reforms in several important areas of intelligence:

- 1) Leadership of the Community
- 2) Analysis
- 3) Information sharing
- 4) Civil liberties
- 5) Other areas, such as education and training, FBI culture, and security clearances

Provisions of the Act were further augmented and refined by the Administration's response in July 2005 to the WMD Commission Report's recommendations, of which the Administration accepted, in whole or in part, 70 from a total of 74.

The Chairman and Ranking Member of the House Permanent Select Committee on Intelligence believed that the Committee had a duty to do more than pass a new law and then critique the results from the bleachers. They insisted that the Committee continue to engage the Community on implementing these reforms. In fact, one of the primary responsibilities assigned to the new Oversight Subcommittee, as outlined in the Committee's oversight plan, is to oversee implementation of the Intelligence Reform Act.

The Subcommittee takes that job very seriously and remains mindful of the potential tragic consequences of another intelligence failure. Subcommittee members and staff have been involved with many hours of briefings, meetings, discussions, and visits to various locations. Both members and staff have received input from outside observers. And, the Subcommittee has conducted several public hearings.

This assessment provides a snapshot of how well the goals of the Act are being satisfied at this point. It is a mixed story – some good, needed steps have been taken while other reforms have lagged. Some believe that the new structure is too cumbersome and bureaucratic; others believe that the Director of National Intelligence (herein referred to as Director) is not showing the leadership and degree of change for which they hoped. Differences in view are partially explained by differences in expectations about whether the Intelligence Reform Act was a good idea and about what role the Director would play.

This assessment will outline the primary areas of reform contained in the Act and the goals for that area of reform. It will then give an assessment of the progress achieved in reaching those goals.

Three concerns permeate our findings:

(1) Lack of urgency –

We do not diminish the hard work by many people in the Community to make needed changes. We also do not underestimate the difficulty in making changes in large organizations with their own culture and self-interests. We further understand the direction and pace of reform must be in accordance with the wishes of the President, as the first among the many customers of the Community. Yet, the Subcommittee is still concerned that an incremental approach is being used on issues like information sharing and reform of human intelligence, and the Subcommittee believes that there must be a greater sense of urgency in correcting the deficiencies identified by study after study.

(2) Trying new approaches –

The Community must try--and adopt--new approaches to old and new tasks. Analysis has to focus on trying to discover the unknown unknowns, but analysis largely is still clustered around reporting on the same 10% of the data. The FBI is exploring new approaches to examine the “spaces between the cases.” To date the Community is still using inflexible, narrow parameters for new hires, with human resource specialists looking for round pegs for holes that now come in a variety of shapes.

(3) Insufficient prioritization –

The Director is trying to do a little of everything which slows down improvements in key areas. The Director needs to prioritize activities and have his staff focus on those that are most important. Information sharing and other activities necessary to help in preventing future terrorist attack require more attention.

In sum, we believe that intelligence is more crucial than ever in a time when "a few evil men can kill on a scale equal with their hatred."⁴ With stakes so high, we cannot accept a “business-as-usual approach.” As Richard Coffman, a former Central Intelligence Agency (CIA) officer, journalist and security consultant, wrote,

“Focusing on process and organizational change might be edifying for bureaucrats and academics... [but] we can’t hide behind such Washington clichés as ‘it’s too early,’ or ‘it’s a work in progress.’ In a war against a determined, ruthless and active foe, every day counts and dithering could be deadly.”⁵

⁴ White House transcript of remarks by President Bush at the Citadel (Military College), Charleston S.C., December 11, 2001

⁵ Richard Coffman, “Intelligence Reform,” *Military.com* April 18, 2006.
<http://navyseals.com/community/articles/article.cfm?id=9383>. (12 June 2006).

II. Leadership of the Intelligence Community

One of the most frequent criticisms of former Directors of Central Intelligence was that they did not effectively lead the Community, but instead focused almost exclusively on running the CIA. This narrow focus arose from a perceived lack of authority, inclination, and time. During previous debates on intelligence reform, one option discussed was to separate the roles of the Director of Central Intelligence and the Director of the CIA into two different positions. In the Intelligence Reform Act, however, the Conferees from the House and Senate elected to create something new and more robust--a Director of National Intelligence. The hope was for the Director to be a visible leader, "establishing the objectives, priorities, and guidance for the IC"⁶ and leading the Community to function as a "true community." During a public Subcommittee hearing on July 28, 2005, Chairman Peter Hoekstra encapsulated the intentions of the authors of the Intelligence Reform Act:

"Something needed to be done. We needed to create a new organizational structure. We needed to create an organizational structure that I think was more than coordination. It had to be able to provide strategic direction to the entire community so that there would be a shared vision for where we were going to go and how we were going to get there, and to make sure that it was resourced properly to the threats that we perceived. And that is the vision that we have for the DNI [Director] and the DNI's [Director's] office.

Then as we kept peeling down through the layers, we said it needs to be more than an organizational change, it needs to be a transformation of the Intelligence Community. It can't be a bureaucracy, and it had become too bureaucratic. That is why this oversight by this committee is so critical to make sure that we get the Agency that we envisioned when we passed the legislation...."⁷

Likewise, when the Intelligence Reform Act was enacted the Ranking Member Jane Harman stated:

"Our intelligence system is broken. We have 15 intelligence agencies with different rules, cultures, and databases. Our intelligence community operates on a 1947 business model designed to defeat the Soviet Union, which occurred in 1989. Fifteen years later, the enemy is digital, but our organizational structure remains analog.

This long-overdue legislation will modernize our capabilities, integrate our intelligence collection and analysis efforts, unify our counter-terrorist efforts, and promote information-sharing. It will promote the same 'jointness' in intelligence that has been the hallmark of our military's success since the Goldwater-Nichols Act in 1986.

The new Director of National Intelligence will oversee and manage all of the government's intelligence gathering and analysis capabilities. He (or she) will develop the budgets for the agencies, manage the execution of the money, and manage and direct the tasking of intelligence functions. The new National CounterTerrorism Center will bring

⁶ 50 U.S.C. §403-1(f)(1)(A)(i)

⁷ Congress, House, Permanent Select Committee on Intelligence, Subcommittee on Oversight, *Status of the Director of National Intelligence, hearing before the Subcommittee on Oversight*, 109th Cong., 2nd sess., July 28, 2005.

all counter-terrorism operations under one roof, so agencies can share information in real time about the enemy's plans and whereabouts.”⁸

The Intelligence Reform Act assigns the Director the responsibility to manage the intelligence budget, ensure coordination and information sharing among the Community agencies, and to ensure that the best intelligence is made available to policymakers. Except for the Director of the CIA, Congress did not alter the organizational structure of the Community. The individual agencies retain their own systems for operations, management, finance, personnel, and acquisition management. This fact, among others, requires the Director to forge a strong “federation” of intelligence agencies through continual engagement with those agencies’ directors and to establish common standards for those areas in which Community agencies must work together. This engagement requires the Director to personally interact with each of the 16 leaders of the Community, give them direction, and monitor their progress in achieving their objectives.

To lead and manage the Community, the Director and the Principal Deputy Director for National Intelligence (herein referred to as the principal deputy) have divided their responsibilities. The Director is responsible for coordinating “outward and upward.” For example, the Director conducts the Joint Intelligence Community Council, which is comprised of Cabinet secretaries and coordinates intelligence activities across the United States government. The Director has largely left management of the Community to his principal deputy, while both have delegated daily oversight of the intelligence agency activities to the four deputy directors (for analysis, collection, customer outcomes, and management).

One cannot confuse leadership with management. An effective leader establishes the environment and relationships that allow subordinates to effectively manage the activities of the enterprise. The challenge facing the Director and his principal deputy is that they must convince the leaders of the 16 independent intelligence agencies that their success depends on his success, and vice versa. To enable this success, the Director must create an environment in which agencies complement each other rather than compete against each other and are given maximum flexibility to accomplish Director-defined goals. It is no easy task.

Accountability is a major component to any successful leadership endeavor. To apply his leadership across the Community, the Director is implementing performance agreements with responsibilities and accountability for the leaders of the 16 intelligence agencies⁹ and his four deputy directors. The Director is developing these agreements from the goals and objectives in the National Intelligence Strategy (the Director’s strategy for transforming the Community) published on October 25, 2005 and the supporting strategic implementation plans currently being developed. The leaders of the Community agencies and the four deputy directors are then to

⁸ Press Release, Harman Celebrates Passage of the Intelligence Bill, Dec 7, 2004, http://www.house.gov/harman/press/releases/2004/1208PR_Intel%20Passes.html (accessed on Jul 13, 2006).

⁹ The 16 intelligence agencies are: Central Intelligence Agency; National Security Agency; National Geospatial-Intelligence Agency; National Reconnaissance Office; Defense Intelligence Agency; Department of State Bureau of Intelligence and Research; Federal Bureau of Investigation National Security Branch; Department of Homeland Security Office of Intelligence and Analysis; the intelligence organizations of the Air Force, Army, Navy and Marines; and the intelligence functions of the Coast Guard, Department of Energy, Department of Treasury and Drug Enforcement Administration.

develop performance plans, which implement the same goals and objectives for their subordinates. The Director has not yet fully implemented this process. Performance agreements for 11 of the 16 intelligence agency leaders have been signed, but not for the other five agency leaders or four deputy directors. If the performance agreements are to be the primary method for providing consistent direction and guidance and all of them have not been completed, that consistency may be missing. The Director does meet periodically with the various intelligence agency leaders, but the daily direction to the intelligence agencies comes from the principal deputy and the four deputy directors.

One way in which the Director has enabled himself to be able to spend more time leading the Community is the process he uses for presenting the Community-prepared daily for the President (President's Daily Brief). Previously, the Director of Central Intelligence focused heavily on the briefing. The Director has empowered the deputy for analysis to manage the process and has created a dedicated team of professionals to organize and provide the brief. Rather than relying primarily on the CIA for input to the briefing, the briefing staff solicits input from across the Community. Because he uses a dedicated professional staff with outreach to the Community, bringing a broader base of expertise to prepare the information, the Director does not spend the amount of time preparing to give these briefings as did former Directors of Central Intelligence, freeing him to focus on leading the Community.

In leading the Community, the Director must also coordinate with other organizations and branches of government. There have been several disappointments in the Director's relationship with Congress and with this Committee. The Committee had expected the Director to work in partnership with the Committee, discussing and solving issues in their infancy. The dialog to do this has been slow in developing. Some actions have actually strained relations rather than built a partnership, for example the recent resignation of the Director of the CIA with no notice or consultation. Likewise, the Congress was quite surprised when the Director published the National Intelligence Strategy without first engaging with the Committee.

The Director must also ensure the Community is responsive to Congress. The Intelligence Reform Act requires the Director to provide Congress status reports on multiple topics. To date, the Director's staff has provided 80% of these reports. Of these only slightly more than half were provided on time. In addition to those reports, the Director is required to "periodically review and assess the progress made toward the achievement of the goals and milestones established in such [program management] plan; and submit to Congress a report on the results of such review and assessment."¹⁰ Even though the Director's Senior Acquisition Executive, jointly with the Department of Defense, has held numerous reviews of major systems acquisition programs, the Director has not provided the Committee with the required reports on the reviews. We address other concerns with the Community's major systems acquisition elsewhere in this assessment.

