

# CRS Report for Congress

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## **The Position of Director of National Intelligence: Issues for Congress**

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# The Position of Director of National Intelligence: Issues for Congress

## Summary

The 9/11 Commission, in its recent report on the attacks of September 11, 2001, criticized the U.S. Intelligence Community's (IC) fragmented management structure and questioned whether the U.S. government, and the IC, in particular, is organized adequately to direct resources and build the intelligence capabilities that the U.S. will need to counter terrorism, and to address the broader range of national security challenges in the decades ahead.

The Commission made a number of recommendations, one of which was to replace the current position of Director of Central Intelligence with a National Intelligence Director (NID) who would oversee national intelligence centers on specific subjects of interest – including a National Counterterrorism Center (NCTC) – across the U.S. government, manage the national intelligence program, oversee the agencies that contribute to it, and have hiring, firing and budgetary authority over the IC's 15 agencies. The Commission recommended that the director, and the NCTC, be located in the Executive Office of the President and that a deputy NID be established to oversee the day-to-day operations of the Central Intelligence Agency (CIA). The Commission's recommendation to strengthen management authority over the IC is the latest contribution to an IC structural reform debate that dates at least to 1955, when arguments for stronger IC authority began to surface. OMB deputy director James Schlesinger in 1971 first broached the DNI concept.

Recently some Members of Congress have introduced intelligence community reform legislation that would establish the position of Director of National Intelligence (DNI), or strengthen DCI authorities.

Reactions to the concept of a DNI have been mixed since its inception. Supporters argue that the DCI cannot manage the IC, the CIA and serve as the President's chief intelligence advisor, and do justice to any of the jobs. Other than the CIA, the DCI also lacks hiring, firing and budget authority. They argue that the absence of strong, centralized leadership has resulted in divided management of intelligence capabilities; lack of common standards and practices across the foreign-domestic intelligence divide; structural barriers that undermine the performance of joint intelligence work; and a weak capacity to set priorities and move resources.

Opponents counter that a DNI would lose day-to-day control over the CIA, a natural power base and, as a result, influence. They also contend that placing the intelligence director in the Executive Office of the President, as the 9/11 Commission has proposed, risks the politicization of intelligence, giving the White House more direct control over covert operations, blurring the line between foreign and domestic operations and possibly shifting too much influence over intelligence to the Department of Defense. With regard to DOD influence, other opponents argue that a national director will shift the balance of control away from DOD, risking intelligence support to the warfighter. The congressional role includes deciding whether to establish the position of the DNI and its authority. This report will be updated as events warrant.

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# The Position of Director of National Intelligence: Issues for Congress

Proposals to reorganize the United States Intelligence Community began to surface almost as soon as the management structure for the Intelligence Community (IC) was statutorily established by the passage of the National Security Act of 1947. Since then, at least 19 commissions, committees and panels, created by either the executive or legislative branches, have made numerous recommendations for structural reorganization. Several of the proposals urged stronger centralized IC authority and, in some cases, the establishment of the position of Director of National Intelligence (DNI).

The so-called Second Hoover Commission, established by law to examine the organization of the executive branch in 1953, became the first independent panel to push for stronger centralized IC authority. [See page 15 for a historical review of efforts to centralize and strengthen IC leadership]. In examining ways to strengthen the IC, the commission recommended that an “executive officer” be named to manage the CIA so that the DCI could focus attention on the IC.

Eighteen years and several commissions, committees, and panels after former President Herbert Hoover made his recommendations, the Office of Management and Budget’s (OMB) Deputy Director James R. Schlesinger (later a DCI), after studying the IC’s management at the behest of former President Richard Nixon, blamed the absence of strong central IC leadership for “unproductively duplicative” intelligence collection systems, and the failure to coordinate the allocation of resources. Schlesinger considered the establishment of a DNI, but backed away, recommending, instead, “a strong DCI who could bring intelligence to an adequate level of quality and responsiveness.”<sup>1</sup>

In the most recent iteration of the DNI debate, the 9/11 Commission<sup>2</sup> on July 22, 2004, recommended that the position of the DCI should be replaced by a National

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<sup>1</sup> See Richard A. Best, Jr. and H. Andrew Boerstling, “Proposals for Intelligence Reorganization, 1949-1996,” in *IC21: Intelligence Community in the 21<sup>st</sup> Century*, Staff Study, House Permanent Select Committee on Intelligence, 1996. (The July, 2004 update of the CRS report is CRS Report RL32500, *Proposals for Intelligence Reorganization, 1949-2004*, by Richard A. Best.)

<sup>2</sup> The 9/11 Commission, formally known as the National Commission on the Terrorist Attacks Upon the United States, was created by congressional legislation and the signature of President George W. Bush in late 2002 (P.L. 107-306, Nov. 27, 2003). It was chartered to prepare a full and complete account of the circumstances surrounding the September 11, 2001 terrorist attacks, including preparedness for and the immediate response to the attacks. The Commission was also mandated to provide recommendations designed to guard against future attacks.

Intelligence Director (NID)<sup>3</sup> who would oversee national intelligence centers on specific subjects of interest across the U.S. government, and would manage the U.S. national intelligence program and oversee the agencies that contribute to it. The Commission recommended the establishment of the position of deputy NID for Foreign Intelligence to direct the CIA's day-to-day operations. The Commission also recommended the creation of a National Counterterrorism Center (NCTC), which would be placed in the Executive Office of the President, and be under the control of the NID. The NCTC would be a center for joint operational planning and joint intelligence.<sup>4</sup>

## Congressional Proposals Concerning DNI Position

There have been a variety of proposals concerning the DNI position. Following the creation of the intelligence oversight committees in the Senate (1976) and in the House (1977), Congress considered charter legislation that included, among other proposals, one that would have created the position of a DNI to manage the IC. A presidentially selected deputy would have managed the CIA. Confronted by strong opposition to the overall legislation, which also included language governing covert actions, the Committees did not report the respective bills.

In 1992, Senator David Boren and Representative David McCurdy, respective chairmen of the Senate Select Committee on Intelligence (SSCI) and House Permanent Select Committee on Intelligence (HPSCI), introduced legislation creating the DNI position and giving the position the authority to program and reprogram funds. Their legislation also would have created a separate director of CIA. Boren and McCurdy failed to win adoption of their legislation in the face of opposition by the Department of Defense (DOD) and the congressional Armed Services Committees.

In December 2002, the Congressional Joint Inquiry Into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001<sup>5</sup>, recommended that a new cabinet level Senate-confirmed DNI position be established, and that a separate director be named to manage the CIA. The Joint Inquiry also recommended that the DNI be granted the full range of management, budgetary and personnel responsibilities needed to make the entire IC operate as a coherent whole.<sup>6</sup>

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<sup>3</sup> The 9/11 Commission recommendations refer to a National Intelligence Director, or NID. Various congressional proposals name the position Director of National Intelligence, or DNI. This paper will use the "DNI" nomenclature.

<sup>4</sup> See The 9/11 Commission Report, *National Commission on the Terrorist Attacks Upon the United States*, July 22, 2004, p. 403.

<sup>5</sup> The Senate and House congressional oversight committees in 2002 initiated a joint inquiry into the September 11<sup>th</sup>, 2001 terrorist attacks on the United States. The inquiry issued its recommendations in December 2002, and an unclassified report of its findings in July, 2003.

