The Need for Policy Guidance

INTELLIGENCE agencies cannot operate in a vacuum. Like any other service organization, intelligence agencies must have guidance from the people they serve. They exist as a tool of government to gather and assess information, and if they do not receive direction, chances are greater that resources will be misdirected and wasted. Intelligence agencies need to know what information to collect and when it is needed. They need to know if their products are useful and how they might be improved to better serve policymakers. Guidance must come from the top. Policymaker direction should be both the foundation and the catalyst for the work of the Intelligence Community.

The drafters of the National Security Act of 1947 understood the importance of such guidance in creating the National Security Council (NSC).[1] The NSC was created to coordinate the policies and functions of the departments and agencies of the Government relating to all aspects of national security, including the intelligence function.

Since then, each Administration has created its own structure and procedures to meet the policy objectives and management styles of the President and his senior advisers responsible for national security. Historically, intelligence information has made significant contributions to the substantive work of the NSC, whatever its structure; but where top-level guidance for intelligence requirements and policies is concerned, the role of the NSC and its staff has varied.

In some Administrations, formal NSC committees composed of cabinet-level officials have been established to provide guidance on intelligence matters. Such committees have been supported by a small professional staff within the NSC. In other Administrations, the national security advisor has delegated most intelligence issues to a senior member of the NSC staff. In some Administrations, the NSC principals and/or staff have taken an active and consequential role in providing guidance on intelligence matters; in others, they have served principally to coordinate the intelligence response during times of crises.

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[1] The statutory members of the NSC are the President, the Vice President, the Secretary of State, and the Secretary of Defense. Secretaries and Deputy Secretaries of other Executive departments may also serve on the NSC at the pleasure of the President. The present NSC includes the Secretary of the Treasury, the U.S. Ambassador to the United Nations, the U.S. Trade Representative, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and the Chief of Staff to the President.

The Chairman of the Joint Chiefs is principal military adviser to the NSC and may attend and participate in NSC meetings. The Director of Central Intelligence also may attend and participate.

The NSC is served by a staff headed by the Assistant to the President for National Security Affairs (who is often referred to as the National Security Advisor). The composition and organization of the NSC staff are left to the discretion of the President.

Intelligence as an NSC Function from the Nixon Administration to the Present

President Richard M. Nixon took office in 1969 and created an NSC structure shortly thereafter. Not until 1971, however, did his Administration create an "Intelligence Committee," one of the four top committees within the NSC responsible for providing policy guidance on national security issues. In addition, the NSC structure during the Nixon Administration contained a separate committee to approve and coordinate covert actions (the 40 Committee).

In 1975, the blue-ribbon "Commission on the Organization of the Government For the Conduct of Foreign Policy" (the Murphy Commission) reviewed this structure and found it largely ineffective. The Murphy Commission recommended that the NSC Intelligence Committee "should be actively used as the principal forum for the resolution, short of the President, of the differing perspectives of intelligence consumers and producers, and should meet frequently for that purpose."

In 1976, almost two years into his presidency, President Gerald R. Ford issued a new Executive Order on intelligence, abolishing the existing NSC structure on intelligence and creating in its place a "Committee on Foreign Intelligence" (CFI). This new Committee was composed of the Director of Central Intelligence, the Deputy Secretary of Defense for Intelligence, and the Deputy Assistant to the President for National Security Affairs. The Administration directed this committee to "control budget preparation and resource allocation" for national intelligence, as well as to establish priorities for collection and production. The Executive Order spelled out several specific tasks the CFI should accomplish, among them giving direction on the relationship between tactical and national intelligence and providing "continuing guidance to the Intelligence Community in order to ensure compliance with policy direction of the NSC."

This structure proved short-lived. President Ford remained in office less than a year thereafter, and his successor, President Jimmy Carter, immediately replaced the existing NSC apparatus with a two-committee structure consisting of a Policy Review Committee (PRC) and a Special Coordinating Committee (SCC). Depending upon the subject matter under consideration, the PRC would be chaired by, and composed of, different Administration officials, including the DCI when it addressed intelligence issues. The SCC was chaired by the National Security Advisor, and addressed the review and policy considerations of special activities, including covert action.

In 1978, President Carter provided more specific guidance on intelligence matters and issued a separate Executive Order on intelligence. It stipulated that the PRC, when dealing with intelligence matters, would be responsible for the establishment of requirements and priorities for national foreign intelligence, review of the intelligence budget, and the periodic review and evaluation of intelligence products. It was also charged with submitting an annual report on its activities to the NSC.

Three years later when he assumed office, President Ronald Reagan abolished the Carter NSC structure without creating a separate standing committee on intelligence, relying instead on a separate element on the NSC staff. He also signed Executive Order 12333, a broad statement of intelligence responsibilities and policies, which provided that the

NSC "shall act as the highest Executive Branch entity that provides review of, guidance for, and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs."

Later, as part of a reorganization of the NSC staff, a series of "Senior Interagency Groups" (SIGs) were created, one of which dealt with intelligence. Chaired by the DCI, the "SIG-I" was chartered to establish requirements and priorities for national foreign intelligence, review the program and budget for national intelligence as well as proposals for sensitive operations.