The Subcommittee is aware of the strain on time and resources to meet Congressional reporting requirements and has been working with the Director's staff to reduce the required annual reports that have been building up over the years, but may no longer be useful. We have also been working to develop alternative, more efficient ways for the Committee to receive the

¹⁰ 50 U.S.C. Section 403-1 (g)(1)(C)

information it needs to fulfill its responsibilities. However, these reporting requirements remain a primary means through which Congress gets the information it needs to perform effective oversight, and the Subcommittee believes that the efforts by both this Committee and the Office of the Director should make it easier to meet reporting deadlines.

In leading and managing the Community, one of the more significant responsibilities of the Director is to “ensure timely and effective collection, processing, analysis, and dissemination including access by users to collected data consistent with applicable law.”¹¹ In addition, the Director must “determine requirements and priorities for, and manage and direct the tasking of, collection, analysis, production, and dissemination of national intelligence by elements of the IC”¹² that are consistent with national priorities. The four deputy directors are managing the implementation of these specific actions and have had some successes thus far. Their responsibilities include managing current Community capabilities and ensuring the appropriate capabilities are available for the future. The Director’s staff is engaged in a very broad spectrum of activities as is conveyed in the Director’s May 2006 report to the Committee regarding the progress of implementing the Intelligence Reform Act. The Subcommittee’s assessment is similar in many areas, but based on the evidence the Subcommittee has seen differs in a few. The Subcommittee has decided to highlight a few areas that indicate promise or concern with the direction the Director has taken. The discussion of those activities follows.

A. Inventory of Capabilities

The WMD Commission highlighted the need for the Community leadership to manage all its capabilities effectively, ensuring that the full spectrum of capabilities on a particular topic are fully coordinated and used competently across the Community. It said:

“One of the most significant problems we identified in today’s Intelligence Community is a lack of cross-Community focus on priority intelligence missions. By this, we mean that in most cases there is not one office, or one individual, who is responsible for making sure that the Intelligence Community is doing all it can to collect and analyze intelligence on a subject like proliferation, or a country like Iran. Instead, intelligence agencies allocate their scarce resources among intelligence priorities in ways that seem sensible to them but are not optimal from a Community-wide perspective. The DNI [Director] needs management structures and processes that ensure a strategic, Community-level focus on priority intelligence missions. The specific device we propose is the creation of several “Mission Managers...”¹³

The Director has decided to employ a mission management concept to aid in prioritizing collection and analysis activities and to eliminate unintended duplication. Two offices share responsibility, the assistant deputy for mission management and assistant deputy for collection strategies. These offices are working in tandem to create a full inventory of the existing analytical and collection capabilities for most of the world (excluding North Korea, Iran, and the

¹¹ 50 U.S.C. Section 403-1(f)(1)(A)(i)

¹² 50 U.S.C. Section 403-1(f)(1)(A)(ii)

¹³ Report of the National Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, March 31, 2005, p.19.

issues of CounterTerrorism, CounterProliferation¹⁴ and CounterIntelligence, which have their own mission managers).¹⁵ While their efforts are not complete, these two assistant deputies, with relatively small staffs, are making progress and having success in identifying the Community's collective capabilities against specific intelligence topics, within various countries and regions. They have accomplished most of what they have done by close coordination with their counterparts within the various intelligence agencies, orchestrating activities rather than doing them within the Director's staff. Their processes are beginning to identify unintended and unwanted overlaps and, more importantly, critical gaps that must be overcome. Their larger challenge will come when they have completed their surveys and recommend realigning roles and responsibilities to eliminate overlapping activities as well as adjusting collection and analysis tasking for the individual intelligence agencies. The relationships established by the Director with the intelligence agency leaders will be critical to their success in facilitating the realignment.

The five mission managers (North Korea, Iran, CounterTerrorism, CounterProliferation and CounterIntelligence) are working on similar activities with varying degrees of progress. To avoid duplication and conflict, they are actively coordinating with the assistant deputy for mission management and assistant deputy for collection strategies. Through its review, the Subcommittee has found that the mission managers at the National CounterTerrorism Center and the National CounterProliferation Center are working hard to integrate the capabilities across the Community in a way that will ensure information sharing and reduce or eliminate duplication of effort. In fact, the National CounterTerrorism Center is able to access a much greater percentage of terrorism related information than in the past, and although lacking much law enforcement and homeland security information, the National CounterTerrorism Center is much better positioned to detect terrorist related activities.

Not only have the mission managers aided in inventorying the Community's capabilities, but they have created an environment where the staff can direct across-the-board, deep reviews, engaging the entire Community without disrupting the daily mission. This form of management should facilitate a more effective distribution of assets, from hiring and training of personnel to allocation of work load. As a result, the productivity of the workforce and quality of the product should improve. It also allows for a broader integration outside the Community across the federal government and academia. In addition to understanding what intelligence capabilities the community has, the mission managers must evolve to the point where their plans and objectives are fully incorporated into the budget process.

B. Establishing Community Priorities

In leading the Community, the Director must also focus on the future and steer the development of enhanced intelligence capabilities that will provide greater understanding of future threats and national interests. In *Transforming U.S. Intelligence*, Dr. Jennifer Sims very appropriately states,

¹⁴ Counterproliferation is the activity by the United States government intended to prevent the proliferation of nuclear, chemical and biological capabilities to other nations.

¹⁵ A mission manager is a position within the Community for an individual, operating with the Director's authorities, who coordinates all the intelligence activities against a specific country or topic.

“The heart of intelligence then, is not in the plumbing for getting raw data from the collector to the appropriate user. It is rather the enabling of appropriate action over time. Intelligence so defined includes support not just for today’s decision-maker but for tomorrow’s. This point deserves emphasis. In support of complex democratic governments, successful intelligence must include a process for strategic collection against future threats and the analysis of macro trends such that management choices can be made for the next several administrations.”¹⁶

While the Community has done a fair job in developing intelligence capabilities, the fact that we do have a relatively successful counterterrorism capability is not necessarily the result of deliberate planning by previous leadership. It is more the result of exceptional individuals overcoming organizational and planning shortfalls across the Community and deploying systems in the field which work. Poor understanding of the threats and the changing environment in which our officers have to operate has resulted in an insufficient human intelligence capability that does not and will not meet the nation’s needs. In addition, poor program management and planning has put our imagery intelligence capabilities at risk. For example, the Director has made a decision on the near-term space imagery architecture but the decision does not solve or address longer-term needs. Only through effective strategic planning and review, a thorough understanding of the future threats, and a willingness to make required structural changes will the Director, in collaboration with the intelligence agency leaders, be able to provide any reasonable level of assurance that we will have the necessary intelligence capabilities in the future.

The National Intelligence Strategy calls for 15 implementation plans from senior officials on the Director’s staff. These plans are intended to implement the strategy and guide the intelligence agencies in transforming the Community. As of July 21, 2006, the Director has approved all 15 plans. The Subcommittee will have to review the implementation of these plans to determine if they are having the desired effect. The work accomplished to date under the leadership of the deputy for management has produced these plans and proposed high-level metrics to track implementation of the National Intelligence Strategy.

Along with the implementation plans, a better defined strategic planning process is necessary to prioritize intelligence requirements based on threats so senior leaders and decision makers can make the tough calls to shift resources as needed. For example, how does the Director conclude that enough resources are being applied to correcting shortfalls in human intelligence collection rather than in other forms of collection or in analysis? The Subcommittee believes that only through a mature strategic planning process—a cohesive process that links future national interests and threats to the capabilities the Community budgets for and develops-- can this type of analysis be performed, and only then can the United States develop an intelligence capability that will adequately support policymakers in future administrations. Senior leaders from throughout the Community have commented that this area is one of the least developed and requires the most attention. The strategic planning process that exists presently, and is planned for the near-term and fragmented, is not well understood across the Director’s staff or within the intelligence agencies.

¹⁶ Jennifer E. Sims and Burton Gerber, editors, *Transforming U.S. Intelligence*, (Washington, D.C: Georgetown University Press, 2005), page 17

As an important follow-up to the Intelligence Reform Act, the Fiscal Year 2007 House Permanent Select Committee on Intelligence Authorization Bill requires the Director to institute a formal strategic review process. “This Committee believes that achieving the necessary reforms of the IC will only occur through a strategic review process. A formalized, periodic and structured review, much like the Quadrennial Defense Review used by DoD could be a good model.”¹⁷ Even with the best strategic planning process, the organization must take a step backwards periodically and review that the decisions that have been made by the individuals who operate the process to ensure aren’t overly influenced by the way business has always been done. Experts who are removed from the daily process should periodically conduct a comprehensive examination of the strategy, structure, modernization plans, infrastructure, budget plan, and other elements of the intelligence program and policies of the United States with a view toward determining and expressing the intelligence strategy of the United States and establishing an intelligence program for the next 20 years. The Subcommittee is concerned that the goals of the Strategic Review Process envisioned in the Fiscal Year 2007 bill may not be met.

One promising component of the Director’s process is the development of an Integrated Collection Architecture (herein referred to as the Architecture) within the deputy for collection’s staff. It is an attempt to capture collection capabilities of all intelligence disciplines across the Community and the accompanying budget structures to support the Community in determining what future systems it should acquire. The senior advisor for technical architecture within the organization has made solid progress in capturing the current technical capabilities of the Community and the technical capabilities that will exist if the agencies execute their projected budgets as currently planned. The Architecture incorporates scenarios developed with significant input from the Departments of Defense and State that will enable a review of the budgeted baseline against future threat environments. The Director should then have a better understanding of where future gaps will exist and how best to restructure programs and the budget to meet future needs. The collection gaps identified in the inventory of capabilities discussed earlier will be one of the inputs into this Architecture. The Director’s staff hopes to have the initial results this year, which will help formulate the fiscal year 2008 budget.

In developing the Architecture, managers have taken steps to avoid many of the deficiencies of previous architecture studies. First, the Office of the Director created a Joint Senior Steering Group composed of senior officials from the Department of Defense and three of the deputy directors, which meets every four to six weeks to agree upon criteria, methodologies, scenarios and other critical factors preventing conflict and abandonment in later stages. Second, the scenarios and vignettes were reviewed and approved through existing Defense and Community requirements review and generation processes. However, all intelligence disciplines will not be incorporated into the Architecture until next year, so the full benefits of the Architecture are at least a year and a half away. To be most effective, the Director must expand this effort to incorporate all activities, including analytical and dissemination capabilities, across the Community.

¹⁷ House Permanent Select Committee on Intelligence, Intelligence Authorization Act for Fiscal Year 2007, Report to accompany H.R. 5020, April 6, 2006, Section C: *Areas of Special Interest*, p. 21.