<sup>6</sup> See U.S. Senate Select Committee on Intelligence and U.S. House Permanent Select Committee on Intelligence, *Joint Inquiry Into Intelligence Community Activities Before and After The Terrorist Attacks of September 11, 2001* (H.Rept. 107-792 and S.Rept. 107-351),

## **DCI Budget-Related Responsibilities and Authorities Under the National Security Act of 1947 Are Seen by Some as Limited**

Proponents of establishing the DNI position contend the current IC management structure characterized by an incoherence they attribute to two flaws. First, because the DCI is dual-hatted, heading both the IC and the CIA, they maintain he is too busy to do either job well. Second, they argue that the DCI's hiring, firing and budget authorities are limited. From their perspective, the result is an IC management structure that lacks direction and focus.

Any discussion of the DNI concept invariably leads to a debate over whether the two jobs should be split, and whether current DCI budget authorities are strong enough to permit effective management of the IC.

With regard to budget authority, the National Security Act of 1947 authorizes the DCI to facilitate the development of an annual intelligence budget [1947 National Security Act, see Sec.103.(c)(1)(A) [50 U.S.C. 403-3(c)(1)(A)]. The act also stipulates that the DCI prepare and approve all budgets for each of the IC agencies comprising the National Foreign Intelligence Program (NFIP)<sup>7</sup> [1947 National Security Act, see Sec.104.[50 U.S.C. 403-4] (b)].

More than 85% of the intelligence budget, however, is executed by agencies not under the DCI's control.<sup>8</sup> Although the DCI has the authority to approve all budgets for each of the IC agencies comprising the NFIP, he or she cannot transfer funds and personnel during the year of budget execution without the agreement of the agency head of the IC element that would be affected by such a transfer. Moreover, the appropriation for the NFIP agencies, including the CIA, is given directly to the Secretary of Defense, who then disburses the funds to the various agencies, including the NFIP's three largest agencies — the National Security Agency (NSA), the National Reconnaissance Office (NRO) and the National Geospatial-Intelligence Agency (NGA).<sup>9</sup> Each of those agencies, among other tasks, supports Department of Defense (DoD) combat operations, and each answers to the Secretary of Defense. The DCI is left with exclusive budget execution authority only over the CIA.<sup>10</sup> Some have asserted that, in part because of the DCI's relatively weak position with respect

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errata print accompanying report, Recommendation No. 1, pp. 2-3.

<sup>7</sup> The National Foreign Intelligence Program is an aggregation of the budgets of the 15 agencies, including the CIA, which comprise the IC.

<sup>8</sup> See Report of the Commission on the Roles and Capabilities of the United States Intelligence Community, *Preparing for the 21<sup>st</sup> Century An Appraisal of the U.S. Intelligence*, March 1, 1996, P. xix.

<sup>9</sup> The National Security Agency is responsible for electronic intercepts; the National Reconnaissance Office designs, builds and operates the nation's reconnaissance satellites; and the National Geospatial-Intelligence Agency (NGA) provides geospatial intelligence, i.e. mapping. The NGA was formerly known as the National Image and Mapping Agency.

<sup>10</sup> See Studies in Intelligence, *The Need to Reorganize the Intelligence Community*, by Larry C. Kindsvater, Vol. 47, No. 1, 2003, P. 34.

to the IC, DCIs historically have devoted the bulk of their time to managing the CIA and serving as the President's intelligence advisor, rather than overseeing the IC.<sup>11</sup>

## **Recent Interest in the Establishment of a DNI**

During the last two sessions of Congress — the 107<sup>th</sup> and 108<sup>th</sup> — Senators Dianne Feinstein, Tom Daschle and Bob Graham, and Representative Jane Harman have separately introduced legislation that would establish the DNI position. Representative Porter Goss also has introduced related legislation, but rather than establishing the position of DNI, his bill would strengthen DCI management authorities with regard to budget and personnel responsibilities.

- **Senator Dianne Feinstein**

Senator Feinstein first introduced DNI-specific legislation (S. 2645, introduced on June 19, 2002) during the 107<sup>th</sup> Congress. Her bill established the position of DNI and authorized a ten-year term for the position. The bill also established a separate position of the director of the CIA, and prohibited the DCI from simultaneously serving as DNI.

- **Senator Tom Daschle**

In the 108<sup>th</sup> Congress, Senator Tom Daschle was the first to introduce DNI legislation (S. 6, introduced on January 7, 2003) as part of a broader security reform package. His DNI language is almost identical to that included in the Feinstein legislation. The Daschle bill would create the DNI and authorize a ten-year term. Like the earlier Feinstein legislation, Daschle's bill also would establish a separate position of DCI. The two bills differ in one aspect. In contrast to the Feinstein bill, the Daschle legislation would provide the DNI enhanced budget responsibilities over those enjoyed by the DCI under the current National Security Act of 1947.

- **Senator Dianne Feinstein, Second Proposal**

Following the Daschle's bill introduction, Senator Feinstein introduced a revision of her earlier DNI legislation (S. 190, introduced on January 17, 2004). Her new version would eliminate the earlier 10-year DNI term contained in her original bill, and would enhance the DNI's budget responsibilities as the Daschle bill proposed.

- **Senator Bob Graham**

Later in 2003, Senator Graham of Florida introduced DNI legislation as (S. 1520, introduced on July 31, 2003) part of a broader intelligence reform legislative

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<sup>11</sup> See Report of the Commission on the Roles and Capabilities of the United States Intelligence Community, *Preparing for the 21<sup>st</sup> Century An Appraisal of the U.S. Intelligence*, March 1, 1996, P. xix.

package.<sup>12</sup> His DNI legislative language is identical that contained in Senator Feinstein's S. 190.

- **Representative Jane Harman**

Representative Jane Harman introduced her version of DNI legislation (H.R. 4104, introduced on April 1, 2004) as part of a broader intelligence reform package. Her bill would provide the DNI limited budget authority enhancements over what the DCI currently enjoys.

- **Representative Porter Goss**

Finally, Representative Porter Goss introduced IC organization reform legislation (H.R. 4584, introduced on June 16, 2004) that would strengthen DCI authorities over the IC, but leave the DCI in charge of both the IC and the CIA. Among other changes, it would repeal the current prohibition pertaining to the DCI exercising internal security functions.

## **What The Bills Are Designed To Accomplish**

### **Feinstein and Graham Would Establish a DNI**

The Feinstein and Graham bills would establish a presidentially-nominated, Senate-confirmed position of DNI, who would serve as the head of the IC's 15 separate intelligence agencies, including the CIA.

Both bills would establish a separate Senate-confirmed DCI, who would manage the CIA. Each bill would also prohibit the DCI from serving simultaneously as DNI, and each contains Sense of Congress language indicating that the DNI should be a member of the president's cabinet.

Both bills would establish the Senate-confirmed position of Deputy DNI.

Neither bill contains the ten-year DNI term of service included in Senator Feinstein's original DNI bill (S. 2645).

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<sup>12</sup> Titled the "9/11 Memorial Intelligence Reform Act," the Graham legislation addresses seventeen of the Joint Inquiry's nineteen recommendations, and includes language creating a new Senate-confirmed position of Director of National Intelligence (DNI). See U.S. Senate Select Committee on Intelligence and U.S. House Permanent Select Committee on Intelligence, *Joint Inquiry Into Intelligence Community Activities Before and After The Terrorist Attacks of September 11, 2001* (H.Rept. 107-792 and S.Rept. 107-351), errata print accompanying report, Recommendation No. 1, pp. 2-3.



