

TESTIMONY BEFORE THE HOUSE ARMED SERVICES  
COMMITTEE

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Good afternoon Mr. Chairman and members of the committee. It is honor to appear before you today. You have asked me to address the implications for the Department of the Defense and the military services of the intelligence reform proposals, especially those of the 9/11 Commission, which would create a National Intelligence Director.

I will begin by summing up my overall judgment about the proposed reforms and then elaborate my reasons for deep concern about parts of them.

Two major changes are long overdue because failure to make them has blocked an effective evolutionary development in the Intelligence Community (IC) over the last three decades, a development dictated mainly by a steady infusion of changing technologies.

The first of these obstacles is the double-hatting of the Director of Central Intelligence (DCI) as the director of CIA. The second is the fragmentation and ineffectiveness of counterintelligence (CI) caused primarily by the FBI having responsibility for domestic CI. Removing the first obstacle, the double-hatting, can bring large efficiencies in use of money and personnel. It can also lead to more effective direction of collection management and national intelligence production. It will not, however, cause a major near-term

improvement in the IC's operational performance. That will require a few years. The simplest way to split the two jobs is to amend the 1947 National Security Act, rescinding the requirement that one person hold them both.

Removing the second obstacle would have the greatest positive near-term impact on dealing with terrorists. It is, therefore, the most urgent reform. In the longer run, CI reform will also allow greater efficiencies in the use of resources achievable, not to mention raising the quality of American CI from among the worst in the world to among the best. It can only be done by creating a "national counterintelligence service" without arrest authority and responsible to the DCI.

### Splitting the DCI from the Director of CIA

The 9/11 Commission report and other proposals not only call for separating the DCI from the CIA but also would give him new budget and personnel authorities and presumably greater control over intelligence operations; e.g., collection management, intelligence production, and distribution. While the separation is a very good idea, some of the other proposed changes would make things much worse. Before assessing the 9/11 Commission's scheme, we need to look at the present Intelligence Community and understand the DCI's authorities and capabilities.

Authority over resources. Consider first the area of resource management, i.e., budgets, personnel, and IC-wide policies. The DCI has long had strong budget authority but has seldom exercised it properly. The CIA's penchant for defending the NRO's budgeting

methods has precluded the DCI from implementing a budget management system, i.e., a PPBS system that relates resource "inputs" to major categories of intelligence "outputs." Thus the DCI has never been able to explain how his spending choices affect its output of usable intelligence, either when negotiating the size of the intelligence budget with the Secretary of Defense or in making the case for it to the Congress.

The role of the DCI began to change in the late 1958s and early 1960s, but the most significant evolution came in the 1970s when, in the resource management area, an IC management staff was established.

This was probably in reaction to a directive from President Nixon. He specifically assigned the DCI "program budget management responsibility" for the entire National Foreign Intelligence Program (NFIP) in 1970, and that responsibility was reaffirmed by every subsequent president at least through Clinton. This means that the DCI has been empowered to adjust, limit, increase, or reallocate within the budgets of NSA, DIA, and parts of the NFIP portions of program budgets of the military services, not to mention the NRO budget.

The claim made so frequently that the DCI does not have great control over budgets simply is not true. Once the Secretary of Defense has set a maximum dollar figure as DoD's contribution to the NFIP, the DCI has as much authority over the allocations within the NFIP as the Secretary of Defense has over the allocations within the program budgets of the military services. The Secretary of Defense, like the DCI, does not have "budget execution" authority over the

military service budgets. The military departments spend the monies written into law by you, the Congress, according to the line item numbers you set. Very limited re-alignment of monies within that budget is permitted, above that fairly modest level, reprogramming of money requires your approval. Moreover, a military service cannot come back to Congress for reprogramming without the permission of the Secretary of Defense. The same is true for the IC organizations within Defense. If, for example, NGA wants to realign several millions of dollars in the budget now being spent, it must have the DCI's approval.

