



Statement of Senator Feinstein on Legislation to Create
a Director of National Intelligence
July 20, 2004

Washington, DC – The U.S. Senate Select Committee on Intelligence today convened a hearing on the proposal of U.S. Senator Dianne Feinstein (D-Calif.) to create the position of Director of National Intelligence. The legislation is cosponsored by Senators Olympia Snowe (R-ME), Jay Rockefeller (D-WV), Trent Lott (R-MS), Bob Graham (D-FL), Ron Wyden (D-OR), and Barbara Mikulski (D-MD).

The measure, which Senator Feinstein first introduced in June 2002, would separate the current position of Director of Central Intelligence (currently held by one individual, who both runs the Central Intelligence Agency and the intelligence community as a whole) into two positions:

- *A Director of National Intelligence (DNI) to lead all segments of the Intelligence Community; and*
- *A Director of the Central Intelligence Agency (DCIA) to serve as head of the CIA.*

This concept was the first recommendation of the Joint House-Senate Intelligence Committee investigating the September 11 attacks and is expected to be endorsed by the 9/11 Commission later this week.

Following is the prepared text of Senator Feinstein's testimony to the Committee today:

Mr. Chairman and Mr. Vice Chairman, I want to thank you for holding today's hearing on the Intelligence Community Leadership Act of 2003. I think this is an important step toward much needed reform of the Intelligence Community.

Several of us on the Intelligence Committee are troubled by what I see as fundamental structural flaws in the Intelligence Community. In short there are two basic problems, and my legislation aims to address both in the most direct way possible.

The first flaw is one of leadership structure. Under current law one person holds two separate and critical jobs: head of the entire Intelligence Community, and head of the Central Intelligence Agency.

This may have been acceptable in 1947, with a vastly smaller Intelligence Community, and a simpler, bipolar, post-war world. Today, however, the fact that we do not have an independent head of all of our intelligence assets has become a significant problem. To use a nautical metaphor, we have a fleet of fifteen ships without a full-time admiral. Instead, the captain of just one of those ships is trying to run his own crew and oversee all of the other ships in the fleet – it just doesn't work.

Even if one extraordinary person could manage the workload of both jobs, they are inherently incompatible in terms of fairness and what is best for the nation.

Second, to the extent current law provides for a leader of the Intelligence Community, the position of DCI is poorly equipped to manage and lead the community.

Lacking meaningful statutory and budgetary authority, the current head of the Intelligence Community lacks the basic tools to carry out his job.

The result of these two fundamental flaws is that there is one person, burdened with two incompatible jobs, and without the authorities to do either of them well.

I made these points in 2002 and again in 2003 when I first introduced legislation to “split” the DCI away from the CIA and replace the one job with two. The joint Senate and House Intelligence Committees investigating 9-11 made similar points, and it is likely that the 9-11 Commission, whose report is due in a few days, will as well. The report recently issued by this Committee is a chillingly detailed account of failed process and analytic judgments.

Let me quote from the report of this committee on the U.S. Intelligence Community’s prewar intelligence assessments on Iraq:

“The Central Intelligence Agency (CIA), in several significant instances, abused its unique position in the Intelligence Community . . . [t]he fact that the DCI is the head of the CIA and the head of the Intelligence Community, the principal intelligence advisor to the President, and is responsible for protecting intelligence sources and methods, provides the CIA with unique access to policymakers and unique control of intelligence reporting. This arrangement was intended to coordinate the disparate elements of the Intelligence Community in order to provide the most accurate and objective analysis to policymakers. The Committee found that in practice, however, in the case of the Intelligence Community’s analysis of Iraq’s weapons of mass destruction programs, this arrangement actually undermined the provision of accurate and objective analysis by hampering intelligence sharing and allowing CIA analysts to control the presentation of information to policymakers, and exclude analysis from other agencies.”
[Conclusion 7, Senate Select Committee on Intelligence Report, July 9, 2004]

Against that background, Senator Graham (the former Chairman of this Committee) and I, along with Senators Rockefeller, Lott, Snowe, Mikulski and Wyden have introduced legislation that addresses this problem as cleanly, and as simply, as possible.

Our approach is relatively straightforward.

First, we turned to the problem of leadership structure. Since we have identified the key problem as being the fact that two very different jobs are held by one person, we redrafted the operative sections of the National Security Act of 1947 to split those two jobs into two positions.

Second, because we also recognized that the head of the Intelligence Community needed more authority to properly coordinate activity within that community, we change those authorities and responsibilities which needed changing.

Primary among them was the lack of meaningful budget authority. Today, the DCI has only limited budgetary and management authority over the myriad agencies that include:

1. The Central Intelligence Agency;
2. The Defense Intelligence Agency;
3. The National Security Agency;

4. The National Reconnaissance Office;
5. The National Geospatial Intelligence Agency;
6. Army Intelligence;
7. Office of Naval Intelligence;
8. Air Force Intelligence;
9. Marine Corps Intelligence;
10. Departments of State's Intelligence and Research office;
11. Treasury's Office of Intelligence;
12. Department of Energy's Office of Intelligence;
13. The Department of Homeland Security's Information Assessment;
14. The Federal Bureau of Investigation; and
15. The United States Coast Guard Intelligence element.

Together, these agencies make up a huge network, with tens of thousands of employees and a significant, secret, budget. In practice the DCI currently only controls the budget of the Central Intelligence Agency, while 80 percent of the intelligence budget is under the control of the Secretary of Defense. This is untenable if we want a true leader of the entire community.