- **Feinstein and Graham Would Enhance DNI Budget-Related Responsibilities<sup>13</sup>**

The Feinstein and Graham bills would, to some degree, strengthen the DNI's hand in the area of budget responsibilities by making three modifications to the 1947 National Security Act governing current DCI budget responsibilities.

First, both bills stipulate that the DNI shall “develop” an annual intelligence budget [in Feinstein, see Title 2, Sec. 103(b)(1)(A); in Graham, see Sec.2(a)Sec.103(b)(1)]. Under current statute, the DCI's authority is less definitive; he is authorized to “facilitate the development of an annual budget for intelligence...” [in the 1947 National Security Act, see Sec.103(c)(1)(a)].

Second, each bill identically stipulates that the DNI's development of an annual budget shall include the “review, approval, and modification of the execution of intelligence community budgets, and personnel and resource allocation in furtherance of such annual budget.” [in Feinstein, see Title 2, Sec.103(b)(1)(A); in Graham, see Sec.2 (a)Sec.103(b)(1)(A)]. The 1947 National Security Act contains no similar language.

Third, both bills identically stipulate that the DNI's development of an annual budget shall include “managing and overseeing the execution and, if necessary, the modification of the annual budget for the National Foreign Intelligence Program (NFIP), including directing the transfer of funds of personnel between elements of the intelligence community.” [in Feinstein, see Title 2, Sec.103 (b)(1)(C); in Graham, see Sec.2(a)Sec.103(b)(1)(c)]. The National Security Act of 1947 contains no similar language.

- **Feinstein and Graham Would Strengthen DNI Budget and Personnel-Related Authorities**

In the area of budget and personnel-related authorities, both bills would strengthen the DNI's budget and personnel authorities by making three changes in the authorities currently enjoyed by the DCI under the 1947 National Security Act.

First, each bill would accord the DNI the authority to transfer personnel during the year of budget execution<sup>14</sup> without being required to develop with the heads of affected departments and agencies the procedures governing such transfers [in Feinstein, see Title 2, Sec.103A.(d); in Graham, see Sec.2(a)Sec. 103A.(d)]. In contrast, the 1947 National Security Act authorizes the DCI to transfer personnel during the year of budget execution, but only “in accordance with procedures to be developed by the Director and the heads of affected departments and agencies...”[1947 National Security Act, see Sec.104 [50 U.S.C. 403-4] (d)].

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<sup>13</sup> Throughout this report, a distinction is drawn between budget-related *responsibilities* and budget-related *authorities*. These distinctions reflect identical distinctions made in the 1947 National Security Act.

<sup>14</sup> The concept of the year of budget execution is generally understood to mean the fiscal year in which monies already appropriated are actually spent

Second, both the Feinstein and Graham bills would authorize the DNI to transfer funds and personnel from the Federal Bureau of Investigation (FBI). The 1947 National Security Act prohibits such transfers [1947 National Security Act, see Sec. 104 [50 U.S.C. 403-4](d)(2)(A)(iv)].

Finally, both bills would permit the DNI to unilaterally transfer funds and personnel, even if the heads of the affected agencies and departments objected. Under the 1947 National Security Act, department heads are authorized to prevent DCI-initiated fund and personnel transfers by submitting their objections in writing to the DCI [1947 National Security Act, see Sec. 104. [50 U.S.C. 403-4](d)(2)(A)(v) and (B)(iii)].

Both bills would mirror the 1947 National Security Act in authorizing DNI approval of all IC component budgets, and granting the DNI veto authority over any NFIP reprogramming.

- **Feinstein and Graham Bills Silent on DNI Personnel Policies**

The Feinstein and Graham bills would not provide the DNI any enhanced hiring and firing authorities beyond those currently enjoyed by the DCI. Those limited authorities do not require the DCI's concurrence on some IC appointments. Consultation with the DCI is required on other IC appointments [1947 National Security Act, see Sec. 106[50 U.S.C. 403-6](a) and (b)].

- **Daschle DNI Legislation Tracks Feinstein and Graham**

Senator Daschle's DNI legislation is identical to that contained in the Feinstein and Graham bills, with one exception; Daschle would establish a 10-year term for the DNI.

## **Harman Would Establish a DNI**

Like the Feinstein, Graham and Daschle bills, Representative Harman's legislation contains language that would establish a presidentially-nominated, Senate confirmed position of DNI who would serve as the head of the IC's 15 separate intelligence agencies, including the CIA.

Mirroring the Feinstein, Graham and Daschle bills, Harman's legislation would establish a separate Senate-confirmed DCI, who would manage the CIA. Her bill also is identical in that it would prohibit the DCI from serving simultaneously as DNI.

Similarly, the Harman bill would establish the Senate-confirmed position of Deputy DNI. In contrast to her colleagues, her legislation proposes that the Deputy DNI serve concurrently as Undersecretary of Defense for Intelligence. Harman's language differs from the other bills in two other respects. First, her bill does not include sense of the Congress language that the DCI should be a cabinet member; second, it would establish a ten-year term for the DCI.

The Harman bill is identical in providing that the DNI act as the principal advisor to the President for intelligence matters, a role now performed by the DCI.

- **Harman Enhances DNI Budget-Related Responsibilities**

The Harman bill would strengthen the DNI's hand in the area of budget-related responsibilities over those currently enjoyed by the DCI, but to a lesser extent than would the Feinstein/Graham/Daschle bills.

The Harman bill tracks the Feinstein/Graham/Daschle bills by stipulating that the DNI shall “develop” an annual intelligence budget [in Harman, see Title 1, Sec. 103(b)(1)]. Under current statute, the DCI's authority is less definitive in that he is authorized to “facilitate the development of an annual budget for intelligence...” [in the 1947 National Security Act, see Sec.103(c)(1)(a)].

But the Harman legislation does not contain the language included in her colleagues' bills authorizing the DNI to:

review, approval, and modification of the execution of intelligence community budgets, and personnel and resource allocation in furtherance of such annual budget.

and calling on the DCI to develop an annual intelligence budget by:

managing and overseeing the execution and, if necessary, the modification of the annual budget for the National Foreign Intelligence Program (NFIP), including directing the transfer of funds of personnel between elements of the intelligence community.

- **Harman Would Strengthen DNI Budget and Personnel-Related Authorities**

The Harman bill is identical to the Feinstein/Graham/Daschle bills in authorizing the DNI to transfer personnel during the year of budget execution without having to develop procedures governing such transfers with the heads of the affected departments and agencies [in Harman, see Title I, Sec. 103A.(d)]. Under current statute, the DCI is authorized to transfer personnel during the year of budget execution, but only “in accordance with procedures to be developed by the Director and the heads of affected departments and agencies...” [1947 National Security Act, see Sec.104 [50 U.S.C. 403-4](d)].

The Harman bill, like the Feinstein/Graham/Daschle bills, but unlike the 1947 National Security Act, would authorize the DNI to transfer funds or personnel from the FBI during the year of budget execution.

In contrast, however, the Harman would withhold from the DNI unilateral authority to transfer funds or personnel during the year of budget execution. Rather, the Harman language would provide that the President would arbitrate any disagreement between the DNI and an agency head over fund or personnel transfers, provided the agency head submitted his objection to the President in writing.