Why, therefore, does the DCI need "budget execution" authority, as the 9/11 Commission recommends and as the bills now enrolled in the Senate and the House for a Director of National Intelligence specify? He does not. It is true that the DCI does not have some of the powers over personnel matters that the Secretary of Defense has, but he can establish IC-wide some types of personnel policies common to all elements, and informally he can have strong influence on the appointment of the directors of any IC member organization. When the DC asked me to assign personnel from NSA for a year or so to other parts of the IC, I did so, and I suspect that all subsequent directors of NSA have done the same. Such responsiveness has probably been true for the heads of other intelligence agencies in the DoD.

I do not see how the resource management issue will be solved by any of the proposed reform schemes, and they all will make them worse. This is not to say that no reforms are required; it is to say that some are but not others. More important, the establishment of a

PPBS system is needed, one based on five major program categories for "outputs" of intelligence. They are: HUMINT, IMINT, SIGINT, analysis and production, and finally, CI. And "national managers" for each program will be essential. Why? Because the technical nature of all five program areas is so complex and different from one to another that no single staff element under the DCI could assemble, understand, and effectively organize the data required to build a sensible program, especially in SIGINT and IMINT. This helps explain why PPBS has never been effectively attempted. The CIA-dominated staffs of the DCI have never had the technical competence to assess the prioritization of SIGINT programs. Yet they feared losing control if they gave the responsibility for each of the programs to the appropriate IC agency head. Moreover, no agency head is now in a position to prioritize the budgets in a single collection discipline or either of the two production disciplines, all-source analysis and CI.

Today, however, logical choices for national managers exist for three of the programs – the Director of NSA for SIGINT, the Director of NGA for IMINT, and the Deputy Director of CIA for Operations for HUMINT. And the last, for HUMINT is still ill-positioned because he is only a deputy director inside CIA. With major changes, no one is well placed to manage an all-source analysis and production program budget and a CI program budget.

A few other changes will also be necessary if the IC is to implement effective resource management, but I believe I have clarified the matter sufficiently to show the problem is not lack of DCI budget authority. Rather it is DCI's failure to use it effectively.

It is still true, however, that an effective resource management system cannot be fully implemented without some structural changes. The lack of a National Counterintelligence Service, one that takes over the FBI's CI role, has no arrest authority, and coordinates all of the CI operations in the CIA, army, navy, and air force departments, makes it impossible to have sensible CI program budget. The Director of CIA, once separated from the DCI, could become a very effective "national HUMINT program manager." The National Intelligence Council is the logical place to put the program budget management responsibility for intelligence analysis and production (including the DCI's collection management operations), but it would need major internal changes and strengthening to handle the task.

Authority over intelligence operations. The DCI's management of intelligence operations includes collection management (i.e., determining requirements and tasking collectors), all-source analysis and production, and distribution of intelligence products.

As I mentioned above, significant progress was made during the 1970s in enhancing the DCI's staffing capabilities for resource management. They were also improved for managing intelligence operations. National Intelligence Officers (NIOs) were established to deal with interagency production of National Intelligence Estimates and other national level analysis. In 1977, the DCI created the National Intelligence Council (NIC) that gave the NIOs a firmer organizational base, although still heavily dependent on the CIA's Directorate of Intelligence (DI).

Unfortunately, collection management was not assigned to the NIC. The task of compiling the national collection requirements lists

from all government users of intelligence was left in the IC management staff. Moreover, no clear distinction was made between general collection management and technical collection management. The latter applies to directing collection within each collection discipline – SIGINT, IMINT, and HUMINT – and it differs greatly in each and requires highly specialized skills and expertise. All-source analysts in the CIA's DI, in INR at State or in DIA are neither expert in it nor in a position to exercise technical collection management, although NIC and CIA/DI analysts have occasionally tried to do so. At the same time, they have tended to neglect the DCI's collection management role because compiling the National SIGINT, IMINT, and HUMINT Collection Requirements lists has been in the resource management staff.

These lists are laborious to compile but play the key role in guiding the budgeting and deployment of collection efforts in all three collection disciplines. Had DCIs, in late 1980s and early 1990s, begun to shift the requirements on these lists to the Middle East, the IC would be much farther along in building capabilities for this region. He would have needed national program managers and a PPBS structure, however, to be sure that his guidance was truly being followed.

The point here is that the DCI has strong authorities over IC-wide collection management, but the exercise of them has been haphazard and slow at times.