In 1989, President George Bush eliminated the Reagan NSC structure, and returned to a two-Committee structure, consisting of a "Principals Committee" and a "Deputies Committee." The Principals Committee was chaired by the National Security Advisor; the Deputies Committee, by his Deputy. A separate staff office coordinated intelligence programs.

Two years into the Administration, the NSC conducted the first in-depth review of intelligence requirements. The document that instituted the review, known as "National Security Review-29," noted that "senior policy makers traditionally have neglected their critical role in setting intelligence priorities and requirements." It produced a lengthy list of government-wide intelligence requirements, but it failed to assign priorities in a way that usefully guided collection efforts or the allocation of resources.

In 1993, President Bill Clinton took office. He retained the "Principals Committee/ Deputies Committee" structure to coordinate major foreign policy issues and created a system of "Interagency Working Groups" to handle more routine issues. A separate staff office coordinated intelligence activities. In April, 1995, a new presidential directive was issued which, for the first time, stated in priority order what a President considered to be his intelligence requirements and established a working group of mid-level policy officials to review more regularly intelligence policies and requirements.

Shortcomings of the Past

The Commission sees several shortcomings in the historical process described above. The institutional role played by the NSC in providing guidance and direction for intelligence activities has varied widely. Often substantial lapses occur at the change of Administrations when there is no guidance at all. As a result, a consistent level of guidance concerning appropriate roles for intelligence, as well as the guidance establishing requirements and priorities for collection and analysis, has, all too often, been missing.

In practice, the NSC's structures created to perform such functions often have foundered. Senior officials, such as cabinet secretaries or their deputies, who represent their respective departments and agencies at NSC-level meetings, usually have little or no background in intelligence and are inundated by the press of other duties. Intelligence is too often viewed as a support function that is "someone else's responsibility." Subordinates are increasingly sent to meetings in place of principals, and meetings become progressively less frequent. As a result, a true "consumer driven" intelligence process has never fully evolved within the NSC, regardless of the Administration in office.

The Commission believes the NSC as an institution should provide clearer guidance for intelligence, through regular tasking and a better organizational framework for handling intelligence issues. Several close allies visited by the Commission during its inquiry have effective mechanisms at the senior levels of governments to ensure that their intelligence agencies receive timely, ongoing guidance from the political level. In Great Britain, for example, a Cabinet-level office known as the Joint Intelligence Committee (JIC) brings together senior British policymakers and intelligence officials on a *weekly* basis. The JIC, functioning since 1936, is responsible for setting intelligence priorities on an ongoing basis, and for producing a weekly intelligence summary. Members include the principal producers and consumers of intelligence. While clearly the work and value of structures such as the JIC are facilitated where the government is considerably smaller than the U.S. Government and principally staffed by career civil servants, the Commission believes the concept embodied in the JIC can also be made to work in the United States.

What Needs to Be Done

The Commission recognizes that every President must be free to use and structure the National Security Council as he or she sees fit, including the performance of its statutory role to provide direction to the Intelligence Community. From the Commission's standpoint, however, the particular structure decided upon by a president is less important than a clear and consistent understanding and implementation of the roles it should perform. Even when Administrations change, the functions of the NSC should not. Top-level direction to intelligence agencies would be greatly strengthened by a more institutionalized role for the NSC, one that is not rewritten every two or four years. The more the role of the NSC varies, the more difficult it is to develop and sustain working relationships that provide clear, frequent direction for intelligence and guidance for its collection and analytic efforts.

In the view of the Commission, the institutional role played by the NSC structure should include setting the policy guidelines for intelligence activities, stating what the intelligence agencies are expected to do and what they should not do. The NSC structure should clarify, for example, whether intelligence agencies should collect economic intelligence or analyze intelligence on the environment, whether they perform analysis of publicly-available information, and what rules should govern intelligence-gathering where allied and friendly governments are concerned.

The institutional role of the NSC also should include providing guidance for ongoing intelligence collection and analysis, to say what is needed and when, clarifying what is helpful and not helpful. What are the issues on the "front burner" for the President and other policymakers? What information would fill a void? On what subjects is intelligence adding little of value? Where does intelligence have access to information that would be of considerable value, but is not being collected?

It should also be the institutional role of the NSC (but not the NSC staff by itself) to assess, from time to time, the performance of the Intelligence Community in satisfying their substantive needs as policymakers, reporting its conclusions, as appropriate, to the President.

In the section that follows, the Commission proposes a two-tier NSC structure for carrying out these roles. It is intended as a model for this and future Administrations.

Whatever NSC structure may be adopted for intelligence, however, it must not interfere with the direct reporting relationship between the President and the Director of Central Intelligence, which must be preserved. The importance to the intelligence function of having a strong relationship between the President and the DCI cannot be overemphasized. The Commission was consistently told by former DCIs that where their relationship was strong, it had repercussions across the entire Government, including the Congress, giving vitality and purpose to the whole enterprise. Conversely, where the relationship was weak, it took a heavy toll on the esprit and influence of the Intelligence Community.