Under current statute, an agency head has the authority to prevent DCI-initiated transfers, provided he informs the DCI of his objection in writing [1947 National Security Act, see Sec.104.[50 U.S.C.403-4](d)(2)(A)(v) and (B)(iii)].

The Harman bill, like the Feinstein/Graham/Daschle bills, mirrors the 1947 National Security Act in authorizing DNI approval of all IC component budgets, and granting the DNI veto authority over any NFIP reprogramming.

• **Harman Would Strengthen Other Personnel Authorities**

The Harman bill would not provide the DNI hiring and firing authorities over the agency heads of the IC agencies, but would make three modifications in the 1947 National Security Act to provide the DNI with somewhat strengthened personnel authorities over those currently enjoyed by the DCI.

First, the Harman bill would require that the DNI and Secretary of Defense jointly recommend to the President appointments to the positions of directors of NSA, NRO and NGA, respectively [in Harman, see Title XI, Sec.404(a). In contrast, under the 1947 National Security Act, the Secretary of Defense is required to seek the DCI's concurrence before recommending to the President appointments to these positions. The Secretary may make the recommendation to the President if the DCI does not concur, but notify the President of the DCI's non-concurrence [1947 National Security Act, see Sec106[50 U.S.C. 403-6](a)].

Second, the Harman bill authorizes the DNI to recommend to the President an individual for appointment to the position of DCI [in Harman, see Title IX, Sec.4049(b)]. The 1947 National Security Act contains no similar provision.

Third, the bill would require that the DNI and affected departments must *concur* in recommending to the President individuals to fill the following the positions:

- Director of the Defense Intelligence Agency
- The Assistant Secretary of State for Intelligence and Research
- The Director of the Office of Intelligence of the Department of Energy
- The Director of the Office of Counterintelligence of the Department of Energy
- The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury
- The Under Secretary for Information Analysis and Infrastructure Protection of the Department of Homeland Security.

If the DNI does not concur, the department head must notify the President of the non-concurrence. Under current statute, department heads are required to only *consult* with the DCI regarding appointments to these positions [the 1947 National Security Act, see Sec.106.[50U.S.C.403-6](b)].

Fourth, the Harman bill stipulates that the Director of the Federal Bureau of Investigation *must obtain* the concurrence of the DNI before recommending to the Attorney General individuals to fill the following positions:

- The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation
- The FBI’s Executive Assistant Director for Counter-Terrorism and Counter-Intelligence

Under current statute, the FBI director is required to provide the DCI *timely notice* of his recommendation to the Attorney General, so that the DCI may consult with the FBI director before the Attorney General appoints an individual to fill the vacancy.

The Harman bill omits the DCI’s current authority to hire and fire CIA employees [in the 1947 National Security Act, see Sec.104[50U.S.C.403-4](h).

## **Goss Legislation Would Not Establish DNI, But Instead Strengthen DCI**

The Goss bill would strengthen the DCI’s authority over the IC, in part by establishing eight new associate directors and six assistant directors through which the DCI would manage the IC.

- **Goss Would Appropriate NFIP Funds Directly to the DCI**

Perhaps in its most significant change, the Goss bill would appropriate all NFIP funds directly to the DCI [H.R. 4584, see Title I, Sec.107(a)(50(A)). Under the 1947 National Security Act, NFIP funds are appropriated directly to individual IC agencies.

- **Goss Would Strengthen DCI Budget-Related Responsibilities**

Rather than authorize DNI to “develop” an annual intelligence budget, as the Feinstein/Graham/Daschle/Harman bills would, or “facilitate the development of an annual budget” as stipulated by the 1947 National Security Act, the Goss bill would authorize the DCI to “determine the” annual budget [Goss, See Title III, Sec. 301(a)].

- **Goss Would Enhance DCI Budget-Related Authorities**

The Goss legislation would strengthen current DCI budget-related authorities in three ways.

First, with regard to approval of IC budgets, the Goss bill stipulates that the DCI, through the newly created positions of Associate and Assistant Directors of Central Intelligence would “direct, coordinate, and prepare the annual budgets of the elements of the intelligence community within the NFIP, in consultation with the heads of those elements” [H.R. 4584, see Title III, Sec.302(b)].

Second, the Goss bill stipulates that the DCI would provide budget guidance for elements not falling under the NFIP i.e. the Joint Military Intelligence Program

(JMIP)<sup>15</sup> and the Tactical Intelligence and Related Activities (TIARA)<sup>16</sup>, both directly controlled by the Secretary of Defense [H.R. 4584, see Title III, Sec.302(b)]. There is no similar language in current statute or the Feinstein/Graham/Daschle/Harman bills.

Third, the Goss bill appears to strengthen the DCI authority over budget approval, stating that IC budgets “*may not* be provided to the President for transmission to Congress unless the Director has approved such budget.” [Title III Sec. 302(b) (4)]. In contrast, the Feinstein/Graham/Daschle/Harman bills contain language identical to that in current statute, which stipulates that the DCI shall “approve such budgets before their incorporation in the National Foreign intelligence Program” [1947 National Security Act, Sec.104 [50 U.S.C. 403-4] (b)].

- **Goss Would Strengthen DCI Reprogramming Authorities**

Whereas the Feinstein/Graham/Daschle/Harman bills do not address DNI reprogramming authorities, the Goss bill does, by strengthening the DCI’s hand to reprogram funds. The current statute states that no NFIP funds may be reprogrammed without the DCI’s prior approval, “except in accordance with procedures issued by the Director.”[Sec. 104. [50 U.S.C. 403-4] (c)]. The Goss bill eliminates the procedures requirement, effectively ruling out any exceptions to the DCI’s reprogramming authority.

- **Goss Would Strengthen DCI Budget and Personnel Transfer Authorities**

The Goss bill would make three modifications to current statute with regard to budget and personnel transfer authorities.

First, the bill would authorize the DCI to transfer funds after they have been appropriated “in coordination with” the Director of the Office of Management and Budget [H.R. 4584, see Title III Sec. 302(d)(B)]. Under current statute, and the Feinstein/Graham/Daschle/Harman bills, the DCI is required to seek the approval of the OMB Director before he can transfer funds [1947 National Security Act, see Sec. 104. [50 U.S.C. 403-4](d)].

The Goss bill also would remove from current statute a limitation that prohibits the DCI from transferring personnel within the NFIP for more than a year [H.R. 4584, see Title III, Sec.302(d)(F)]. The Feinstein/Graham/Daschle/Harman bills retain the one-year limitation.

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<sup>15</sup> The Joint Military Intelligence Program (JMIP) is composed of programs within the Defense Department that transcend the bounds of any one military service. JMIP historically has received over 10% of the intelligence budget.

<sup>16</sup> Tactical Intelligence and Related Activities (TIARA) is made up of the four service intelligence programs and intelligence for the Special Operations Command. TIARA historically has received about one-third of the intelligence budget.

The Goss bill also would allow an agency head to object to a DCI proposal to transfer funds or personnel, but would require an objecting agency head to provide the congressional intelligence committees written notice of their objection. The Goss language further requires that the DCI include within any fund or personnel transfer notification made to the congressional intelligence committees a copy of the written objection [H.R. 4584, see Title, III Sec.302(d)(B)]. Under current statute, the DCI cannot transfer of funds or personnel if the agency head objects in writing to the DCI [1947 National Security Act, see Sec.104 [50 U.S.C. 403-4] (d)(2)(A)(v) and (B)(iii)].