Let me add parenthetically that this ponderous but critically essential collection management system is supplemented by a "time sensitive requirements" system in NSA and NGA, and probably to

some degree in the DO in CIA. If, for example, a crisis breaks on a Saturday night, these agencies' operations centers, handling "technical collection management," can begin shifting the collection efforts to meet the needs of military commanders and diplomats dealing with the crisis. They do not wait until the opening of business on Monday morning. As late as the early 1980s, however, NSA was not allowed to do this for some major parts of SIGINT collection because the DCI had committees under his management staff that met only during weekday business hours and decided collection priorities. In about 1983, the Director of NSA was permitted to redirect all overhead collection instantly in any emergency without the IC SIGINT committee's approval. This committee system lasted for IMINT at least until NIMA was created in 1997. Progress has been made, albeit slowly, against the NRO's strong resistance, and the combatant commanders have been the greatest beneficiaries.

Today, the DCI's collection management role needs to be executed by the NIC, not the Community Management Staff, just as the NIC needs to take over program budget management for all-source analysis and production.

None of these much needed improvements in the present system are likely to occur until the DCI is separated from the Director of CIA.

### The Implications of the 9/11 Commission Proposals.

Now that I have explained what a DCI or National Intelligence Director should do, let us suppose that the scheme proposed by the 9/11 Commission becomes law. What would the problems be?



First, putting the DCI/NID in the White House would make him a dysfunctional competitor to the National Security Advisor. The adverse consequences of that arrangement are difficult to exaggerate. No sensible president would tolerate it for long.

Second, several national-level intelligence analysis centers would be in the same unfortunate position as the Directorate of Intelligence at CIA today. They stand above all the real hands-on users. Rather than provide "distributed all-source intelligence analysis," the only kind that has ever been effective for military commanders and most policy-makers, this centralized system would make the present set of problems worse. The Defense Department would probably ignore them and continue its own distributed approach in the form of the DIA, the military service intelligence chiefs, the J-2s in joint organizations, and other such production centers supporting J-2s, G-2s, and the like.

What the 9/11 Commission claims is a military "joint operations" approach to intelligence in the form of these national centers is a misconception. The commission misunderstands the idea of military jointness when it opposes management of intelligence collection by discipline, i.e., SIGINT, IMINT, and HUMINT. Intelligence organizations are at war all the time. Treating some of them like the military services that train, equip, and deploy forces to joint commanders makes only partial sense. NSA and NGA are not only training and equipping, but are also conducting live intelligence operations 365 days a year. And within each agency they run recruiting, training, and equipping programs. In this regard, the distinction between a military service and a joint command is a

misnomer. It embraces. The civilian component of NSA is much like a military service; in its world-wide operations, the three military "service cryptologic elements" are its "joint" army, navy, and air force component commands. When NSA is likened to a specified joint command that is functional in its mission and global in its reach, like the strategic bombing command, or Transcom, then the concept has some relevance, but not as applied in the 9/11 Commission's scheme.

Centralized and concentrated analysis on some problems, e.g., terrorism, for periods of time can be very effective, at least until the distributed centers are able to handle it on their own, but to set up "regional centers" is to create bureaucracies without a clear focus at the national level. Thus they would likely become little used bureaucratic entities. To be useful, they would have to be deployed to the unified regional commands to work for the J-2, not something the 9/11 Commission envisions. Quite the contrary. I suspect that the military services will be reluctant to commit resources to such centers and disinclined to depend on them.

Meanwhile, the 9/11 Commission scheme does not deal with collection management and all of the tasks the DCI must execute to run IC-level intelligence operations. If each center can drive collection management, who will referee their conflicts over priority in collection taskings?

Moving to the system of resource management through three deputies – one for foreign intelligence, one for defense intelligence, and one for homeland security intelligence – appears to build bureaucratic walls that would prevent effective resource

management. The important trade-offs in resource allocations do not exist within these three areas. They are in the collection disciplines. Trading off fixed installations against mobile systems, space-based systems, and others is the place efficiencies are to be found in both SIGINT and IMINT. Thus these three deputies' areas of responsibility would be huge obstacles to effective resource management.