C. Improved Communications

Encouraging—or even demanding—free flowing communications across an enterprise is an essential element of leadership. As stated previously, the Intelligence Reform Act requires the Director to lead the Community. Section 1011 identifies a principal responsibility of the Director to “serve as head of the intelligence community.”¹⁸ The Director is enhancing Community-wide communications through the use of secure video teleconferencing. While the benefit to the larger intelligence agencies may not be as apparent, the exchange of information during these teleconferences has been of significant assistance for the smaller intelligence agencies. A participant from one agency who attends the daily National CounterTerrorism Center secure video teleconference stated the sessions are “absolutely a positive.” He noted the teleconference starts with discussions on strategic issues of concern to the nation and moves to more tactical issues. Representatives from several agencies have noted that the relationships established in these Community forums have, at the least, provided them with the name and phone number of the individual to contact within each intelligence agency when they have questions and issues. They are able to respond rapidly with accurate information to the concerns of their cabinet secretaries and undersecretaries, thus providing better input to policy decisions.

The Subcommittee has observed similar positive change as a result of the inclusion of other intelligence agencies in the preparation of the President’s Daily Brief and National Intelligence Estimates.¹⁹ The National CounterTerrorism Center and National CounterProliferation Center have collapsed multiple working groups and forums into fewer, more focused and empowered forums. The authorities of the Director have been effectively used in formally establishing the Strategic Interdiction Group—a forum of senior leaders from across the government—to orchestrate counterproliferation interdiction activities of the United States. The improved communication enabled by the Intelligence Reform Act is contributing to one of its key goals and to one of the objectives the Director discussed with the Committee in January 2006, that of developing a ‘sense of community.’

D. Relationship with the Department of Defense

One challenge to the Director’s role as head of the Community is that many of the intelligence agency leaders are administratively subordinate to leaders of other departments and organizations, primarily the Secretary of Defense. While the Director has been working to reform the Community, the Secretary of Defense has been reforming defense intelligence. As part of the defense reform, the Secretary of Defense had decided to more effectively integrate the intelligence functions with the operations functions and created Joint Intelligence Operations Centers at combatant commands. This change affects the national intelligence community as well as the military intelligence community. When the Director’s staff first learned of the plans, they were concerned the planned actions would make coordination on the use of each community’s collection platforms less effective. The deputy for customer outcomes engaged the action officers in the Department of Defense and worked the issue to the satisfaction of all involved parties. The relationships forged in this activity enabled the United States government

¹⁸ 50 U.S.C. §403 (b).

¹⁹ A National Intelligence Estimate is a comprehensive intelligence review of a particular country, region or other topic.

to array its resources effectively against North Korea's recent launch of the TaePoDong II missile. The ability to sort out and solve this issue indicates that in this instance the communications and relations between the Director and Secretary of Defense was productive and professional and was able to tackle and solve a tough issue. The Subcommittee will examine additional transactions in future reviews.

E. Budget Restructuring

To better understand and manage intelligence resources and to develop a more cohesive Fiscal Year 2008 budget, the Director decided to revamp the budget structure and Congressional Budget Justification Books.²⁰ While this budget restructuring was warranted, the Director's staff did not adequately coordinate the planned activity with the 16 intelligence agencies or with Congress. In the past, the agencies would discuss their budget structure with congressional staff before making any changes since the intended audience of these budget justification books was congressional staff. In this instance, however, the Director's staff directed significant changes and restructuring without first coordinating the changes with congressional staff responsible for monitoring agency budgets. While the principal deputy held several meetings with the intelligence agency leaders, the agency staffs appear not to have fully understood the urgency and significance of these meetings. For whatever reason, the intelligence agency staffs felt that the Director's staff was proceeding without fully coordinating with them and was making substantial modifications to the budget structure. Some senior Community officials expressed strong displeasure with the restructuring but most acquiesced, choosing not to battle the Director on this issue. Whether because of poor coordination, or the reluctance of agencies to follow the guidance of the Director, many felt the Director's staff was heavy-handed.

A Subcommittee concern is that continued directing without prior, effective coordination and collaboration with the intelligence agencies risks damaging critical relationships. The Director and his staff must understand this danger and work with the 16 intelligence agencies towards success as a federation, not against them towards failure. Dr. Jennifer Sims notes some of the challenges the Director will face in overcoming the problems of bureaucratic rigidity and states, "He could also make them much worse if a new, large bureaucratic staff tries to impose changes with a heavy hand. Agencies are, after all, likely to develop strategies to counter what they fear will become additional debilitating bureaucratic processes and regulations."²¹

F. Acquisition Management

Prior to passage of the Intelligence Reform Act, Congressional encouragement convinced the Director of Central Intelligence to establish a Senior Acquisition Executive.²² Congress also required the Senior Acquisition Executive to work closely with the Undersecretary of Defense

²⁰ A Congressional Budget Justification Book is a document submitted by each intelligence agency that provides detailed justification of the items within their annual budget request.

²¹ Jennifer E. Sims and Burton Gerber, editors, *Transforming U.S. Intelligence*, (Washington, D.C: Georgetown University Press, 2005), page 49.

²² The Senior Acquisition Executive is the individual responsible for overseeing the development and purchasing of systems and capabilities for the Community.

for Acquisition, Technology and Logistics to review and report on the programs of the intelligence agencies that were supposed to acquire or develop the major systems (technical capabilities) needed to ensure the United States could collect intelligence about our adversaries. The Senior Acquisition Executive and his Department of Defense counterpart repeatedly reported to Congress that there were significant problems in the acquisition of major systems at the various intelligence agencies. As part of the Intelligence Reform Act, the Director was given specific authorities for overseeing these major systems acquisition programs. Specifically, the Intelligence Reform Act tasks the Director to:

- “(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria, except that with respect to Department of Defense programs the Director shall consult with the Secretary of Defense;
- (B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and
- (C) periodically--(i) review and assess the progress made toward the achievement of the goals and milestones established in such plan; and (ii) submit to Congress a report on the results of such review and assessment.”²³

The Director has tasked the Senior Acquisition Executive with assisting him in carrying out these important oversight requirements.

The Subcommittee’s review of progress made since passage of the Intelligence Reform Act shows mixed results. It appears the Senior Acquisition Executive has forged a solid partnership with the Department of Defense in its joint responsibility for reviewing programs and determining if the programs are sound enough to continue. Together, the two organizations have structured a tailored review process that puts more rigor in their oversight role. The Intelligence Reform Act requires the Director to report the results of the periodic reviews to Congress. The staff was told that the quarterly program reviews conducted by both organizations are starting to generate helpful management information. But, to date the Subcommittee has not seen a single report on any of the reviews of acquisition programs conducted by the Senior Acquisition Executive.

While the Senior Acquisition Executive has established a working relationship with the Department of Defense, he has been unable to promulgate overarching acquisition guidance to the Community—resulting in too little progress over the past 18 months. The Intelligence Reform Act only provides the Director authority for acquisition of major systems that are fully funded in the National Intelligence Program. The Intelligence Reform Act also does not bestow procurement authority for these programs to the Director. The concern by some Community agencies and their cabinet departments is that the pending Senior Acquisition Executive’s draft acquisition directive attempts to expand the authorities afforded to the Director in the Intelligence Reform Act to include acquisition of major systems funded, in part, from outside the National Intelligence Program and into areas over which it did not grant authority. As a result, coordination of these new policies and procedures has stalled in the review process. Instead of

²³ 50 U.S.C. §403-1(g)(1)(A)-(C)

attempting to expand the authorities provided by the Intelligence Reform Act, the Director should coordinate with the 16 intelligence agencies, use his authority as head of the Community and reduce or eliminate the funding from other sources for acquisition programs that are predominately funded through the National Intelligence Program.

Concurrently, many of the major acquisition programs at the National Reconnaissance Office, the National Security Agency, and the National Geospatial-Intelligence Agency have cost taxpayers billions of dollars in cost overruns and schedule delays. Part of this problem stems from simply not enforcing existing statutes and Executive Branch requirements for a professional acquisition workforce in a majority of the acquisition positions within the Community. 10 U.S.C., Sections 1734 and 1735 mandate educational requirements, career development, and rotational limitations for contracting officers and acquisition management officials, all of which need stricter enforcement across the Community. While many of the failed programs were initiated prior to creation of the Director, a greater sense of urgency must be garnered with DoD to reverse this dismal track record. In addition, more solid evidence in the form of performance measures or metrics for Community acquisitions must be collected, reviewed, and assessed before the Director can claim any value added in the process. Of major concern is the fact that even if the Director is able to clearly identify the future national interests and threats and to restructure the budget to provide the capabilities to inform policy and decision makers on these threats, the demonstrated poor performance of the Community in acquiring major systems puts the best laid plans at risk of failure. Such a major problem as this one, as well as the other issues highlighted deeper elsewhere in this assessment, requires vigorous leadership. The Subcommittee is beginning a review of Community procurement and acquisition practices to examine this and other issues that have been identified to Congress over the past few years.

III. Analysis

The Intelligence Reform Act contains a number of requirements relating to analysis. Specifically, Section 1011 calls for the Director to “encourage sound analytic methods and tradecraft,”²⁴ “ensure that analysis is based on all sources available,” and to “ensure that differences in analytic judgment are fully considered and brought to the attention of policymakers.” The Act also requires the Director to designate an individual who shall be available to analysts to “counsel, conduct arbitration, offer recommendations, and, as appropriate, initiate inquiries into real or perceived problems of analytic tradecraft or politicization, biased reporting, or lack of objectivity in intelligence analysis.”²⁵

The deputy for analysis has undertaken a number of initiatives to integrate the Community’s analytic cadre and improve its output. A primary example is creation of the Analytic Resources Catalog. This database will have the names and other identifying information such as home agency and areas of expertise for all analysts in the Community. The purpose of the Analytic Resources Catalog is to promote an integrated Community of analysts and allow the Community to tap their expertise wherever it resides. The former Assistant Deputy Director of Central Intelligence for Analysis attempted to create an Analytic Resources

²⁴ 50 U.S.C. §403-1(h)(1)(A),(B)

²⁵ 50 U.S.C. §403-1(h)(3)

Catalog but could not because of the lack of resources and authority. Agencies refused to cooperate by not providing specific information. The resources and authorities afforded the Director have made such a database possible.

The deputy for analysis has created an assistant deputy for analytic integrity and standards who also serves as the analytic ombudsman. One of the stated goals for this individual is to “integrate analysts from all 16 intelligence agencies into a genuine community prepared to share training, analytic methodology and access to information.” An Analysis Standards and Evaluation Action Group has been created to provide a regular forum for the discussion of problems and new approaches to intelligence analysis. Subgroups have been created to identify best practices in analytic evaluation. Hard target countries have been selected for an evaluation pilot program that was initiated in March 2006. The pilot will evaluate finished intelligence written by all 16 Community agencies on these targets. Evaluation criteria will include timeliness, objectivity, use of all available sources with a description of their reliability, use of proper tradecraft, the use of alternative analysis, and other areas.

To enhance Community analytic capability, the assistant deputy for analytic integrity and standards has developed an introductory analysis course for new Community analysts that covers critical skills and will foster a stronger sense of community. If the pilot is successful and the Community wants to continue the activity, the Director will have to identify funding since resources are not programmed for future editions of the course.

