

# Collins-Lieberman Intelligence Reform Legislation

## I. National Intelligence Director

The legislation will create a National Intelligence Director (NID) with strong budget, personnel, and other authorities to break down stovepipes and knit intelligence agencies into an agile network. The NID will be a Senate-confirmed official separate from the CIA Director. The NID will manage the National Intelligence Program, which is composed of the parts of the Intelligence Community serving “national” customers like the President. The NID heads the National Intelligence Authority, which will contain entities such as the Office of the NID, the National Intelligence Centers, and the National Counterterrorism Center. The NID is necessary to counter 21<sup>st</sup> Century national security threats – epitomized by transnational and suicidal terrorists who target the American homeland – that require a quantum leap in U.S. intelligence agencies’ ability to integrate their efforts and share information.

### A. Budget Authority

The NID will be responsible for managing the “National Intelligence Program,” a budget category composed of parts of the Intelligence Community that serve “national” customers – meaning more than one department. The National Intelligence Program will include at least the CIA, NSA, NGA, NRO, the FBI’s Office of Intelligence, and the Department of Homeland Security’s IA&IP Directorate, plus other elements of the Intelligence Community that are “national” unless the NID and the head of a department agree otherwise. The National Intelligence Program will *not* include tactical military intelligence assets, which will remain under DoD.

The most critical authority for the NID is controlling these agencies’ funding. The NID will develop and present to the President the annual budget request for the National Intelligence Program. In addition, the NID will receive the appropriation for the National Intelligence Program. As a result, the NID will have not only the “power of the purse” to force integration among these agencies but also “execution” authority to monitor how these agencies spend their funds. The NID will have the authority to transfer funds within the National Intelligence Program to respond to urgent needs and new threats, subject to the approval of the Director of the Office of Management and Budget and appropriate notification to Congress.

B. Personnel, Security, and Information Technology Authorities

The NID will play an active role in selecting the heads of the key entities in the National Intelligence Program: (1) the NID and the Secretary of Defense will jointly forward recommendations to the President for the NSA, NGA, and NRO directors; (2) the NID will have the right of concurrence in the FBI Director's selection of the head of the FBI Office of Intelligence and the Secretary of Homeland Security's recommendation to the President for the Undersecretary for IA&IP; and (3) the NID will forward a recommendation to the President for the CIA Director.

The NID will have authority to set security, personnel, and information technology standards across the Intelligence Community in order both to tie together the intelligence agencies into a network with robust information-sharing and to strengthen the Community's ability to recruit and retain the workforce it needs to address today's and tomorrow's challenges. The NID will also have the authority to transfer personnel within the National Intelligence Program, including to staff the National Counterterrorism Center and the National Intelligence Centers.

We note that neither the 9/11 Commission nor we support achieving integration by severing NSA, NGA, and NRO from DoD. These agencies should remain within DoD.

C. National Intelligence Centers

The NID will have authority to create National Intelligence Centers. These centers will integrate capabilities from across the Intelligence Community in order to accomplish intelligence missions. The topics of the centers – for example, weapons of mass destruction and the Middle East – will reflect National Security Council priorities for intelligence collection and analysis. Each center will have primary responsibility for providing all-source analysis of intelligence on its topic and proposing collection requirements to the NID. The centers will be staffed by personnel from the intelligence agencies as well as by direct hires.

D. Officials to Assist the NID

The NID will have an office composed of key officials necessary for managing the National Intelligence Program: a general counsel, comptroller, CIO, civil liberties officer, and privacy officer. The National Intelligence Council, which oversees the production of national intelligence estimates, will be moved to the Office of the NID. An OIG also will be created. The Office of the NID, the other entities referenced in this paragraph, the National Intelligence Centers, and the National Counterterrorism Center will be housed in the National Intelligence Authority – not in the Executive Office of the President.

The Commission recommended that there be three Deputy NIDs as a middle layer of management between the NID and the agencies, with the Deputy NIDs being dual-hatted as officials in other departments or agencies. For example, the Commission recommended that the Undersecretary of Defense for Intelligence be dual-hatted as the Deputy NID for Defense Intelligence and supervise NSA, NGA, and NRO. Testimony before our Committee raised many concerns about how dual-hatting would work in practice. We adopt an approach that achieves

the objectives of dual-hatting – namely, ensuring that the needs of critical intelligence customers are met and that the intelligence agencies are following the NID’s program – without creating a layer of bureaucracy between the agencies and the NID. The NID will have up to five Deputies. One will be a Principal Deputy NID. The NID will have discretion to assign roles and authorities to the Deputies.