The Feinstein/Graham/Daschle bills, in eliminating any avenue for objection, would give the DNI unilateral fund and personnel transfer authority. The Harman bill would maintain an objection procedure that would require the objecting agency head to state his objection in writing to the President, who would ultimately arbitrate the disagreement.

- **Goss Would Strengthen DCI Personnel Authorities**

The Goss bill would accord the DCI personnel termination authority contained in current statute, which grants hiring and firing authority over CIA employees [1947 National Security Act, see Sec.104[50U.S.C.403-4](h)]. The Goss bill also would add to the list of positions requiring DCI recommendation concurrence [in Goss, see Title III,Sec. 304]. Current statute requires that the Secretary of Defense obtain the DCI's concurrence in recommending to the President individuals for appointment to the positions of directors of NSA, NRO, and NGA. The Goss legislation would add to that list the positions of Director of the Defense Intelligence Agency; the Assistant Secretary of State for Intelligence and Research; the Director of the Office of Intelligence of the Department of Energy; the Director of the Office of Counterintelligence of the National Nuclear Security Administration; the Assistant Secretary for Homeland Security for Information Analysis; and the Assistant Secretary for Intelligence and Analysis of the Department of Treasury.

Although required to seek the DCI's concurrence, the Goss bill would not change current statute that permits the respective agency heads from overriding the DCI's nonconcurrence.

With regard to the appointment of the Executive Assistant Director of the FBI's National Security Division, the Goss bill stipulates that the FBI Director and DCI jointly recommend to the Attorney General (AG) a candidate. The AG can ignore the recommendation. In contrast, current statute requires that the DCI be provided "timely notice" by the FBI Director before a recommendation is made to the AG.

- **Goss Would Eliminate Restriction of DCI Control Over Internal Security Functions**

The Goss bill would repeal the portion of the current statute that prohibits the DCI from exercising internal security functions [in Goss, see Title I,Sec.102(c)(1)]. The current prohibition against exercising policy, subpoena, or law enforcement powers would remain in place [1947 National Security Act, Sec.103[50 U.S.C.403-

1](d)(1). The Feinstein/Graham/Daschle/Harman bills would not lift the current restriction against exercising internal security functions.

## Arguments Offered In Favor of Establishing a DNI

Supporters of the DNI concept argue that the DCI, who manages the IC and the CIA, and serves as the principal intelligence advisor to the President, has too many jobs, and that a DNI, unburdened by the need to manage the CIA, must be established if the IC is to be effectively managed.<sup>17</sup>

They also argue that a DNI must be empowered with two authorities the DCI now lacks: the authority to hire and remove IC agency heads in consultation with the Defense Secretary (currently, the Secretary of Defense selects principal IC agency heads for the three combat support agencies — NSA, NRO, and NGA — with the concurrence of the DCI); and the authority to move funding and personnel within or across IC agencies at any time during the year of execution with congressional approval.<sup>18</sup> Some proponents add a what they characterize as a third essential authority — the power to set standards for the IC’s information infrastructure and personnel.<sup>19</sup>

From the prospective of proponents, failure to establish an empowered DNI with hiring, firing and budget authority will leave the IC with divided management of intelligence capabilities; lack of common standards and practices across the foreign-domestic intelligence divide; structural barriers that undermine the performance of joint intelligence work; and a weak capacity to set priorities and move resources.

They cite DCI George Tenet’s 1998 “declaration of war”<sup>20</sup> on Osama Bin Laden and the corresponding lack of an integrated IC response as a clear indication of the

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<sup>17</sup> See the National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, July, 2004, p. 409.

<sup>18</sup> See Studies in Intelligence, *The Need to Reorganize the Intelligence Community*, by Larry C. Kindsvater, Vol. 47, No. 1, 2003, Ibid. P. 36. With regard to the selection of agency heads, Sec. 106 (a) of the National Security Act [50 U.S.C. 403-6 (a) stipulates that if the DCI does not concur in the personnel recommendation by the Secretary of Defense, the Defense Secretary still may present his recommendation to the President without the DCI’s concurrence, but include in the recommendation that the DCI does not agree with the recommendation.

<sup>19</sup> See the National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, July 2004, p. 410.

<sup>20</sup> In December 1998, following the August bombings earlier that year of two American embassies in East Africa, Director of Central Intelligence George Tenet gave the following direction to his deputies: “We must now enter a new phase in our effort against Bin Ladin... We are at war ... I want no resources or people spared in this effort, either inside the CIA or the Community.” See Congressional Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, pp 5-6.



need for a DNI.<sup>21</sup> Senator Bob Graham, a co-chairman of the 9/11 congressional joint inquiry, stated, “The intelligence community needs a leader with the clout to set common goals, establish priorities, knock heads and ensure that the American people are protected.”<sup>22</sup> To accomplish that goal, DNI supporters argue, requires an empowered DNI with clear statutory end-to-end IC budget and personnel authorities, including authority over those large portions of the NFIP budget now controlled by the Secretary of Defense.

## **Arguments Offered in Opposition to Establishing a DNI**

Some opponents counter that although perhaps a good idea, establishing the position of DNI will have only a marginal impact, and assert that had this change been made prior to the September 11 attacks, it would not have significantly altered the way the U.S. dealt with Al Qaeda, and certainly would not have prevented the 9/11 attacks. They suggest that a more important step would be to hire more capable people throughout the IC.<sup>23</sup>

Other opponents contend that rather than strengthening control over the IC, the establishment of an NDI would actually weaken IC management. They assert a DNI would lose day-to-day control over the CIA, a natural power base. Without it, the DNI will lose influence, according to opponents. Admiral Bobby Inman, Former Deputy DCI and NSA director, said that DCIs rely on the CIA for their effectiveness and that a DNI “would be like the Drug Czar,”<sup>24</sup> a position that critics have argued has little management control over U.S. government agencies engaged in counternarcotics.

Other skeptics assert that establishing the position of DNI will only add another layer of bureaucracy, and risks disruption at a time when terrorists continue to threaten to attack the United States.

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<sup>21</sup> See U.S. Senate Select Committee on Intelligence and U.S. House Permanent Select Committee on Intelligence, *Joint Inquiry Into Intelligence Community Activities Before and After The Terrorist Attacks of September 11, 2001* (H.Rept. 107-792 and S.Rept. 107-351), errata print accompanying report, Recommendation No. 1, pp. 230-234.

<sup>22</sup> See Davies, Frank, “Graham, 2 allies introduce overhaul of U.S. intelligence,” *The Miami Herald*, [<http://www.Herald.com>], August 1, 2003.

<sup>23</sup> See Richard A. Clarke, “Now For the Punches the 9/11 Commission Pulled,” *Houston Chronicle*, July 28, 2004.

<sup>24</sup> See Staff Study, Permanent Select Committee on Intelligence, *IC21: Intelligence Community in the 21<sup>st</sup> Century*, 1996, P. 335, which includes a CRS report, *Proposals for Intelligence Reorganization, 1949-1996*, by Richard A. Best and Herbert Andrew Boerstling. See page 35 of the Best/Boerstling CRS report. (The update of the report is CRS Report RL32500, *Proposals for Intelligence Reorganization, 1949-2004*, by Richard A. Best.)