As the analytic ombudsman, the assistant deputy for analytic integrity and standards serves as the focal point for Community analysts who wish to raise concerns regarding timeliness, politicization, bias, lack of objectivity, appropriate alternative analysis, and dissenting views. In addition, she will supplement the avenues available to Community analysts who feel they have exhausted the internal mechanisms of their agency without a fair resolution. The Ombudsman will resolve problems and disputes through fact-finding, informal counseling and conciliation, enhancing communications, and making recommendations to those involved. The Ombudsman indicated that she is working on an “800 number type” arrangement for contacting her office and has already begun to receive calls from non-Community analytic elements. Despite this, judging from the analysis presented in the briefings the Committee has received on various topics over the past year the Subcommittee remains concerned that the analytical community is still too risk-adverse and subject to group-think. The Subcommittee has not seen solid evidence that the Director is adequately addressing either of these two areas.

The deputy for analysis has also implemented changes to the presentation of several existing analytic products. There has been significant change to the delivery of the President’s Daily Brief, which was previously produced almost exclusively by the CIA. The CIA continues to provide the majority of the items in the President’s Daily Brief, but it now contains contributions from State Department, the Defense Intelligence Agency, Federal Bureau of Investigation (FBI), the Department of Homeland Security and others. In addition, the 16-member briefing team now contains analysts from each of those agencies. The President’s Daily Brief also incorporates alternative viewpoints when analysts disagree on how best to interpret what is often times ambiguous or incomplete information. Each agency can write an alternative view that goes through the same review process as the original entry. There is greater use of

open source reporting and the National CounterTerrorism Center is now responsible for managing and coordinating Community-wide terrorism items for the President's Daily Brief. Finally, the document contains more background information on the value of the available source information.

There have also been major changes to the role of the National Intelligence Council. The biggest change is that the deputy for analysis has made the National Intelligence Council the focal point for the preparation of briefing material for Director and principal deputy participation in Cabinet-level meetings. This task was previously done for the Director of Central Intelligence almost exclusively by the CIA. To date, the National Intelligence Council and National CounterTerrorism Center have produced over 300 briefing books for Director and principal deputy participation in National Security Council and Homeland Security Council meetings. These books are prepared with input from across the Community, and the content is shared with Community analysts along with summaries of the meetings to facilitate better understanding of the issues of importance to policy makers and to help in the long range planning for future President's Daily Brief contributions. These materials have also formed the basis for a number of Congressional briefings.

Changes to the National Intelligence Estimates produced by the National Intelligence Council include making the documents shorter and more focused and replacing a list of conclusions with more precise language that thoroughly explores the implications of the critical underlying judgments. Appendices and annexes are used to provide full transparency to these judgments and the process used to reach them through careful identification of sources and intelligence gaps. The National Intelligence Council is also making more use of external experts from academia and think tanks to prepare certain parts of a National Intelligence Estimate. Finally, the National Intelligence Estimate review process requires that each key collection agency describe how their intelligence was incorporated into the estimates.

The National Intelligence Council is in the process of adding a Long Range Analysis Unit in response to a WMD Commission recommendation. It will be a group of 12-15 analysts organized along the lines of a think tank and equally divided between Community and outside experts. Its activities will be coordinated with the strategic analysis elements of the Community and the Open Source Center. The goal will be to use innovative technologies to address issues with strategic implications, such as global democratization, energy/environment, and threats to future US military operations. The Subcommittee, however, remains concerned that there is still insufficient long-term analysis. The WMD Commission recommended adding an organization to perform only long-term and strategic analysis within the National Intelligence Council. Adding the 12-15 analysts in the Long Range Analysis Unit appears to be more than offset by adding the additional daily tasks to the existing National Intelligence Council staff. The Subcommittee will continue examining this issue in follow-up reviews.

In summary, the Director has initiated a number of reforms to comply with both the Intelligence Reform Act and the WMD Commission recommendations in the areas of analytic integrity, exchanging information among analysts, and long term analysis. The Subcommittee must continue its oversight to ensure the initiatives described above produce their intended results. We must confirm that in the future analytic resources are shifted in response to

identified gaps in coverage, alternative views continue to be fully considered, and concerns raised by analysts are properly adjudicated. The Subcommittee is beginning an assessment of analysis and will examine many of these issues in greater detail within that review.

IV. Information Sharing

Information sharing within the Community has been a long-standing area of concern for the Congress and others, and it remains so. The WMD Commission noted that one of the biggest impediments to the Community's analytic efforts is the human or systematic resistance to sharing information. The Congress felt so strongly about the need for improved information sharing that the Intelligence Reform Act contains two major sections on the subject. One section addresses intelligence information sharing in general and the other makes specific recommendations for sharing information related to terrorism.

Section 1011 of the Intelligence Reform Act provides the Director with the authority "to ensure maximum availability of and access to intelligence information within the Intelligence Community"²⁶ on all topics. Combined with this authority is the responsibility to ensure that there is a structure where all relevant information is analyzed but unplanned and unnecessary duplication is avoided. Significant progress has been made in sharing information related to countering terrorism within the Community, primarily through the efforts of the National CounterTerrorism Center. That progress is not evident in other areas, and the Subcommittee is not aware of who on the Director's staff is primarily responsible for seeing it is done. Despite the progress made to date, there are still issues related to the poorly defined roles, responsibilities, and accountability of the organizations and activities who have complained that they were not getting the information they need. The National CounterTerrorism Center's deputy for information sharing advised Subcommittee staff that out of the universe of information available on terrorist targets, the National CounterTerrorism Center, the CIA's CounterTerrorism Center and the Defense Intelligence Agency's Joint Intelligence Task Force—CounterTerrorism, were all analyzing approximately the same ten percent. An analogy has been made to competing media outlets trying to get the same story to the public first, and the example provided was the redundancy in the content and timing of the Community's coverage of the July 2005 bombings in London.

In December 2005, the principal deputy tasked the Director of the National CounterTerrorism Center to work with the Community agencies to define the roles, responsibilities and authorities of those agencies conducting counterterrorism analysis. The Director refers to this activity as the "lanes in the road." The original due date for completing this task was February 2006, but the coordination and cooperation on this extremely important activity was lacking, and implementation was delayed until July 2006, when the framework for CounterTerrorism analysis was signed by the Director and released. Until the Director, working with the 16 intelligence agency leaders, clearly defines the individual roles and responsibilities, assigns the appropriate authorities, and holds organizations accountable for what they are supposed to do, progress in maximizing the sharing and exploitation of terrorism information

²⁶ 50 U.S.C. §403-1 (g)(1)

will not proceed at the rate the American people deserve and expect. The Subcommittee further notes that once the roles and responsibilities for counterterrorism analysis are defined, there will be a need for similar efforts for the remaining intelligence targets of interest, whether they are transnational in nature, such as proliferation of weapons of mass destruction, or country specific.

Section 1011 of the Intelligence Reform Act also requires the Director to establish common information technology standards and systems within an enterprise architecture that has multi-level security capabilities. The primary responsibility for these initiatives resides within the office of the Chief Information Officer. The Chief Information Officer is not responsible for operating the Community's information technology infrastructure; rather, it is focused on developing appropriate standards and facilitating greater interconnectivity between existing and future Community systems. The office has created an Information Sharing and Customer Outreach unit that will assist in this effort. The first functional area being pursued is the Community's human resource systems. These systems include not only personnel information, but also are directly linked to the Community's security systems and information sharing capabilities. To date, the Chief Information Officer has published enterprise architecture guidance and developed a capability to link the Community's secret-level networks. Additionally, the Office has used the authorities provided in the Intelligence Reform Act to institute changes or exceptions to existing policies that have removed barriers to information sharing within the Community and with our allies. These actions have also increased efficiency and saved money.

Section 1016 of the Intelligence Reform Act calls for the creation of an Information Sharing Environment to facilitate the exchange of terrorism information across the U.S. Government and with state, local, tribal, public and private entities.²⁷ One facet to sharing terrorism information is ensuring that the consumers of terrorist threat information receive the information they need in a useful way. Progress in this regard has been unacceptably slow. It does no good to warn the mayors of major cities that a terrorist is planning a car bomb attack, without providing known specifics that are necessary for understanding the threat. Useful information must also be made available to and received from law enforcement officials, including tidbits of information that may seem irrelevant to the individual who observes it but provides significant clues when reviewed in the context of all available data. For example, little progress has been made in getting information observed by border patrol officers or airport screeners into the national systems for analysis. In short, more must be done to ensure the right information gets to the people who need it. The dots cannot be connected until the dots are known.

The ultimate goal of the Information Sharing Environment is to create the conditions by which information can be accessed across agency and jurisdictional boundaries and between the federal government and its state, local, tribal, and private sector partners in a timely and efficient manner. Creation of the Information Sharing Environment is to be directed by a Program Manager designated by the President. The Program Manager is assisted by a forum of information technology professionals and leaders from across the government (the Information Sharing Council). The first Program Manager was designated in April 2005 but resigned in early

²⁷ 6 U.S.C. §485(b)

2006. The current Program Manager was designated on March 15, 2006. The Information Sharing Council has representatives from 17 agencies.

The creation of the Information Sharing Environment is a massive undertaking, and while the President has issued directives and guidelines in support of this effort, progress to date has been primarily limited to gaining a better understanding of the task. The Program Manager released an Interim Implementation Plan in January 2006 that indicated an acute awareness of the magnitude of the task but offered little detail on program execution. As an example of the difficulties in getting the program moving, a December 2005 Presidential directive called for each agency leader to designate a senior official to be responsible for information sharing. However, the response has been inadequate. The Program Manager would like the designees to be at the undersecretary level or above, but the first submissions did not meet this criterion in a number of cases.

The current Program Manager intends to release the final Implementation Plan for the Information Sharing Environment in July 2006. A working paper has been completed. The Plan will be focused on one to three years into the future, when it is estimated that policy and technology changes will require a reevaluation. The document on federal-wide roles, missions, and responsibilities as related to the Information Sharing Environment was to be completed in late June 2006. The Program Manager advised the Subcommittee that the final Implementation Plan will provide greater detail on the steps to standardize procedures for classifying information as "Sensitive But Unclassified", guidelines for protecting privacy and civil liberties, information on the structure and roles of state/local fusion centers, and the Information Sharing Environment budget investment strategy.

One area where the Program Manager has made progress is with an electronic directory service. The electronic directory service responds to a requirement in the Intelligence Reform Act to allow participants in the field of terrorism analysis to locate and access information, organizations, services, and personnel. The electronic data service is up and running at the classified level, with an unclassified subset available to users outside the Community such as law enforcement and homeland security officials. The Program Manager is still negotiating with various agencies over the content level of their data and the classification level at which it will appear.

The Information Sharing Environment Program Manager is also pursuing several pilot programs with various organizations. One example is an FBI initiative that will allow federal, state and local law enforcement personnel in selected areas to have direct and continuous access to critical law enforcement databases, including the Terrorist Screening Center combined watch list, directly from handheld devices. The State Department has proposed creating government-wide Information Sharing Environment training courses. This entry-level training would entail a Program Manager developed curriculum that could be given by any agency or made available electronically. The Information Sharing Environment Program Manager will fund these basic training courses. Each department or agency will fund any additional department specific training.