After puzzling for some time over this strange staffing design for a National Intelligence Director, I have concluded that, among other things, its authors do not appreciate the impact of changing technology over several decades on the collection disciplines. If a DCI or NID is to have effective control of resources and operations in the IC, he will have to do it on the three collection disciplines first of all. They have to be operated as disciplines, not by regions or by bureaucratic boundaries between department, and their resources can only be managed in the same way because resource "inputs" have to be related to operations "outputs." CI is somewhat in the same situation but with some peculiarities. So too is all-source analysis and production.

The 9/11 proposed arrangement could soon have the effect of breaking down the supply of SIGINT and IMINT to the civil agencies that now receive it because these disciplines would be segregated as defense-only. And Defense would be inclined to develop its own clandestine HUMINT separate from and uncoordinated with the CIA's.

If Defense treats its own intelligence separate, as this arrangement encourages, then I do not see how the NID could possibly exert very much program budget control. His deputy for

defense intelligence would either be ignored by DoD or side with DoD, making himself a major problem for the NID.

Homeland security would be left to create its own collection systems, I suppose. Or it would be left with whatever largess in collection that NSA, NGA, and CIA wanted to offer. The resulting situation would be worse than with no reform.

Many more such examples of dysfunctional results could be offered, but these should be adequate to show how ill-advised those proposals are.

Let me reemphasize, however, that it still makes sense to split the two posts, making the DCI manage the entire IC while leaving the Director of CIA to manage HUMINT, special activities, and a few other related activities, such as the Foreign Broadcast Information System.

How does it help the military services? Modern communications and technical collection capabilities – all made possible by the revolutionary technologies based on microcircuitry and directed energy – have allowed a complex array of SIGINT and IMINT capabilities to be developed, fielded, and operated in an orchestrated manner, linking from the tactical systems to the national systems. Both can deploy globally and be operated centrally, still allowing considerable local tactical autonomy to local commanders. The centralization allows the entire system to be shifted quickly, in hours, from one part of the world to another to support different commanders and policy-makers, depending on the priorities determined by the Secretary of Defense and the Chairman under a system of collection

management designed by the DCI, NSA, and others for "time sensitive requirements."

The SIGINT collection discipline has come to be an outstanding component of truly "joint" operations. And like air and artillery support, it can be redirected to influence military, diplomatic, or law enforcement activities by the DCI in response to the President, the Secretaries of Defense, State, Homeland Security, and any other departments that need intelligence.

The military services, singularly or jointly, would never have built the present national SIGINT system. They would not have spared the focused management for dealing with the technologies and technical specialties, especially in pure mathematics and computer science that NSA has amassed. I presume that a parallel development is occurring in NGA, but I am not as familiar with it because IMINT was still managed in a fragmented way by an IC staff committee as late as 1997. If NGA has not brought a parallel technical management and operational competence to IMINT since then, it should have. It is now possible. Before 1997, it was not.

Nor would these developments have been possible were they not also sponsored and backed by the DCI and the White House as truly "national" capabilities, supporting State's diplomatic operations, and the operations of several other important civilian agencies. This non-DoD support actually benefits the military services because it makes the DCI stronger for getting resources that would not be provided only for support to military operations. In the 1960s through the 1980s, many in the military services were hostile to NSA because they did not understand what it could provide. Actual operations have

demonstrated the huge advantage in having a national system with a tactical reach, changing a lot of minds in the military services.

During my tenure as the Director of NSA and earlier, I became familiar with numerous foreign intelligence systems. None had come close to creating anything as effective as the IC's technical collection capabilities. Organizational fragmentation between civilian and military systems is far worst in most foreign intelligence services.

The occasional proposal to move NSA and NGA out of DoD would reintroduce that kind of fragmentation into the US Intelligence Community, setting it back dramatically. I believe that anyone, after being exposed in great detail to how NSA and NGA operate, would soon agree with me on this point. But it takes more than a few briefings to get a valid picture, and it requires more technical understanding than is normally found among the top leadership within the Intelligence Community, not to mention outside commission staffs.

And were NSA and NGA withdrawn from DoD and transferred to CIA, almost certainly the military services would recreate their own SIGINT and IMINT systems, duplicating NSA and NGA, and the CIA would just as certainly mismanage and degrade these two agencies, not to mention destroy their abilities to integrate the vast military tactical SIGINT and IMINT capabilities into their operations.