Secondly, the lack of effective personnel authority further hinders the current structure.

Thirdly, the lack of staff and resources to really lead the community also prevents effective management and control.

The result of our changes is a package that combines leadership structure with statutory and budget authority, but leaves room for the detailed change and reform which will be needed in the coming years. Those changes will be job number one for the first Director of National Intelligence should this bill become law.

The current structure of our Intelligence Community is a relic of last century's conflicts. It is a Cold War solution to Cold War problems. In fact, the structure dates to the 1947 passage of the National Security Act. This is important for two reasons.

First, our adversary was different back in the days of Spy vs. Spy, CIA vs. KGB and U.S. vs. Soviet Union. In a bipolar world, in which the task was to anticipate and track armies, tanks and planes, our system worked, and I believe it worked well. But it is unsuited for our current world of asymmetric threats, fast-paced changes, and a shadowy and brutal adversary. In many ways the old adversary, Communism in its many forms, was a distorted mirror image of ourselves, with similar tactics, weapons and structures. But the new adversaries -- amorphous terrorist groups, proliferators and rogue nations -- do not fit that image, and our intelligence services must change.

Second, much has changed here at home. The 21st Century Intelligence Community is much larger than it was in 1947. With the addition of the National Reconnaissance Office, the National Geospatial Intelligence Agency and the expansion of the National Security Agency to deal with an exponentially larger technological world, the Intelligence Community is much more complex than it was even a few short years ago.

To return to the nautical metaphor, our fleet has converted from sail, to steam, and then to nuclear power, growing in size, and the adversary has spread throughout the seas. And still we have

nobody in charge. It is not surprising that we are losing the intelligence battle against non-state actors who practice asymmetric warfare.

This legislation creates the position of Director of National Intelligence who will have the budgetary and statutory authority over coordinating our intelligence efforts.

The Director of National Intelligence we propose would be responsible for leading the entire Intelligence Community. Working within an independent office, which could be housed in an agency or separately, aided by a Deputy Director of National Intelligence and equipped with meaningful budget and personnel authority, this Director would provide the focused, independent and powerful leadership the Intelligence Community badly needs.

The DNI would be responsible for all of the functions now performed by the Director of Central Intelligence in his role as head of the Intelligence Community.

A separate individual would be Director of the CIA, which would retain its role as the central analytic element of the Intelligence Community and the lead agency for human intelligence.

Nominated by the President and confirmed by the Senate, the DNI will have to address such important issues as:

- Assessing the balance between expensive technical collection platforms, such as satellite systems, and human-source collection and analysis;
- Developing mechanisms to enhance our ability to collect foreign intelligence within the United States and setting the priorities and strategies in a new non-state asymmetric world;
- Evaluating and implementing a human intelligence capability with language and cultural knowledge in critically important new areas; and
- Reforming the analytic process to ensure effective peer review and analytic integrity to prevent the use of false intelligence in policy making.

The new Director of National Intelligence would not only have the statutory and structural position of leadership needed (and be freed from his responsibilities to run the CIA on a day-to-day basis), he or she would have the authorities and tools necessary to accomplish these responsibilities.

First, the legislation makes a substantive change to the current budget authority now vested in the DCI.

The new DNI would have clear authority to:

- Formulate and execute the budget – spending would be under his control; and
- Move funds and people between agencies and accounts subject to Congressional oversight, and in coordination with (but not subject to the control of) the Secretary of Defense.

In addition to these authorities, the new Director of National Intelligence will have the staff to carry them out. He or she will have:

- A community-wide General Counsel to advise and assist in setting and implementing policy, and ensure compliance with law.
- A community-wide Inspector General to guard against fraud, waste and abuse.
- A full staff, based on what is now the Community Management Staff of the DCI, to assist him.
- A set of deputies, including ones for Administration, Collection, Community Management and Analysis, to assist in making the community work together; and

- Direct control of the National Intelligence Council, to ensure that community-wide intelligence products, such as a National Intelligence Estimates, are really community products, and are not biased or the product of CIA-dominance.

I recognize that this bill will certainly not solve every problem within the Intelligence Community, but I believe it is an important, even critical, first step. Let me add that none of the provisions in this bill are sacrosanct — I am open to change as we further flush out the legislation.

My earlier legislation, first introduced over in 2002, was intended to start the conversation on this important topic. It is not meant to be the final word. I am very open to any thoughts or ideas that members of this committee or other members of congress, such as Ms. Harman, or intelligence community experts, such as Mr. Kindsvater, may have as to exactly how we construe this position. The goal is to make sure that we have the best possible Intelligence Community under the best possible leadership. I would like to work with all interested parties to prepare amendments and a revised version of this legislation for mark up before this committee at the earliest possible date.

Finally, in summary, the DNI would determine, manage and carry out the scope of a mission throughout the entire Intelligence Community – break down the “stovepipes,” set a structure and methodology for communication across the chain of command – and be responsible to see that the collection and analysis of “dots” leads to the most accurate product possible.

The bottom line is that leading the U.S. Intelligence Community is a full-time position and, if it is to be done right, we cannot expect the person holding that responsibility to run a separate agency simultaneously.

It is time to put somebody in charge of the entire Intelligence Community and give that person the budgetary and statutory authority to accomplish the job. Unity of command and the tools to do the job are critical for the tasks ahead.

Mr. Chairman I want to thank you for holding a hearing on this important legislation.

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