E. Declassification of the National Intelligence Program’s Top-Line Appropriation

Per the Commission’s recommendation, the National Intelligence Program’s top-line appropriation figure will be declassified in order to promote public accountability. The NID will submit a report to Congress as to whether declassifying the appropriations figures for each agency in the National Intelligence Program would harm national security.

F. Open Source Intelligence

The legislation will strengthen the Intelligence Community’s ability to exploit open sources by improving the open source capability in the Intelligence Community.

G. Other

The NID will chair a cabinet-level Joint Intelligence Community Council. The purpose of the Council is to advise the NID on setting requirements, financial management, and establishing policies across the Intelligence Community. The Council will help ensure the implementation of a joint, unified national intelligence effort to protect national security. In addition, the NID will be required to submit a report to the President and Congress within one year in order to assist Congress in judging the efficacy of the legislation.

II. National Counterterrorism Center

The Commission’s recommendation for a National Counterterrorism Center (NCTC) arises from two main findings. First, intelligence agencies are not integrated in their efforts against terrorism. Thus the NCTC will have a Directorate of Intelligence – in essence, a National Intelligence Center to integrate intelligence capabilities against terrorism. Second, the Commission found that counterterrorism requires an Executive Branch-wide effort to mount joint operations to counter terrorism. Thus, the NCTC will have a Directorate of Operations to conduct this joint operational planning.

A. Joint Operational Planning

The NCTC’s Directorate of Operations will concentrate on planning activities that are “joint,” meaning that they involve *more than one agency*. Such planning will be at both the strategic level, such as “winning hearts and minds” in the Muslim world, and at a more tactical level, such as hunting for Bin Ladin. For example, the NCTC will craft plans for dealing with an al Qaeda cell – whether to destroy it with military force or infiltrate it to acquire leads on Bin Ladin. The NCTC could assign operational responsibilities as outlined in its plans.

To be clear, however, the NCTC will not have any operational authority to direct operations by agencies in the Executive Branch and will not be in the military chain of command. Agency heads could object to the NCTC's plans, at which point the NCTC director could either accede or raise the issue to the NSC. The NCTC will not resolve policy issues but instead will elevate policy disputes to the NSC for resolution.

An analogy for understanding the NCTC's "joint operational planning" is lanes in a highway, with each lane symbolizing an agency's expertise (e.g., diplomacy, special operations, espionage, and law enforcement). The NCTC will not tell each agency how to drive in its lane. But effective counterterrorism requires choosing which lane to use in a particular situation – meaning which type of activity, and thus which agency, should have the lead in a particular situation. The NCTC will select the lane and propose a travel plan but will have no authority to order an agency actually to drive. If an agency head objected to the NCTC's plan and assignment of responsibility, then the issue could be elevated to the NSC.

#### B. The NCTC Director

The NCTC Director will be Senate-confirmed and the equivalent of a Deputy Secretary. The NCTC Director will report to the NID on intelligence matters and to the NSC regarding joint operational planning.

#### III. Civil Liberties Board

The legislation will establish a civil liberties board, as recommended by the Commission. This Presidentially-appointed, Senate-confirmed board will (1) advise the President and executive agencies as they propose and implement policies related to efforts to protect the Nation against terrorism, and (2) conduct investigations and oversight of the government's implementation of those policies. The legislation will also direct specific agencies involved in the war on terror to have privacy and civil liberties officers both to advise the agency on the civil liberties and privacy ramifications of relevant policies and to review the implementation of those policies to ensure privacy and civil liberties concerns are being adequately respected and protected.

#### IV. Information-Sharing and Other Matters

The legislation will include provisions requiring the establishment of an information sharing network to break down the stovepipes that currently impede the flow of information. The network is to consist of policies and information technology designed to facilitate and promote the sharing of terrorism information throughout the federal government, with state and local agencies and, where appropriate, with the private sector.

In addition, we will include provisions to strengthen the FBI's capability to conduct intelligence collection and analysis, including the creation of a national security workforce and ensuring that each FBI field office has a senior official responsible for intelligence matters. The legislation will also contain provisions concerning reform of the CIA's capabilities.