Now, let me make a couple of points on IMINT and SIGINT in DoD. Integrating budgets for TIARA and other non-national reconnaissance systems with budgets for national systems was never done very well during my tenure, and I have not been able to work out a system in my own mind that is without weaknesses. Progress

in NSA-TIARA integration was dependent on informal cooperation between the military services and NSA. If the Director of NSA had the responsibility for the entire national SIGINT program budget, however, and he worked it out with a PPBS system, he would be better able to show the military services why some of their SIGINT systems made little sense, why others were valuable, and how he could support them effectively with his national capabilities working together with theirs. Thus, improvements in that integration always struck me as possible. But the lack of a PPBS process implemented by national managers for the collection disciplines made this impossible.

A second and related problem is found in the NRO. Strongly backed by the DCI and CIA, it was a major obstruction to the NSA-TIARA integration. This problem also involves the Air Force's desire to own and operate all space-based surveillance systems. Were that allowed, it would destroy the highly symbiotic relations between space-based SIGINT collection and terrestrial and aerial collection. Moreover, the "output" of the NRO's space-based systems would drop dramatically if they were not under NSA's management and control. Some would no longer work at all.

Space is a place, not a mission, and intelligence collection is one of at least a half-dozen missions that can be accomplished in part from space. Several others are outside the Defense Department; e.g., weather satellites are procured and operated inside the Commerce Department, and some are in the private sector; e.g., satellite communications links. An all-inclusive military space organization, therefore, is a misguided concept.

I mention both the NRO problem and the Air Force insistence on controlling all space-based reconnaissance systems because the 9/11 Commission proposals show no awareness of either. If they were implemented, they would surely make these problems worse, not better.

Finally, I am not sufficiently aware of the role the new undersecretary of defense is playing in program budgeting or intelligence operations to render a confident judgment on how it would be affected by the 9/11 Commission's proposal. If this undersecretary is trying to do more than act as a staff officer, gathering information and helping advise the secretary of defense, I believe the consequence must be a lot of unnecessary turmoil and confusion in DoD intelligence affairs. That office is not in a position to implement a PPBS system for all DoD intelligence because so much of it is entangled with IC organizations and activities outside of DOD. The DCI and his IC staff have to get things organized effectively before they can provide the context for effective program budgets and intelligence operations inside DoD, and without that context, the DoD's efforts to put their IC elements in order can only be wasted and dysfunctional.

In sum, DoD could gain a lot from the DCI being separate from the Director of CIA. The logic of the IC's evolutionary development could be followed, and both DoD and the IC would be more effective in the technical collection disciplines.

Some Problems Peculiar to CIA-DoD HUMINT relations



Precisely how the 9/11 Commission's proposals would affect HUMINT in the DoD is not so clear, but they would probably make it worse. CIA falls under one deputy NID, and DoD intelligence falls under another.

We cannot go very far into this area in open session, but let me mention a couple of points of concern that should be examined carefully in closed session.

First, there has always been disagreement and ambiguity about CIA's clandestine service's relations to military unified commands. In principle, all of the CIA stations within a unified command's area should come under the CINC's operational control ("OP CON") in wartime, but I have never seen that occur. DCIs have resisted it, and CINCs and their J-2s have no training or competence in exercising that control if they could get it. In other words, the collaborative relationship between NSA and unified commands with their tactical SIGINT capabilities is not paralleled by a similar collaborative relationship between the CIA's Directorate of Operations and tactical DoD HUMINT, either in peacetime or wartime.

Progress needs to be made in this area, especially if the anecdotal evidence from the wars in Afghanistan and Iraq is true, even in part.

Second, "special activities" have always been the responsibility of the DCI, using CIA. Yet DoD has large and diverse paramilitary capabilities that can be used in special activities. They cannot be effective without a lot of preparatory support in peacetime from the CIA/DO. CIA is notorious in the army for promising but never providing that support. And CIA's own paramilitary capabilities have

tended to be amateurish to the point of hilarity at times, disaster at others.

A DCI separate from CIA would be in a position to deal more disinterestedly with these two problems. This is not true for the NID recommended by the 9/11 Commission because of his location in the White House and his system of deputies and staff organization. The NID would be poorly placed to solve them.