3-1. The Commission recommends the establishment within the National Security Council of a "Committee on Foreign Intelligence" (CFI), chaired by the Assistant to the President for National Security Affairs and including the Director of Central Intelligence, the Deputy Secretary of State and the Deputy Secretary of Defense. The Chair should invite other senior officials to attend as may be appropriate given the meeting agenda.

The CFI should meet at least semi-annually and provide guidance to the DCI for the conduct of intelligence activities, to include establishing overall requirements and priorities for collection and analysis. Appropriate NSC staff should formulate the agendas and supporting materials for these meetings, with NSC members and their staffs providing such assistance as may be required. The CFI should report annually to the President on its activities.

3-2. The Commission recommends that a "Consumers Committee" be established as a subordinate element of the CFI. This Committee should be chaired by the Deputy Assistant to the President for National Security Affairs and should include senior representatives at the Undersecretary level of the parent CFI members as well as senior representatives of other principal intelligence producers and consumers within the Government, e.g. the Secretaries of Commerce and Treasury, the U.S. Trade Representative. The Consumers Committee should meet at least monthly and provide continuous, ongoing guidance with respect to the priorities for intelligence collection and analysis to meet the needs of the Government. The Consumers Committee should monitor and periodically report to the CFI with respect to how well the Intelligence Community is meeting the needs of consumers, identifying gaps and shortcomings where appropriate. The NSC staff should be responsible for formulating the agendas and supporting materials for each meeting, with NSC members and their staffs providing such assistance as may be required.

The Commission opted for this bifurcated approach for several reasons. The Commission believes that the major overarching issues in the intelligence area are best left to a small group, consisting of the principal cabinet officers who are responsible for, and the users of, intelligence. The Commission believes such a group should be chaired by the National Security Advisor because he can approach the issues from the viewpoint of the President and has responsibility for coordinating national security matters on his behalf.

However, it is unrealistic to expect such a senior group to play an active role in setting ongoing requirements and priorities for intelligence-gathering and analysis. This function necessarily requires more frequent meetings and must be carried out at a lower level of representation. Membership should be at a high enough level so that the participant can represent the policies of his or her agency or department, but also at a level where the participant can be a regular attendee at the monthly meetings. Whoever may be designated, however, should have or be able to obtain a grasp of the overall intelligence requirements and priorities of the department or agency they represent.

The Commission believes that a forum outside the Intelligence Community (but including a representative of the Intelligence Community) should evaluate the substantive contributions made by the intelligence agencies. Hence, this role is suggested for the Consumers Committee. This is a function that the NSC has not performed in the past but is needed for the effective operation of the Intelligence Community.

Finally, the Commission does not contemplate that either the CFI or its subordinate Consumers Committee would perform oversight or management functions. The DCI would continue to report to the President and not to either of these committees. The function of both bodies would be to provide guidance to the Director of Central Intelligence and, through him, to the Intelligence Community as a whole. If disagreements arose which could not be resolved inside the NSC structure, each cabinet-level official would retain the right to appeal to the President.

The President's Foreign Intelligence Advisory Board

While not a part of the NSC structure, the President has another body at his disposal to provide advice on intelligence matters—the President's Foreign Intelligence Advisory Board (PFIAB). First created by Executive Order in 1961, the PFIAB is charged with advising the President with respect to the quality, quantity, and adequacy of intelligence collection, analysis, counterintelligence, and other activities.[2] The PFIAB is also authorized to assess the adequacy of management, personnel and organizational arrangements in the intelligence agencies. Composed of private citizens, usually with some government experience, the number of PFIAB members has varied from one Administration to another.[3]

Historically, the PFIAB often has produced insightful and critical reports. Early boards were instrumental in analyzing and promoting the technical developments of the 1960s which revolutionized intelligence gathering. In the last several years, the PFIAB has looked at issues such as personnel practices within intelligence agencies and intelligence-sharing with multinational organizations.

The Commission supports the continuation of the PFIAB but believes that its role would be enhanced and its contributions more significant if it sought to perform functions that are not being performed elsewhere, either by the NSC or within the Intelligence

[2] The PFIAB replaced an earlier "President's Board of Consultants on Foreign Intelligence Activities" that had been created by President Eisenhower in 1956. The PFIAB was disbanded in 1977 by President Carter but reconstituted by President Reagan in 1981.

[3] The current Executive Order governing the PFIAB, E.O. 12863 (Sept. 13, 1993), limits membership to 16 individuals.

Community itself. The Commission has noted in the course of its inquiry that very little thought is given by the Intelligence Community to the future, to finding creative technical or managerial solutions to the problems of intelligence or focusing on long-term issues and trends. By virtue of its membership, the PFIAB appears uniquely positioned to serve this function by bringing to bear the experience and expertise of the private sector and respected former government officials. Presidents must ensure that persons appointed to the Board have the qualifications necessary to perform this role and an adequate staff capability to support them.