Critics are likely to also assert that centralized management control will be further weakened if the DNI is not granted meaningful hiring, firing and budget authority. They may argue that the DCI's relatively robust authorities to approve IC budgets and control budget reprogramming historically have gone largely unused in the face of DOD opposition. In other words, the DCIs have had the authority, but simply have chosen not to exercise it.

Some critics have voiced concern about the 9/11 Commission's recommendations to locate the office of the DNI in the executive office of the President. They contend that doing so risks the politicization of intelligence, would give the White House more direct control over covert operations, and would blur the line between foreign and domestic covert operations.<sup>25</sup> They also express concern that the Congress will experience greater difficulty in conducting oversight of the IC because the proximity of the DNI to the White House will more frequently raise the issue of executive privilege.

Some critics contend that the 9/11 Commission's concept of the NDI would shift too much influence over the IC to the Defense Department, because DOD would retain most of its roles under the commission's proposal, and indeed stands to gain influence. In contrast, other critics of the DNI concept oppose it because they believe DNI authorities could be so strengthened that DOD interests might suffer, if an empowered DNI were to favor providing more intelligence to policy makers rather than the warfighter. They argue the IC's three largest agencies — NSA, NRO and NGA — are combat support agencies that collect and disseminate intelligence affecting tactical military operations. It, therefore, is entirely appropriate, they argue, that the Secretary of Defense, rather than the DCI, control these agencies and the dollars that fund them, given that the needs of military commanders often differ from those of policymakers who generally are more interested in strategic intelligence.<sup>26</sup>

## **History of Recommendations to Centralize and Strengthen IC Leadership**

The issue of centralized IC leadership was first addressed by the Second Hoover Commission in 1955. The following lists those Commissions, reports, individuals, executive orders and legislation that have addressed the issue of centralizing and strengthening IC leadership.<sup>27</sup>

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<sup>25</sup> See Walter Pincus, "9/11 Panel's Plan Would Reduce Influence of CIA," *Washington Post*, July 29, 2004, p. 6.

<sup>26</sup> See Pincus, Walter "Intelligence Shakeup Would Boost CIA; Panel Urges Transfer of NSA, Satellites, Imagery From Pentagon," *Washington Post*, November 8, 2001, P. A-1.

<sup>27</sup> For a more comprehensive treatment of IC reforms 1949-1996, see Staff Study, Permanent Select Committee on Intelligence, *IC21: Intelligence Community in the 21<sup>st</sup> Century*, 1996, P. 335, which included a CRS report, *Proposals for Intelligence Reorganization, 1949-1996*, by Richard A. Best and Herbert Andrew Boerstling. (An update to the CRS report is available in CRS Report RL32500, *Proposals for Intelligence Reorganization, 1949-2004*, by Richard A. Best.)

## **Second Hoover Commission, 1955**

The Commission on Organization of the Executive Branch of the Government, also known as the second Hoover Commission and chaired by former President Herbert Hoover, recommended that management of the CIA be turned over to an “executive officer,” so that the DCI could focus attention on the IC.

## **The Schlesinger Report, 1971**

President Nixon tasked the Office of Budget and Management to recommend changes in the IC’s organization. Deputy OMB Director James R. Schlesinger, a future DCI, headed the effort and in his report considered the creation of a DNI, but in the end recommended that “a strong DCI who could bring intelligence costs under control and intelligence production to an adequate level of quality and responsiveness.” Schlesinger criticized the IC’s failure to coordinate resources, blaming the deficiency on the lack of a strong, central IC leadership that could “consider the relationship between cost and substantive output from a national perspective.”

## **Murphy Commission, 1975**

The Commission on the Organization of the Government for the Conduct of Foreign Policy, chaired by former Deputy Secretary of State Robert D. Murphy, noted that the DCI exercised direct control over the CIA but had only limited influence over the IC as a whole. But rather than recommending a structural change, the Commission said it was neither possible nor desirable to extend the DCI’s control to the large part of the intelligence community that lies outside the CIA.

## **Church Committee, 1976**

The Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, known as the Church Committee and headed by Senator Frank Church, did not recommend establishing a DNI but urged that DCI authorities be strengthened by appropriating intelligence dollars directly to the DCI and by defining in statute DCI reprogramming authorities. The Committee also recommended that consideration be given to enhancing the DCI’s management of the IC by relieving him of day-to-day management of the CIA.

## **Pike Committee, 1976**

The House Select Committee on Intelligence, chaired by Congressman Otis G. Pike, recommended that the DCI should manage the IC as a whole and not exclusively the CIA. The Commission said the DCI should receive budget proposals from intelligence agencies comprising the community but did not indicate whether the DCI should have budget authority.

## **Clifford/Cline Proposals, 1976**

Clark Clifford, a former Secretary of Defense under President Lyndon B. Johnson who had earlier participated in drafting legislation establishing the CIA, recommended that a new position of Director of General Intelligence be established and that a separate CIA director be responsible for managing the CIA.

Ray Cline, a former Deputy Director of the CIA, recommended that the DCI be given cabinet rank and broad supervisory authorities over the IC.

## **Charter Legislation, 1978**

Following the establishment of the intelligence oversight committees in the Senate (1976) and in the House (1977), Congress considered charter legislation that, among other things, would have created a DNI to manage the IC. A presidentially selected deputy would manage CIA. In the face of strong opposition to the overall legislation, which also included language governing covert actions, the Committees did not report the respective bills.

## **Executive Branch Orders, 1976-1981**

In an effort to head off further congressional action, President Gerald Ford in 1976 issued Executive Order (E.O.) 11905 naming the DCI as the President's primary intelligence advisor responsible for developing the NFIP.

President Jimmy Carter in 1978 issued E.O. 12036 (superseding E.O. 11905) more clearly defining the DCI's community-wide authority in areas relating to the budget, tasking, intelligence review, coordination, intelligence dissemination and foreign liaison.

President Ronald Reagan in 1981 continued the expansion of the DCI's community responsibilities and authorities, issuing E.O. 12333 (superseding E.O. 12036), which detailed the roles, responsibilities, missions, and activities of the IC. Executive Order 12333, which remains in effect today, granted the DCI more explicit authority over the development, implementation, and evaluation of the NFIP.

## **Turner Proposal, 1985**

Admiral Stansfield Turner, former DCI under President Carter, recommended establishing a DNI to oversee the IC, and leaving responsibility for CIA day-to-day operations to a separate director of CIA.

## **Boren-McCurdy, 1992**

Senator David Boren and Congressman David McCurdy, respective chairmen of the Senate Select Committee on Intelligence (SSCI) and House Permanent Select on Intelligence (HPSCI), introduced legislation creating the position of a DNI with authority to program and reprogram funds, and creating a separate director of CIA.

Boren and McCurdy failed to win adoption of their legislation in the face of opposition from DOD and the congressional Armed Services Committees.

## **Aspin-Brown Commission, 1996**

The Commission on the Roles and Capabilities of the United States Intelligence Community (known as the Aspin-Brown Commission, after its respective chairmen Les Aspin and Harold Brown) concluded that the relationship between the DCI and Secretary of Defense should not be altered, but that the DCI should be given more time to manage the IC. The Commission recommended the creation of two deputies, one to help manage the IC and the other to manage the CIA.<sup>28</sup>

## **Specter/Combest, 1996**

In the wake of the Aspin-Brown Commission report, Senator Arlen Specter and Congressman Larry Combest, respective chairmen of the SSCI and the HPSCI, sought to increase the clout of the DCI by giving him more control over the appointments of chiefs of defense-related agencies and the budgets of those agencies. But faced with intense opposition from the Pentagon and its congressional allies, they settled for more modest reform, agreeing to establish a new position of deputy DCI for community management and three assistant directors to oversee collection, analysis, and administration.<sup>29</sup> Although each were to be Senate confirmed, only the deputy intelligence director for community management and the assistant director for administration have been confirmed. Neither the Clinton nor George W. Bush Administration has chosen to submit to the Senate for confirmation the names of individuals now serving as assistant directors for collection and analysis and production respectively.