While discussions with the Program Manger for the Information Sharing Environment and his staff indicate that progress is being made towards the creation of an Information Sharing Environment, this is a complex endeavor that will require years to fully implement. Even with clear and documented interest from the President, it does not appear that all agencies involved are full participants. A true test of progress will be the thoroughness of the July 2006 Implementation Plan. But, it may require the active involvement of the White House and Office of Management and Budget to ensure all parties are fully engaged in implementing any plans with the appropriate sense of urgency.

V. Civil Liberties

Consistent with the 9/11 Commission, Congress concluded that in fighting the war on terrorism the federal government may need additional powers and may need to enhance the use of its existing powers. Any such addition or expansion must be accompanied by an effective system of checks and balances to protect civil liberties.

As a result, the Intelligence Reform Act established a Privacy and Civil Liberties Oversight Board within the Executive Office of the President. The Board's mission is to ensure concerns with respect to privacy and civil liberties are appropriately considered in the implementation of laws, regulations, and executive branch policies related to efforts to protect the nation against terrorism.

Although starting any new organization takes time, vision, energy, and commitment, the amount of time it took to put the Privacy and Civil Liberties Oversight Board in place is disappointing at best. Delays in submitting the nominations of board members and a lengthy Senate confirmation process are equally to blame for the delay.

While the Board start-up was slower than expected, progress is now being made, and it is the sense of the Subcommittee that the Board is taking its role in protecting civil liberties seriously. The Board Chair and Vice Chair, along with fellow Board members, were formally sworn in on March 14, 2006. In addition, an executive director was selected and began working on the same date. The Board chair stated at her confirmation hearing that "We must protect the country from those who would destroy us. But on the other hand, we can't give up or give short shrift to what makes this such a special nation. These are things that require careful balancing. They require a great deal of back-and-forth to make sure the tension is properly resolved, so that we do not sacrifice our civil liberties while we are fighting those who wish to destroy us."²⁸ Following the first meeting in March 2006, one Board member, a former White House Counsel in the Clinton Administration, said "the meeting surprised him ...we were treated with great seriousness by the White House and by the intelligence community, a lot of my Democratic friends assumed ...we were really not going to be able to do much."²⁹

²⁸ Civil-Liberties Board Interrupted, Brian Friel, National Journal January 1, 2006

²⁹ Richard B. Schmitt, "White House Civil Liberties Panel Finally Meets after 16 Months", Los Angeles Times, March 17, 2006

The Board met for the fourth time in mid-May 2006 and continues efforts to gather the necessary information to establish an agenda and set priorities and goals for carrying out its broad mandate. In developing these important priorities, the Board has met with senior Administration officials, heads of departments, and various private groups such as the American Civil Liberties Union and the Center for Democracy and Technology. The Subcommittee would expect the Board to review the various intelligence program, including compartmented programs, to ensure that they are protecting civil liberties consistent with statutes. The Subcommittee would expect the Board to discuss any suggested changes with the Committee.

All Board members now have adequate security clearances and a new suite of offices is under construction. The executive director is in the process of hiring several staff who he expects to have on board by summer 2006. Additionally, requests for access to classified information have been granted and indications are that the Board is sufficiently funded. The executive director stated to the Subcommittee staff that he believed as the Board is stood-up, they have more than adequate resources and funding to meet statutory responsibilities. He also indicated a specific funding line is being considered within the Office of the President budget for the Fiscal Year 2008 budget submission. One of the highest priorities is submission of the annual report to Congress as required by the Act. Work on this report started when Board members were officially sworn in and will be completed in March 2007.

In summary, start-up for the Board was frustratingly slow prior to confirmation of the Chairman and Vice Chairman and appointment of all the Members in March 2006, but from that point steady progress is being made. It is now functioning and focused on setting a clear and concise agenda to comply with their mandate to oversee the protection of civil liberties. Interviews with the executive director indicate that all organizational requirements such as secure meeting space, clearances, and administrative staff are in place. A web site has been established at www.privacyboard.gov for external communication. The Board has not been functioning long enough for this Subcommittee to determine long term effectiveness. The annual report to Congress due on March 14, 2007 should document actual progress and accomplishments. Overall, establishing the agenda for effective oversight and the pace of accomplishment must improve.

The Intelligence Reform Act also called for the establishment of a Civil Liberties Protection Officer within the Director's staff, which was filled in January 2006. Specifically, the Civil Liberties Protection Officer is to ensure:

- the protection of civil liberties and privacy is appropriately incorporated into the policies and procedures developed by the Director;
- oversee compliance by the Director's staff with requirements under the Constitution and all laws, regulations, Executive Orders, and implementing guidelines relating to civil liberties and privacy; review and assess complaints and other information indicating possible abuse;
- ensure the use of technologies sustain, not erode privacy protections;
- ensure that personal information contained in the "Privacy Act" is handled in full compliance with fair information practices; conduct privacy impact assessments; and

- perform other duties as may be prescribed by the Director, or specified by law.³⁰

The Officer's prime responsibility is to oversee civil liberty and privacy compliance across the Community. Initially it was a difficult task as he had to rely on general counsel or inspector general representatives from the various agencies. As of July 21, 2006, he has two professional staff assisting. The first task was to ensure each agency appointed an official Civil Liberties Protection Officer focal point to help form an oversight committee and stand-up a proper infrastructure. Currently, all agencies with the exception of the Drug Enforcement Agency have appointed a focal point. A primary task, pursuant to a Presidential memorandum, is to develop and publish formal guidelines regarding information sharing for the Community by June 15, 2006. The Officer is co-chairing the guideline committee with Department of Justice and expects to meet the deadline with clearly defined and straightforward policy and procedures that can be uniformly interpreted. The officer does meet regularly with the Privacy and Civil Liberties Oversight Board and works closely with its executive director.

The Civil Liberties Protection Officer has established the vision, approach, and methodology to oversee privacy and civil liberty protection across the Community. The addition of assistant Civil Liberties Protection Officers in the near future will be an important step to carry out mission requirements. The Subcommittee also looks forward to continued progress on initiatives, such as a compliance reporting tool and privacy-protection technology research project. The privacy guidelines for information sharing across the Community, currently in draft, are sorely needed and all efforts should be made to finalize and publish as soon as practical.

VI. Other Elements of Intelligence Reform

a. Personnel Activities

The Intelligence Reform Act requires the Director to "implement personnel policies and programs throughout the Intelligence Community that encourage and facilitate assignments and details of personnel to national intelligence centers, and between elements of the Intelligence Community."³¹ The Director must also set standards for education, training, and career development of personnel; encourage and facilitate the recruitment and retention of highly qualified individuals for the conduct of intelligence activities; and ensure the effective management of Community personnel who are responsible for Community-wide matters.³² Additionally, the Act expressed a sense of Congress that the Director should prescribe mechanisms that allow the rotation of Community personnel throughout the various elements of the Community during the course of their careers. This will ensure the widest possible understanding by Community personnel on the variety of intelligence requirements, methods, users, and capabilities.

³⁰ Intelligence Reform and Terrorism Prevention Act of 2004, December 7, 2004, page 22

³¹ 50 U.S.C Section §403-1 (F)(3)(A)

³² Ibid.

The WMD Commission Report also highlighted the need for an overhaul of the Community personnel system and states "the Community has had difficulty recruiting individuals with certain critical skill sets; has often failed to encourage the type of 'joint' personnel assignments that are necessary to breaking down cultural barriers that exist among agencies; and has proven insufficiently adept at hiring and mainstreaming mid-career 'lateral' hires from outside of the Intelligence Community."³³ To alleviate these problems, the WMD Commission calls for "a DNI [Director]-level office responsible for analyzing the workforce, developing strategies to ensure that priority intelligence missions are adequately resourced, and creating Community human resource standards and policies to accomplish these objectives."³⁴

The Director's National Intelligence Strategy acknowledges the personnel issues raised by the Congress and the WMD Commission. Enterprise Objective Four of the Strategy is to "attract, engage, and unify an innovative and results-focused Intelligence Community Workforce."³⁵ The human capital officer and the assistant deputy for education and training, both located within the deputy for management's office, are assigned to fulfill this objective by ensuring that the Community is recruiting an intelligent, innovative workforce; rewarding expertise, excellence and commitment to mission; and encouraging initiative, resourcefulness, and resilience.

The Strategy asserts that the Director will enable Community elements to identify mission-critical human resource requirements; train, develop and promote Community professionals according to rigorous, competency-based standards; select a senior leadership cadre that promotes high performance, employee engagement, information sharing, and collaboration; and develop evaluation and reward systems that reinforce excellence among professionals and those who lead them.³⁶ As follow-up to the Strategy, the human capital officer has developed a comprehensive Community-wide Strategic Human Capital Plan that details how the Director will achieve the personnel-related goals outlined in the Strategy. However, the Subcommittee has not yet seen this plan.

In October 2005 the Director conducted the first-ever Community Employee Climate Survey, seeking to gauge the job satisfaction of the workforce. The Director's staff plans to administer this survey annually to continually measure progress. The results of this survey have already yielded insight into ways to improve morale and management of the Community workforce. The Strategic Human Capital Plan is to include initiatives that specifically address the issues employees identified as problems in the survey, including a widely voiced complaint that promotion is not tied to performance. The Subcommittee will use the results of the next survey (fall 2006) to determine progress relative to the goal of professionalizing the Community workforce.

³³ Report of the National Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, March 31, 2005, p. 322

³⁴ Ibid.

³⁵ Office of the Director of National Intelligence, *The National Intelligence Strategy of the United States of America: Transformation through Integration and Innovation*, 13-14.

³⁶ Office of the Director of National Intelligence, *The National Intelligence Strategy of the United States of America: Transformation through Integration and Innovation*, 13-14.

One area where the Director has taken action is in creating a “joint duty” assignment process similar to the Goldwater-Nichols military “joint duty” process. The requirement of civilian joint duty assignments across the 16 intelligence agencies is a major initiative previously attempted during the Director of Central Intelligence-era but never successfully implemented. As outlined in a recently published Intelligence Community Directive, these joint duty assignments are now required for promotion to senior leadership positions.

The Subcommittee hopes that this joint duty requirement will result in personnel throughout the Community having a greater understanding of the Community and a greater sense of cooperation in working towards satisfying Community goals. By requiring joint assignments before promotion to senior positions, the Director is forcing the Community towards this goal.

We note that a “joint duty” assignment practice has existed in the Community for some time but was seen as a hindrance to promotion rather than a requirement. The Subcommittee commends the Director for formalizing a policy that, in theory, rectifies the bias associated with joint assignments by connecting them to promotion and pay. It remains to be seen if the Director will pressure the Community to embrace and support joint duty assignments thereby maximizing the value these assignments will bring to senior Community leaders. This directive is the first step in the Director’s efforts to track career progression with the appropriate training and joint experience necessary for the Community to retain its competitive edge. It is also the only tangible direction out of the Director on personnel to date.