### The Most Urgent Challenge: Fixing Counterintelligence

As I said at the beginning, the most urgent problem facing the IC is ineffective CI. CI is really 'intelligence' about hostile intelligence services, nothing more. It is not "security," although CI is critical to implementing effective security.

CI also overlaps very much with counterterrorism in the United States because terrorists operate like spies in many ways. They are also outside the area of CIA or DoD legal competence to track. Much improved CI, therefore, would greatly benefit our counterterrorism operations.

What are the problems with the present CI structure?

First, and easiest problem to explain, US CI is fragmented among five agencies – the FBI has domestic CI responsibility, the CIA has foreign responsibility for CI, and the army, navy, and air force departments have CI operations to support themselves abroad and on military installations within the United States. No agency has a comprehensive view, one that melds the CI views of all five. Hostile intelligence services know this and run operations between agencies, often playing one agency against another.

Second, no law enforcement agency, that is, an agency with arrest authority, will consistently beat spies. Nor will it do well against terrorists. Criminal law enforcement techniques are too easy for spies to evade or defeat. Law enforcement agencies are in a hurry; they want news coverage; and they tend to focus on "crimes" after they have been committed rather in preventing them in the first place.

CI operatives are entirely different. They avoid publicity. They have more patience. They cannot arrest a spy or terrorist. They must give intelligence about spies and terrorists to law enforcement agencies, most often, the FBI. Thus their incentives are structured to share intelligence, not to hold it for their own use, as the incentives are structured for the FBI and other law enforcement agencies.

This means that the FBI, no matter what reform it makes, will never become effective at CI. The law enforcement culture rightly dominates the FBI. That means it will always block the creation of a first-rate CI culture.

The only way to overcome this problem is to create a separate agency, a National Counterintelligence Service (NCIS), under the DCI, just as the CIA is. It cannot have arrest authority. That is left to the FBI, and when it wants spies arrested, it must give the FBI the evidence for doing so and for convicting them in court.

The fragmentation problem can also be solved by this change. The NCIS should have authority to review and coordinate all of the CI operations run by the CIA, army, navy, and air force. That would give it a comprehensive picture of the larger CI challenge to the United States. An NCIS would then also be able to provide CI support to

three military departments and the DoD, something the FBI seldom if ever does.

The Defense Department has a strong interest in supporting this reform. If this committee and the HPSCI were to review all of the CI operations run by the military departments in the 1980s, and perhaps later, they would soon discover how much harm the FBI has done to military CI. That, I believe, would increase your support for this reform. It would also inspire you to ask the air force and navy to split CI from their criminal investigation organizations. The army has long kept CI in its own organization.

In my experience, CI has been the most deficient of all areas of IC responsibility, and my reading of the emerging record from the 1940s and 1950s, as Soviet archives have become more accessible, suggests that the FBI never had any "good old days" against the KGB or NKVD. On the contrary, the record seems to be mainly a series of failures that make the recent cases of Wen Ho Lee at Los Alamos and Robert Hanssen inside the FBI, as well as several other damaging penetrations of the FBI, look like the norm, not exceptions.

Creating a new wall around the CI division within the FBI is not a solution. It is eyewash. The law enforcement culture, even if somewhat ameliorated by recent outside pressures after 9/11, will reassert itself. Moreover, the fragmentation problem has not been addressed, even in a cosmetic fashion.

## Conclusion

This foregoing analysis of the 9/11 Commission's proposals is sketchy because the issues are so numerous and complex that a full clarification of them cannot be provided in a few pages.

I have, however, provided a book-length analysis of the IC's problems and offered solutions to most of them in Fixing Intelligence (Yale University Press, 2003/2004).

I hope this testimony stimulates and helps focus your further investigation of the issues.

Finally, I also hope that you can now understand why I favor separating the roles of DCI and Director of CIA while I object to the way the 9/11 Commission would make the split. This can best be done simply by amending the 1947 National Security Act to rescind its requirement that the DCI also be the Director of CIA and specify that double-hatting is not allowed. And I hope you appreciate why removing the CI responsibility from the FBI is the most urgent step that can be taken to improve our capabilities for dealing with the post-9/11 environment.