## **Scowcroft Commission, 2001**

A presidential commission chaired by retired Lt. Gen. Brent Scowcroft, the Chairman of President George W. Bush's Foreign Intelligence Advisory Board, reportedly recommended that the Pentagon should cede to the DCI control over DOD's three largest intelligence operations — NSA, NRO, and NGA. Although never made public, the report, according to media reports, was strongly opposed by Secretary of Defense Donald Rumsfeld.<sup>30</sup> The report never was formally presented to the President.

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<sup>28</sup> See Report of the Commission on the Roles and Capabilities of the United States Intelligence Community, *Preparing for the 21<sup>st</sup> Century An Appraisal of the U.S. Intelligence*, March 1, 1996, pp. xix-xx.

<sup>29</sup> See *Congressional Quarterly Weekly*, "Defense & Intelligence Policy: Intelligence Reorganization," November 2, 1996.

<sup>30</sup> See Pincus, Walter "Intelligence Shakeup Would Boost CIA; Panel Urges Transfer of NSA, Satellites, Imagery From Pentagon", *Washington Post*, November 8, 2001, P. A-1.

## **The Joint Inquiry Into September 11 Terrorist Attacks**

The Congressional Joint Inquiry Into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, recommended that a new cabinet level Senate-confirmed DNI position be established and that a separate director be named to manage the CIA. The Joint Inquiry further recommended that the DNI be granted full IC budget execution and personnel programming authorities.<sup>31</sup>

## **The 9/11 Commission**

The 9/11 Commission, in a report issued in July, 2004, recommended the establishment of a presidentially appointed, Senate-confirmed National Intelligence Director who would oversee national intelligence centers on specific subjects of interest across the U.S. government, manage the national intelligence program, oversee the agencies that contribute to it, and have hiring, firing and budgetary authority over the IC's 15 agencies. The Commission recommended that the director be located in the Executive Office of the President and that a deputy NID be established to oversee the day-to-day operations of the Central Intelligence Agency (CIA).

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<sup>31</sup> See U.S. Senate Select Committee on Intelligence and U.S. House Permanent Select Committee on Intelligence, *Joint Inquiry Into Intelligence Community Activities Before and After The Terrorist Attacks of September 11, 2001* (H.Rept. 107-792 and S.Rept. 107-351), errata print accompanying report, Recommendation No. 1, pp. 2-3.

## Appendix 1. DNI Legislation Compared to Current Law

**Table 1. Side-By-Side Comparison of DNI Legislation  
(H.R. 4104, S. 190, S. 1520, S. 6) and Current Statutes**

| H.R. 4104 (Harman)   | S. 190 (Feinstein)<br>S. 1520 (Graham), S. 6 (Daschle)<br>[With one exception: the 3 bills<br>contain identical DNI language.] <sup>a</sup>  | Current Law   |
|--|--|---|
| <b>Office of the Director of National Intelligence</b>   |  |   |
| Title I, Sec. 101 would establish presidentially-nominated, Senate-confirmed positions of Director of National Intelligence (DNI) and Deputy DNI.  | Comparable provision. See Sec. 2 (a) Sec. 102.   | No comparable provision.  |
| Title I, Sec. 101 would establish the Presidentially-nominated, Senate-confirmed position of Deputy DNI, who also would serve as Undersecretary of Defense for Intelligence.             | No comparable provision.   | No comparable provision.  |
| Title I, Sec. 101 would establish two presidentially-nominated, Senate-confirmed positions under the DNI — the Deputy DNI for Operations, and the Deputy DNI for Resources.              | No comparable provision. Rather, Sec. 102 places under the DNI the currently existing presidentially-nominated, Senate-confirmed positions of the Deputy Director of Central Intelligence for Community Management, and the Assistant Directors for Collection and Analysis and Production, respectively, and re-titles each position. | The presidentially-nominated, Senate-confirmed positions of the Deputy Director of Central Intelligence for Community Management, and the Assistant Directors for Collection, and for Analysis and Production, respectively, are under the DCI. |
| <b>Senior Advisor to the DNI for Homeland Security</b>   |  |   |
| Title I, Sec. 101 stipulates that the DNI shall appoint a Senior Advisor to the DNI for Homeland Security.   | No comparable provision.   | No comparable provision.  |
| <b>General Counsel and Inspector General</b>   |  |   |
| Title I, Sec. 101 would establish under the DNI Presidentially-nominated, Senate-confirmed positions of General Counsel and Inspector General.   | Comparable provision. See Sec. 2 (a) Sec. 102 (a) (2), (H) and (I)   | No comparable provision.  |
| <b>Alternative National Intelligence Council</b>   |  |   |
| Title I, Sec. 101 would establish a National Intelligence Council Alternative Analysis Unit to review each national intelligence estimate produced by the National Intelligence Council. | No comparable provision.   | No comparable provision.  |

| H.R. 4104 (Harman)  | S. 190 (Feinstein)<br>S. 1520 (Graham), S. 6 (Daschle)<br>[With one exception: the 3 bills<br>contain identical DNI language.] <sup>a</sup>   | Current Law              |
|---|---|--------------------------|
| <b>DNI Responsibilities</b><br><br><div> <div> <p>Title I, Sec. 101 stipulates that the DNI would “develop” an annual intelligence budget, and participate in the development with the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program (JMIP) and the Tactical Intelligence and Related Activities Program (TIARA).</p> <p>No comparable provision</p> </div> <div> <p>Title I, Sec. 101 stipulates that the DNI, among other tasks, would establish requirements and procedures for classifying and disseminating classified information; maximizing dissemination of classified information; ensuring that intelligence is portrayed accurately to the public; and, establishing unified procedures for granting access to sensitive compartmented information.</p> <p>Comparable provision. See Title IV, Sec. 401.</p> </div> </div> |   |                          |
|   | Comparable provision. See Sec. 2 (a) Sec. 102 (b).  | No comparable provision. |
| No comparable provision   | The DNI shall develop an annual intelligence budget by “if necessary ... directing the transfer of funds or personnel between elements of the Intelligence Community;” See Sec. 2 (a) Sec. 102 (b) (1) (c).   | No comparable provision. |
| Title I, Sec. 101 stipulates that the DNI, among other tasks, would establish requirements and procedures for classifying and disseminating classified information; maximizing dissemination of classified information; ensuring that intelligence is portrayed accurately to the public; and, establishing unified procedures for granting access to sensitive compartmented information.  | No comparable provision.  | No comparable provision. |
| Comparable provision. See Title IV, Sec. 401.   | Sec. 2(a) Sec. 103A(f) stipulates that the DNI, among other tasks, would rotate Intelligence Community (IC) personnel and make such rotation a factor to be considered for promotion to senior positions. This section also stipulates that the DNI cut costs by consolidating personnel, administrative and security programs. | No comparable provision. |
| <b>DNI Authorities</b><br><br><b>Approval of Budgets</b><br><br><div> <div> <p>Title I, Sec. 103 (b) stipulates that the DNI would approve IC budgets.</p> </div> <div> <p>Comparable provision See Sec. 2 (a) Sec. 103A (b).</p> </div> <div> <p>Comparable provision. See Sec. 104 (b) of the National Security Act of 1947.</p> </div> </div>  |   |                          |