While some progress has been made, the Subcommittee finds it unacceptable that more has not been accomplished to deliver clear policy guidance in the area of personnel. The Subcommittee has seen little tangible evidence that the Director is acting on the Intelligence Reform Act requirement to encourage intelligence agencies to recruit and hire people with the necessary technical, linguistic and other key skills necessary to perform unique and complex Community missions. We are concerned that individuals with these skill sets are not being hired because they may not conform to current hiring policy and standards. Subcommittee members and staff heard startling accounts of very qualified applicants being turned away because their diverse backgrounds do not permit them to successfully complete the rigid and antiquated applicant processing model of a “Cold-War” era. We have also heard accounts of individuals with exceptional talent who were not recognized by the personnel specialists conducting career fairs because they did not exactly match the job description for an open position.

All successful organizations achieve their success because of the talented people they hire. The Director should set hiring guidelines for the intelligence agencies that result in the recruitment of individuals possessing the critical skill sets needed, especially in the area of technical and language expertise. Additionally, the Director must ensure that Community recruiters understand the needs of the Community and are equipped to recognize individuals who meet those needs, rather than turning qualified individuals away because the recruiter cannot recognize this talent.

b. Education and Training

Section 1002 of the Intelligence Reform Act requires the Director to “establish an integrated framework that brings together the educational components of the Community in order to promote a more effective and productive Community through cross-disciplinary education and joint training.”³⁷ The Subcommittee believes the area of education and training affords the Director one of the best and fastest opportunities to produce the desired sense of community.

At the time of its investigation, the WMD Commission found that the Community lacked the initial training necessary to instill a sense of community and shared mission in entry-level personnel and no adequate management training program. They recommended the creation of a National Intelligence University to standardize good tradecraft practices and set curriculum standards, resulting in a more professionalized workforce.

In the current office structure, the assistant deputy for training and education also serves as the Chancellor of the National Intelligence University. Through the work of a "virtually-based" National Intelligence University, the Director plans to fulfill the Intelligence Reform Act requirement of moving the Community's education and training curriculum toward a more professional and collaborative system. The National Intelligence University operates as a "front office" for the full spectrum of Community education and training programs and will focus on establishment of standards and policy.

The National Intelligence University staff plans to structure curriculum into three groups: Local Programs, Common Programs and Joint Programs, which are expressly intended to promote integration, with enrollments and curricula designed to achieve that goal. Joint programs will include common "tradecraft" courses to train all entry-level personnel in areas such as analysis. The Subcommittee is pleased with this action because standard tradecraft training will ensure that Community personnel are able to communicate and operate with a common language and training experience making joint duty assignments more productive. The National Intelligence University staff and the human capital officer are also working to establish “core competencies” in the areas of analysis, science and technology, foreign languages, collection, and mission support.

In instances when the assistant deputy for education and training and the human capital officer's opinions differ, it is the deputy for management's responsibility to make a final judgment. Most recently, he made the decision to move the new Leadership Center out of the National Intelligence University into the domain of the human capital officer. The Center will look at methods for determining and instilling key qualities for effective leadership in the Community workforce and plans to mandate that at least 25 percent of leadership classes be filled with students employed outside the host agency. This will ensure that different agency viewpoints and challenges are explored during class, leading to better “Community” trained leaders. It is a further example of the Director's efforts to promote and infuse jointness and Community-wide understanding in Community leaders.

³⁷ 50 U.S.C. Section §441g-1

The Director has initiatives under way to increase efficiency and effectiveness as well as decrease duplication of effort and of funding in education and training. National Intelligence University staff is working to make training programs virtually accessible and registration transferable across agencies. Concurrently, the Community Registrars Council, an interagency board of Community registrars and enrollment services officials, is working with the National Intelligence University to establish registration policies, processes and practices to facilitate cross-Community personnel enrollment in training and education with the ultimate goal being to create a "one-stop," virtual registration process.

A Lessons Learned Center has been created under the National Intelligence University "umbrella" that oversees and implements a Community-wide process for a real-time incorporation of lessons-learned into the Community training curriculum. Current activities include outreach to industry and international partners to determine appropriate "lessons" to incorporate into the joint program class curriculum. The Center is also coordinating a presentation series, where senior Community leaders will hold monthly seminars on topics of interest to intelligence professionals. These presentations will be video-teleconferenced across the Community to ensure maximum participation and knowledge transfer.

The Subcommittee is pleased that the Director's staff has taken into account the importance of using lessons-learned to improve Community activities but is concerned that the lessons-learned activity has been placed in education and training instead of within an operational component of the Director's staff. For example, the Defense Department incorporates real-time lessons-learned through the work of the Joint Lessons Learned System activity, which is managed within current operations (the Joint Staff). This ensures that lessons-learned are factored back into current operations while also providing input into curriculum for training. The Director's decision to place the intelligence community's lessons-learned activity in education and training takes the assistant deputy for education and training's focus off the primary task at hand.

The Subcommittee is disappointed that the Director has not taken more definitive action to facilitate the development of a cadre of intelligence professionals who possess critical thinking skills or expertise on a wide range of subjects. Much can be gained from using the classroom to orient Community personnel in the new "vision" of an integrated, agile Community. For instance, we are at a loss as to why the National Intelligence University staff would still be taking inventory of the Community agencies' individual education and training programs, considering this information must be readily available for prospective students to apply. Rather, the Director, at this point, should be actively guiding agency programs. The Director must impose consistency and fill curriculum gaps in Community education and training programs if he expects to facilitate intelligence agency production of intelligence professionals who possess the necessary Community-wide understanding and mastery of their areas of expertise.

c. Cultural Transformation of the Federal Bureau of Investigation

The 9/11 Commission noted that the FBI had made significant progress in improving its intelligence capabilities and urged the FBI to fully institutionalize the shift of the Bureau to a preventive counterterrorism posture. The Commission clearly noted:

“the FBI does need to be able to direct its thousands of agents and other employees to collect intelligence in America’s cities and towns – interviewing informants, conducting surveillance and searches, tracking individuals, working collaboratively with local authorities, and doing so with meticulous attention to detail and compliance with the law. The FBI’s job in the streets of the United States would thus be a domestic equivalent, operating under the U.S. Constitution and quite different laws and rules, to the job of the CIA’s operations officers abroad.”³⁸

Before 9/11 there was a serious lack of communication in assessing foreign vice domestic threats to the U.S. The Commission found:

“The foreign intelligence agencies were watching overseas, alert to foreign threats to U.S. interests there. The domestic agencies were waiting for evidence of a domestic threat from sleeper cells within the United States. No one was looking for a foreign threat to domestic targets. The threat that was coming was not from sleeper cells. It was foreign – but from foreigners who had infiltrated the United States.”³⁹

As a result, the Intelligence Reform Act directed the FBI to further improve its intelligence capabilities and to develop and maintain within the Bureau a national intelligence workforce. In addition, the Act provided direction to improve field office matters and budget issues, and it levied specific reporting criteria. The WMD Commission recommended “the creation of a new National Security Service within the FBI under a single Executive Assistant Director. This service would include the Bureau's CounterTerrorism and Counterintelligence Divisions and the Directorate of Intelligence. The service would be subject to the coordination and budget authorities of the Director as well as to the same Attorney General authorities that apply to other Bureau divisions.”⁴⁰

The National Security Branch is the organization with which the FBI must forge crucial connections between foreign intelligence and domestic law enforcement and thus is an important component of the Community in identifying and connecting critical “dots” that will help protect the United States from attack. Formal establishment of the National Security Branch with full funding authority for the CounterTerrorism, Counterintelligence, and intelligence missions of the FBI is a major achievement.

³⁸ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, July 22, 2004, p. 423

³⁹ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, July 22, 2004, p. 263

⁴⁰ Report of the Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, March 31, 2005, Appendix B

The greater challenge to the FBI is changing the culture and evolving special agents from law enforcement officers to intelligence collectors. Sources internal to the FBI readily admit a “wall” existed between criminal investigation and intelligence collection efforts. We understand the National Security Branch is considering how to give its staff latitude to conduct pre-emptive collection and to hunt for leads that are not necessarily tied to an open case – an approach that requires agents to increasingly adopt investigative techniques prevalent in intelligence rather than law enforcement agencies. The FBI is pushing for changes in its Human Source manual, which currently provides a confusing mixture of guidelines for recruiting, vetting, and employing assets in both criminal and national security cases. This manual, which the FBI developed when national security cases consisted mostly of counterintelligence investigations, is an example of the need for urgency in changing the Bureau’s culture and revising its investigative techniques. Al-Qaeda will not wait for the bureaucracy to spend months arguing over new procedures.

We note a very promising initiative started at one field office that uses a simple but effective standard analytical methodology to determine if a new terrorist organization has begun operating in the area. For a potential terrorist activity, the intelligence analyst and special agent sit down together to identify gaps in what they know. They both then make efforts to collect the missing information and iteratively fuse the information until they can identify the potential terrorist group or activity. Referred to as “filling the spaces between the cases,” this concept, spreading slowly across the major field offices, affords the ability to collect intelligence outside of on-going cases that eventually might lead to additional linkages. This initiative needs more urgency assigned to it and immediate implementation across all field offices.

The FBI has also been proactive in recruiting and hiring new intelligence analysts. Since January 2004, the FBI has increased the intelligence analyst staffing in the intelligence functions of its field offices by 61 percent. According to the FBI Director, “there are now 5,000 agents and 2,000 intelligence analysts”⁴¹ in the branch. Traditionally, agents have avoided national security specializations because traditional criminal efforts were considered more career-enhancing. The National Security Branch is working to make the intelligence analyst career path more appealing in an effort to aid recruitment and reduce turnover. The Bureau is making progress on the creation of an “Intelligence Career Service” that would raise the appeal of intelligence careers (for both analysts and agents), clarify career paths and training requirements, and make more senior-level positions available to non-agents. This will be a long-term effort that requires ongoing monitoring, encouragement, and oversight through consultation with FBI managers, human resources personnel, and both agents and analysts.

Additionally, the National Security Branch has proposed an innovative training approach to break down existing stereotypes. While not formalized, the training initiative proposes a dual track alternative for future recruits. The National Security Branch is committed to providing its incoming agents and analysts with extended specialized training related to national security issues (as much as 12 weeks), and it has developed a new curriculum for this training. In addition, the FBI has developed a six-week domestic collection training program in conjunction with Director’s staff and CIA; the first group to take this course will meet September 10. FBI is just kicking off these training courses and expects to determine in the next few months whether it has sufficient resources – including funding, instructors, and classroom space – to implement its

⁴¹ Testimony of the FBI Director to the Senate Judiciary Committee, 2 May 2006

proposed training program. While the FBI plans to draw on existing IC training resources to complement its own initiatives, the FBI Academy's limited capacity at Quantico may constrain the number of new analysts and agents who can be trained in short order. We encourage the FBI to identify resource requirements and any shortfalls in the upcoming budget request.

Through helpful discussions with FBI leadership, we are aware that the Bureau has a number of quick reaction units, including CounterTerrorism "Fly Teams," Hostage Rescue Teams, Evidence Recovery Teams, and units specially trained to handle chemical or biological incidents. Senior National Security Branch leadership have agreed to evaluate whether there is an additional need for an elite team to respond to terrorist incidents and gather pre-emptive intelligence. This Subcommittee, in concert with the Subcommittee on Terrorism, Human Intelligence, and CounterIntelligence, intends to more fully explore the capabilities of the existing quick response units to better assess this concept.

The FBI proactive effort to improve its domestic intelligence capabilities has charted the desired course. Special agents are just beginning to understand how to collect information when they do not have a specific criminal case -- a significant cultural change. Our sense is that the FBI now understands that the National Security Branch is an intelligence agency with law enforcement power and deserves some credit for improvements made in the intelligence analyst career path. However, this progress still requires institutionalization across the National Security Branch. In particular, concerns remain regarding a lack of urgency to meet Intelligence Reform Act mandates, turnover in senior leadership ranks, and the potential loss of momentum towards intelligence reform.

In summary, the inability to formalize guidelines and standards for Human Source Operations and the Field Intelligence Groups, two important pillars of intelligence reform, is delaying implementation across the National Security Branch. National Security Branch leadership readily admits that these guidelines are necessary to standardize operations throughout the 56 field offices. Right now, the important strides the National Security Branch is making at the major field offices such as Washington, New York, and Los Angeles in "filling the spaces between the cases" are not being implemented uniformly at smaller field offices. Efforts to standardize guidelines for Human Source Operations have dragged on for almost two years. A greater sense of urgency is required to complete this activity. Additionally, pilot programs to promote improved collaboration between agents and intelligence analysts show tremendous promise. This innovative methodology should be expanded to all field offices as soon as practical.

Turnover in organizations is inevitable; however, the Subcommittee is concerned about the attrition of senior leaders within the National Security Branch. Strong, effective, and stable leadership is essential if the FBI is to complete its transformation of the National Security Branch to a preeminent domestic intelligence service. Constant change has the obvious potential to stall progress. The new National Security Branch director will need to quicken the pace of reform, continue to strengthen the role of intelligence analysts, roll out promising pilot programs, formalize guidance and standards, and address logistic shortfalls such as a new "school house" for expanded training and sensitive compartmented information facility space in field offices.

While the Commission and the Intelligence Reform Act both sided with keeping domestic intelligence within the FBI, the jury is still out on whether or not the FBI can do the job. Progress has been made, but it is clear that a transformational change has not yet occurred. The FBI needs to do so with a greater sense of urgency.

d. Security Clearances

The 9/11 Commission recognized that the security clearance system, designed to be an asset to the Community by providing a rational screen for limiting access to the most sensitive secrets, had become a liability. In its report, the Commission stated,

“This country’s security policies- considered in their broadest form to include physical security, infrastructure security, personnel security, and information and cyber security- are in need of serious review. Today we face new threats and vulnerabilities that are in many ways more encompassing, complex and subtle than those we confronted in the past century. . . To respond to these challenges the Intelligence Community must . . . improve the efficiency of the investigation, clearance and adjudication process. . .”⁴²

Congress recognized this problem as well, and through the Intelligence Reform Act, tasked the Director to establish uniform procedures for granting access to sensitive compartmented information and to reduce the length of the security clearance process. Specifically, section 1011(j) of the Intelligence Reform Act required the Director to:

“(1) *establish uniform standards and procedures* for the grant of access to sensitive compartmented information...(2)*ensure the consistent implementation* of those standards and procedures...(3)ensure that security clearances granted by individual elements of the intelligence community are *recognized* by all elements of the intelligence community . . . and (4) ensure that the process for *investigation and adjudication* of an application for access to sensitive compartmented information is performed in *the most expeditious manner possible*. . .”⁴³

[Emphasis added].

In general, security clearance processing involves two parts, first a background investigation and then an adjudication. An authorized investigative agency (for example, the FBI) looks into an applicant’s past history to see if the applicant meets the criteria for obtaining access to secure compartmented information. If the background investigation indicates that the applicant meets the criteria, then an authorized adjudicative agency (for example, the CIA) actually grants that person access to secure compartmented information.

Section 3001(g)⁴⁴ of the Intelligence Reform Act expanded on the requirement for expeditious clearance processing, compelling the Director to meet certain security clearance processing goals within a five-year framework. The President designated the Office of Management and Budget to lead the government effort but the Director has the responsibility for

⁴² Report of the Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, March 31, 2005, 545-546.

⁴³ 50 U.S.C. §403-1 (j)

⁴⁴ 50 U.S.C. §435 (b)(g)

the sensitive compartmented information clearances. Within two years of the enactment of the Intelligence Reform Act (or no later than December 17, 2006), the Director must ensure that at least 80% of the sensitive compartmented information security clearance applications from within the Community are completed in an average of 120 days or less. This 120 day average standard further requires that all background investigations be completed in an average time of no more than 90 days and that all clearance adjudications be completed in an average time of no more than 30 days. Within five years of the enactment of the Intelligence Reform Act (or no later than December 17, 2009), the Director must ensure that at least 90% of the sensitive compartmented information security clearance applications from within the Community are completed in an average of 60 days or less. This 60 day standard further requires that all background investigations be completed in an average time of no more than 40 days and all clearance adjudications be completed in an average time of no more than 20 days. For calculating all of the processing milestones listed in the Intelligence Reform Act, the "clock" begins to run for processing time purposes only after the agency has received a complete security clearance application.

To date, the major policy review and overhaul of standards and procedures for the granting of access to sensitive compartmented information as envisioned by the Intelligence Reform Act has not taken place. The current executive branch policy for granting access to classified information was published in 1995 in Executive Order 12968. This executive order delegated authority to the Director of Central Intelligence to establish procedures for granting access to sensitive compartmented information. In October 1999, the Director of Central Intelligence issued Directive 6/4 which established "Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information." This Director of Central Intelligence Directive 6/4 has been in effect since 1999 and is currently the applicable standard for granting access to sensitive compartmented information within the Community.

In accordance with section 1011 of the Intelligence Reform Act, the Director has tasked the Special Security Center to review the Director of Central Intelligence Directive 6/4 with the goal of republishing its contents with any changes as an Intelligence Community Directive. The Director, Special Security Center advised Subcommittee staff that his office will issue an Intelligence Community Directive on standards and procedures for granting access to sensitive compartmented information within calendar year 2006 but provided little detail on the process he will use to meet this goal.

The Director has started to address the task of expediting the clearance process. The deputy for management issued a data call on February 3, 2006 for statistics on the average investigation and adjudication time for security clearances within the Community. This data call was intended to create a quarterly reporting requirement for all Community agencies so that the Director's staff could monitor their compliance with the performance milestones called for in the Intelligence Reform Act. The Deputy Director for Special Security Center provided the Subcommittee a chart listing the average investigative times for clearance processing in the CIA, the Department of Homeland Security, the Defense Intelligence Agency, the FBI, the National Reconnaissance Office, the National Security Agency and the Department of State during the

second quarter of fiscal year 2006. Of these agencies, all but the FBI had an average investigative time of less than 90 days. The FBI average was about 150 days.

Despite the data call, according to the Deputy Director for Special Security Center, the Director's staff has not yet collected the data on average adjudication times. He estimated that each agency was spending about 30 to 40 days adjudicating the clearances.

Another concern of the Subcommittee is that the Director has done little to ensure the reciprocal recognition of security clearances within the Community. The Director's staff is still looking for a process to quantify whether clearances are being recognized throughout the Community. While the Special Security Center has acquired data from various Community agencies on the number of clearances granted, the number recertified, the number denied and the number revoked, the Director's staff has no data on how often requests were made from one intelligence agency to another to recognize an existing clearance. The Deputy Director for Special Security Center, has no mechanism in place to capture this data or to track these requests. The Deputy Director for Special Security Center claimed that tracking reciprocity requests would be difficult based on the way the current system is configured; he likened it to tracking "hockey [goal] assists."

The Director's inability to ensure that sensitive compartmented information security clearances are recognized throughout the Community in a timely manner means that significant resources continue to be expended to duplicate work already done. This continued waste, occurring nearly 18 months after the enactment of Intelligence Reform Act provisions aimed at stopping it, is simply unacceptable.

Congress intended for the Director to proactively "push" the Community to fix its piece of an unwieldy security clearance system in a timely manner. By contrast, he seems content to be passively "pulled" along with all the other Executive Branch agencies in the wake of the Office of Management and Budget's attempts to fix the security clearance system government-wide. The Office of Management and Budget has overall responsibility for reform of the security clearance process government-wide under the terms of the Act and Executive Order 13381 (June 27, 2005) and has established fairly detailed plans with specific goals and timelines for each executive branch agency. The Subcommittee is concerned that the Director is doing the bare minimum as laid out in guidance from the Office of Management and Budget to work towards real reform of the security clearance process within the Community.

The actions taken to date by the Director's staff illustrate their overall passive approach towards changing the security clearance process. When the Subcommittee staff asked the Deputy Director for Special Security Center about the most significant accomplishments to date in the area of security clearance reform, his responds was the "Collaboration Forum" and the Peer Review pilot program. The Collaboration Forum is an interagency discussion group where representatives from executive branch agencies (not just Community members) meet to discuss barriers to reciprocal recognition of clearances and difficult adjudication cases. The Peer Review program involved security personnel from one executive branch agency reviewing the adjudication practices and procedures of another executive branch agency and commenting on them. Both of these activities were directed in the Office of Management and Budget's plan, but

neither of these activities addresses the specific requirements placed upon the Director by the Intelligence Reform Act.

The Director was given specific tasks in the Intelligence Reform Act for improving the sensitive compartmented information security clearance system within the Community. The Director's staff has not been aggressive in carrying out these tasks and has not given much indication that they are even concerned about them. For example, the term "security clearance reform" does not appear in the October 28, 2005 Director's Report to the House Permanent Select Committee on Intelligence on implementation of the Intelligence Reform Act nor in the May 9, 2006 Director's memo listing its first year accomplishments. When the deputy for management issued his February 2006 data call for statistics on average investigation and adjudication times, he cited Enterprise Objective 7 of the National Intelligence Strategy (October 2005) as part of the impetus for the reporting regime. Enterprise Objective 7 (or even the National Intelligence Strategy as a whole) does not mention "security clearances". At best the Objective mentions the need to establish uniform and reciprocal guidance on "security issues of common concern, including access to facilities, and electronic access to systems and databases."

The Subcommittee is concerned that the Director has not implemented new policies and procedures for granting access to sensitive compartmented information. The Director's staff waited 14 months to request statistics from the Community agencies to even establish a baseline for their average investigative processing times; to date this baseline has not been completed. As the Special Security Center Director and Deputy Director have shown, the Director has no clear plan on how to even approach the problem of reciprocal recognition of clearances.

e. Utilization of Open Source Information

The Intelligence Reform Act requires the Director to "ensure that the intelligence Community makes efficient and effective use of open-source information (information available from public sources) and analysis."⁴⁵ The Act leaves it up to the Director to decide how to accomplish this but suggests through a "Sense of Congress" that an Open Source Center should be created for this purpose.