| H.R. 4104 (Harman)  | S. 190 (Feinstein)<br>S. 1520 (Graham), S. 6 (Daschle)<br>[With one exception: the 3 bills<br>contain identical DNI language.] <sup>a</sup> | Current Law  |
|---|---|--|
| <b>Reprogramming</b><br><br>Title I, Sec 103 (c) stipulates that no National Foreign Intelligence Program (NFIP) funds may be reprogrammed without the DNI's prior approval.  |   |  |
|   | Comparable provision. See Sec. 2 (a) Sec. 103A (c).   | Comparable provision. See Sec. 104 (c) of the National Security Act of 1947.   |
| <b>Transfer of Funds or Personnel</b><br><br>Title I, Sec. 103 (d) stipulates that the DNI may transfer, in accordance with procedures to be developed solely by the DNI, appropriated funds and authorized personnel for periods for up to a year.<br><br>Any Secretary, or head of department affected by such transfers, may object, but only in writing to the President. |   |  |
|   | Comparable provision. See Sec. 103A (d).  | Comparable provision. See Sec. 104 (d) of the National Security Act of 1947, except the DCI, with input from agency heads, must develop transfer procedures. |
|   | No comparable provision.  | No comparable provision.   |
| <b>Personnel Diversity</b><br><br>Title IV, Sec. 401 stipulates that the DNI should ensure that there is personnel diversity within the IC.   |   |  |
|   | No comparable provision.  | No comparable provision.   |
| <b>Director of Central Intelligence</b><br><br>Title I, Sec. 101 establishes a presidentially-nominated, Senate-confirmed position of Director of Central Intelligence (DCI), and prohibits the DCI from serving simultaneously as DNI.<br><br>No comparable provision.   |   |  |
|   | Comparable provision. See Sec. 104(A).  | Comparable provision, minus prohibition of DCI serving simultaneously as DNI   |
|   | Sec. 104(d)(2) stipulates that the DCI provide overall IC direction for human collection.   | Comparable provision. See Sec. 103(d)(2) of the National Security Act of 1947.   |
| <b>DNI Should Be Member of the Cabinet</b><br><br>No comparable provision.  |   |  |
|   | Sec. 104(2)(b) stipulates a sense of Congress that the DNI should be a cabinet-level officer.   | No comparable provision.   |

| <b>H.R. 4104 (Harman)</b>   | <b>S. 190 (Feinstein)<br/>S. 1520 (Graham), S. 6 (Daschle)<br/>[With one exception: the 3 bills<br/>contain identical DNI language.]<sup>a</sup></b> | <b>Current Law</b> |
|---|--|--------------------|
| <b>Joint Tasking Organization</b><br><br>Title I, Sec.102 would establish a Joint Tasking Organization within the DNI's office which would task IC collection, analysis and dissemination. The DNI would appoint tasking directors from the CIA, National Security Agency and the National Geospatial-Intelligence Agency.  |  |                    |
| <b>Assistant Director of National Intelligence For Defense</b><br><br>Title I, Sec.102 would establish the position of Assistant Director of National Intelligence For Defense who is assigned to the DNI and would coordinate the DOD intelligence elements not part of the NFIP.  |  |                    |
| <b>Weapons of Mass Destruction Proliferation Threat Integration Center</b><br><br>Title I, Sec. 103 would establish the Weapons of Mass Destruction Proliferation Threat Integration Center to provide integrated collection and analysis tasking with respect to weapons of mass destruction.  |  |                    |
| <b>Establishment of Joint Intelligence Comptroller</b><br><br>Title I, Sec. 104 would establish a Joint Intelligence Comptroller appointed jointly by the Secretary of Defense and the DNI. The Comptroller would report to the Undersecretary of Defense (comptroller) and provide both the Secretary of Defense and the DNI NFIP financial information insofar as that information would relate to elements of the IC under the jurisdiction of the Defense Department. |  |                    |

| <b>H.R. 4104 (Harman)</b>   | <b>S. 190 (Feinstein)<br/>S. 1520 (Graham), S. 6 (Daschle)<br/>[With one exception: the 3 bills<br/>contain identical DNI language.]<sup>a</sup></b> | <b>Current Law</b>       |
|---|--|--------------------------|
| <b>Procedures For Use of Databases</b>  |  |                          |
| Title II, Sec. 201 stipulates that the President, acting jointly through the Attorney General and the DNI, would establish and implement intelligence sharing procedures.   | No comparable provision.   | No comparable provision. |
| <b>All-Source Analysis Training</b>   |  |                          |
| Title II, Sec. 202 stipulates that the DNI, acting through the DCI, would establish all-source analysis training programs for IC analysts.  | No comparable provision.   | No comparable provision. |
| <b>Establishment of an Integrated Intelligence Network</b>  |  |                          |
| Title II, Sec. 203 stipulates that the DNI and the Secretary of Defense would develop an integrated IC communications network.  | No comparable provision.   | No comparable provision. |
| <b>Acquisition Programs</b>   |  |                          |
| Title III, Sec. 301 stipulates the establishment of a Joint Acquisition Office, headed by a director jointly appointed by the DNI and the Secretary of Defense. Would establish a senior acquisition executive within each of the IC agencies.  | No comparable provision.   | No comparable provision. |
| <b>Community Management</b>   |  |                          |
| Title IV, Sec. 402 stipulates that the DNI would establish policies and procedures for managing IC personnel, to be identified as intelligence community specialists.   | No comparable provision.   | No comparable provision. |
| <b>Requirements For Service in Multiple Elements of the IC</b>  |  |                          |
| Title IV, Sec. 402 stipulates that no individual could be appointed to a senior intelligence management position unless the individual had successfully completed a detail or assignment in more than two positions in elements of the IC outside the “home element” of the individual. | No comparable provision.   | No comparable provision. |

| <b>H.R. 4104 (Harman)</b>   | <b>S. 190 (Feinstein)<br/>S. 1520 (Graham), S. 6 (Daschle)<br/>[With one exception: the 3 bills<br/>contain identical DNI language.]<sup>a</sup></b>   | <b>Current Law</b>       |
|---|--|--------------------------|
| <b>DNI Review of Promotion Lists</b>  |  |                          |
| Title IV, Sec. 402 stipulates that the DNI shall review recommendations of promotion boards for IC specialists.                                     | No comparable provision.   | No comparable provision. |
| <b>Ten-Year Limit For DCI</b>   |  |                          |
| Title IV, Sec. 403 stipulates a ten-year term for the DCI.  | No comparable provision.   | No comparable provision. |
| <b>Personnel Authorities</b>  |  |                          |
| Does not provide the DNI hiring and firing authority over IC agencies, but Title XI, Sec.404 strengthens some DNI authorities over IC appointments. | Adheres to current statute by not providing DNI hiring and firing authority over IC agencies; adheres to current statute by not strengthening DNI authorities over those currently enjoyed by the DCI. | Comparable provisions.   |

- a. S. 6 would establish a ten-year term of service for the DNI. This side-by-side display describes only those bills that would establish the position of DNI.