The WMD Commission also stressed the need for the Community to better use open source information in all aspects of analysis and asserted that an Open Source Directorate should be created within the CIA. The report stated:

"In the near term, we believe that without an institutional "champion" and home, open source will never be effectively used by the Intelligence Community. It is our hope that open source will become an integral part of all intelligence activities and that, at some point in the future, there may no longer be a need for a separate directorate."⁴⁶

In response, the Director has created an Open Source Center with the CIA as its executive agent. The Foreign Broadcast Information Service that previously acted as the Community's

⁴⁵ 50 U.S.C. §403-1 note

⁴⁶ Report of the National Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, March 31, 2005, p. 379-380.

open source information outlet was subsumed by the Center, along with its budget and personnel. The assistant deputy for open source is working with this Center and its manager to fulfill the Director's responsibilities in this area. As required in the National Intelligence Strategy, the assistant deputy for open source created a plan for open source activities in which he sets his vision and goals for the Community's use of open source information. His vision is to ensure that open sources are routinely used "in all intelligence disciplines, facilitated by innovative experts—but with every officer open source capable."⁴⁷

Overall, open source capabilities will be distributed throughout the Community agencies in "centers of excellence" but will be centrally managed and interoperable. Accordingly, the Center is working to duplicate its capabilities by helping to develop mini-open source centers within the Community agencies. The Center is providing much needed training on establishing these centers and using open source information while preventing unintended duplication of efforts.

Interoperability of unclassified Community systems is one of the biggest challenges facing the Community. The assistant deputy for open source has assured the Subcommittee that he is working closely with the Chief Information Officer to develop a single open source architecture that will provide optimum access to information, as well as working to make the Internet available to all Community personnel on their desktop computers.

The Director also is focusing on eliminating duplication and waste for open source funding. In past intelligence budgets it was difficult to track return on investment for open source exploitation, largely because the various and often duplicative programs were funded within multiple agencies' budgets. Using the budget authorities granted to the Director in the Intelligence Reform Act, the assistant deputy for open source is monitoring the annual intelligence budget requests to ensure they are more effective on open source funding. For example, the Open Source Center is in the midst of a major acquisition for a large-scale internet exploitation capability. The Defense Intelligence Agency had started a similar effort, but terminated it when they found out they could "piggy-back" on what the Open Source Center is planning. This is the exact managerial role the Director's staff should play for the Community. We encourage the Director to maintain vigilance over this effort to convert the Community culture into one that weaves the knowledge derived from open source information into all its analytic products.

The Subcommittee recognizes the beneficial work completed in this area and inclusion of more open source information into the Community's analysis. This supports the goal of improving the quality of assessments the Community provides to policy and decision makers. As discussed elsewhere in this assessment, the Director restructured the President's Daily Brief so that it is a Community-wide product. So far this year, there has been a significant increase in open source entries that have been included in the President's Daily Brief. Yet, the Director will continue to be challenged in ensuring that open source information is fully considered within analysis. This challenge is one of many that will require continual leadership by the Director to overcome existing cultural intransigence.

⁴⁷ Office of the Director of National Intelligence, *National Open Source Enterprise*.

VII. Summary

The ultimate success or failure of the Intelligence Reform Act is yet to be determined. Former senior leaders of the Community have told the Subcommittee and staff that it will take five years to fully implement the Act. While that may be true, the Subcommittee believes we cannot wait that long to determine if the Director, as the leader of the Community, is transforming the Community into what Congress envisioned when it passed the Intelligence Reform Act. The terrorist threat is present, and it is real. The Community also faces other challenges and threats, some known, some unknown. While the Subcommittee sees the Director making progress, it is neither even nor all encompassing.

One fact is clear—since the tragic events of September 11, 2001 tremendous resources have been and continue to be committed to national security and to countering terrorism. The President, Congress, and American public expect the Director to lead the Community in making improvements to the quality of intelligence provided to policy makers.

The Director is succeeding in completing many activities where previous attempts failed under the Director of Central Intelligence structure. Most of these prior efforts were short lived or failed because of lack of resources (money and personnel) and insufficient authority. That the Director has been able to complete the Analyst Resource Catalog, inventories of analytical capabilities on topics in various regions and countries, and an inventory of programmed technical collection capabilities indicates a degree of success in achieving the goals of the Intelligence Reform Act.

Where the Subcommittee has observed good progress in transforming the Community, managers have taken complex activities, broken them into definable and achievable tasks and begun executing. They did not wait for the 100 percent solution before beginning and appear to have set priorities on which tasks were most important to be completed first. We identified several notable areas in this assessment, such as the cultural reform currently under way in the FBI National Security Branch and the inventory of capabilities being conducted by the assistant deputy for mission management and the assistant deputy for collection strategies. We cannot say they have succeeded, but they are on a promising path. In some areas the Director has not taken that approach and continues to fall short of our expectations--notably in the areas of security clearances and education and training. The Director needs to make progress in these areas. We cannot wait for a perfect solution. These are problems that were identified years ago and the subject of various studies, yet they continue to flounder.

Other positive areas where distinct progress has been made are in the re-tooling of the President's Daily Brief, the initiative to restructure the Fiscal Year 2008 budget, the establishment of an Analytic Ombudsman to resolve disputes, and changes to the National Intelligence Estimates. However, in all cases there is still work to be done.

In the Introduction we stated that progress towards intelligence reform was a mixed story, some advances but other reforms lagging. We identified three areas of concern that permeate our findings; lack of urgency, trying new approaches, and prioritization of efforts. These concerns exist throughout the following areas, all of which require the Director's attention:

- a. **Security Clearances.** The Director must develop an overall plan, prioritize activities, identify quick wins and implement them to begin to meet the mandates of the Intelligence Reform Act. The Subcommittee believes that situations that defy common sense must be eliminated, such as:
- The Director must address the system that requires an individual who processes unclassified information in the open source center to go through the same security screening process as the Director's chief of staff who needs access to the most sensitive secrets.
 - The Director must resolve the process that takes months to transfer clearances for an individual who will work in the exact same space but transfer from the National Geospatial-Intelligence Agency to the CIA.
- b. **Information Sharing.** Information sharing within the Community is one of the most critical tenets of intelligence reform. We understand the tremendous undertaking this represents for the Director's staff, but we note most progress to date is limited to understanding the task at hand.
- The Information Sharing Environment Program Manager must develop and execute a meaningful Implementation Plan for an information sharing environment.
 - The Director must ensure intelligence analysts have the information they need and ensure Community data that does not rise to the level of being reported remains available for all-source analysts to consider.
- c. **Transforming the FBI Culture.** The transformation of the FBI to an intelligence agency with law enforcement power is starting to take root. While the FBI deserves some credit for attempting to change from a pre-dominantly criminal investigation mindset, the Subcommittee questions whether this transformation is happening fast enough. We have witnessed false starts and frustrating delays before and this nation cannot afford yet another one. To ensure an "all-out" institutional change, the Subcommittee believes that:
- The FBI must roll-out successful pilot programs that fill "spaces between the cases" across all field offices.
 - The FBI must establish and implement standardized training and operational guidelines for Field Intelligence Groups.
 - The FBI must stop the revolving door at the National Security Branch – leadership must be stabilized to complete the transformation.
- d. **Education and Training.** One of the benefits derived from the formation of the Office of the Director is the ability to better manage multi-agency issues and activities such as "joint duty" assignments. Efforts attempted prior to stand-up of this office often failed because the Director of Central Intelligence lacked proper authorities. However, we are disappointed in progress to date and missed opportunities to "hit the ground running" in the area of education and training. The Subcommittee expects:

- The Director must better prioritize tasks and concentrate on issues germane to educating and training Community professionals.
 - The Director must ensure that “lessons learned” as determined by the Lessons Learned Center are incorporated into on-going operations, not just training programs.
- e. **Acquisition.** We are told that the Senior Acquisition Executive is working on a plan for acquisition across the Community but will not present that plan to Congress until April 2007, definitely not with the urgency the Subcommittee would expect. One way to have an immediate impact on the acquisition of major systems is to simply enforce the statutes that have existed for decades and measure acquisition processes that the intelligence agencies were required to do before the Intelligence Reform Act was enacted. The Subcommittee believes:
- The Director must require and ascertain that the intelligence agencies’ acquisition professionals are properly certified under existing statutory or regulatory processes.
 - The Director must require that individuals in the intelligence agencies under the Department of Defense commit to a minimum of three years in an acquisition position before being assigned to that position, again as required by statute.
 - The Director must review the cost, schedule, and performance baselines of acquisition programs at the intelligence agencies and report each review to the Committee as required by the Intelligence Reform Act.
- f. **Strategic Planning and Review Processes.** The strategic planning processes that currently exists is fragmented and not well understood across the Community. The Subcommittee senses that progress must occur in two ways:
- For the short term, the Director needs to complete the national intelligence strategy implementation plans to get the Community on solid footing to adequately support decision makers, and,
 - For the longer term, the Director must implement a formalized, periodic and structured review, similar to the Quadrennial Defense Review to ensure we mold the intelligence capabilities to meet the future threat to and interests of the United States.
- g. **Personnel.** Another very important tenet of the Intelligence Reform Act was to ensure intelligence mission areas are properly resourced. We note that current personnel systems across the Community are incapable of “talking” to each other – a stumbling block to sharing information and steering personnel between agencies. The sense of the Subcommittee is that current personnel systems and hiring practices are too rigid or outdated. We would like to see the Director:
- Implement a master human resource system across all agencies.
 - Investigate more open hiring practices to ensure the Community can employ perhaps not the most conforming, but the most talented people in critical skills.

We have seen many more things that are progressing in the direction Congress had hoped. The areas of concern listed above simply indicate some specific areas that require immediate attention, not everything that needs to be done within the full scope of Community reform. The sense of community that is evolving, a greater awareness of activities at other agencies, and the collaborative orchestration of intelligence-operations activity with the Department of Defense all indicate that the Director is making the reforms Congress envisioned. We have seen many activities moving forward that had been attempted in the past, but abandoned because of insufficient authorities and resources.

Sustaining progress in these areas is critical to greater success. If the security clearance process is not fixed, are we risking not being able to hire the people we need into the Community? If we do not understand the future threats and national interests, and that intelligence even has a role against a threat or in support of an interest, how can we assume that the capabilities the Community is building will be the right capabilities? Even with the best laid plans and structured budget, can we acquire the complex systems we need with the Community's current acquisition capabilities? If the analysts who need the data do have access to it, can they provide the policy maker with the information necessary to protect our freedoms?

This assessment is a snapshot in time and the Subcommittee will continue monitoring the progress in implementing the Intelligence Reform Act. The Subcommittee believes that regular, objective measurement of key indicators can be a very useful tool in assessing whether there is real, sustained progress. We are preparing an initial group of metrics that we will provide to the Director and will periodically request that the Director update the Subcommittee on these metrics. These metrics will be the basis for future Subcommittee assessments.