



# The National Intelligence Council: Issues and Options for Congress

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## Summary

The National Intelligence Council (NIC), composed of some 15 senior analysts and national security policy experts, provides the US Intelligence Community's best judgments on crucial international issues. NIC members are appointed by the Director of National Intelligence and routinely support his office and the National Security Council. Congress occasionally requests that the NIC prepare specific estimates and other analytical products that may be used during consideration of legislation.

It is the purpose of this Report to describe the statutory provisions that authorize the NIC, provide a brief history of its work, and review its role within the Federal Government. The Report will focus on congressional interaction with the NIC and describe various options for modifying congressional oversight. This Report will be updated as new information becomes available.

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## Background: What Is the NIC?

Although the appointment of the chairman of the National Intelligence Council (NIC) does not require the advice and consent of the Senate, the planned designation of retired Ambassador Charles Freeman to the position in March 2009 focused attention on the NIC by Members and by many in the public. Most believe Congressional criticism was undoubtedly a factor in Mr. Freeman's ultimate decision to withdraw his name from consideration.<sup>1</sup> In May 2009, Director of National Intelligence Dennis C. Blair announced the appointment of Christopher A. Kojm as NIC Chairman. Mr. Kojm had earlier served as deputy director of the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission), in the State Department's Bureau of Intelligence and Research, and as a professor of international affairs practice at George Washington University.

The NIC is responsible for the U.S. Intelligence Community's most authoritative assessments of major issues affecting the national security. The NIC is a component of the US Intelligence Community that is not well known even though it is less shrouded in secrecy than most other intelligence offices.

Inherent to intelligence efforts is analysis of data collected. The first statutory responsibility of the DNI is to ensure that national intelligence is provided to the President, department heads, military commanders, and the Congress.<sup>2</sup> Although this responsibility along with intelligence appropriations are sufficient to permit the DNI to establish analytical offices, the National Security Act also specifically establishes the NIC and defines its role at the center of the Government's intelligence analysis efforts.

By law, the NIC is to consist of "senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure" of the DNI.<sup>3</sup> The senior analysts are known as National Intelligence Officers (NIO's). There is no statutory requirement that a chairman of the NIC be designated. The NIC is to produce "national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community." National intelligence estimates and other NIC products are defined as setting forth the judgment of the intelligence community as a whole on a matter covered by such product. Members of the NIC serve on a full-time basis as the senior intelligence advisers of the intelligence community to the rest of the Federal Government. They are part of the Office of the DNI (ODNI) and are not assigned to any other intelligence agency. By law the ODNI cannot be co-located with any other element of the intelligence community;<sup>4</sup> currently the ODNI headquarters is located a separate building in the Virginia suburbs of Washington, DC.

In early 2009 the NIC consisted of a chairman, vice chairman, counselor, director of plans and outreach in addition to some thirteen NIO's. NIO positions have been established for the following geographic and functional areas:

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<sup>1</sup> Mark Mazetti, "Nominee Withdraws Bid for Key Job in Intelligence," *New York Times*, March 11, 2009, p. 8.

<sup>2</sup> 50 U.S.C. § 403-1.

<sup>3</sup> 50 U.S.C. § 403-3b(b)(1).

<sup>4</sup> 50 U.S.C. § 403-3(e).

Africa  
East Asia  
Economics and Global Issues  
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Military Issues  
Near East  
South Asia  
Russia and Eurasia  
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Warning  
Weapons of Mass Destruction  
Western Hemisphere<sup>5</sup>

At present, the National Security Act, as amended, provides that the DNI appoints the members of the NIC and they serve at his pleasure unlike the preponderance of career analysts in the various agencies. In recent years these appointments have been balanced among individuals who have served in the Foreign Service, the Defense Department and the Intelligence Community along with a number of persons from academic life or nongovernmental organizations. None of the NIC appointments require the advice and consent of the Senate.

The responsibilities of the NIC are further set forth in Intelligence Community Directive Number 207, *National Intelligence Council*.<sup>6</sup> Directive 207 requires that the NIO's, acknowledged experts in their areas of responsibility, provide intelligence assessments to the National Security Council, military decision-makers and Congress. To accomplish this, NIO's may task agencies to provide analytical support. They may also work with officials in the ODNI to establish requirements for collection efforts by the various agencies (changing collection efforts can involve the major realignments of technical systems such as satellites). The NIC provides necessary preparatory and briefing materials for the DNI in his capacity as head of the Intelligence Community.

There can be tension among these duties; involvement in preparing National Intelligence Estimates (NIEs) and other assessments requires wide-ranging substantive expertise, participating in managing the collection effort requires detailed understanding of sophisticated technical systems, and providing staff support to the DNI can be time-consuming. In the past 15 years there has been a tendency to include more NIO's who have served in non-governmental positions in think-tanks or universities along with ambassadors and retired military leaders. Some argue that such backgrounds help ensure the relevance of analytical products but do not necessarily provide the detailed understanding of the limitations of collection capabilities. Others maintain that it is only essential that NIO's understand which intelligence collection disciplines are most useful in answering which analytical questions and that detailed knowledge of technical systems is not required. Another potential danger is that the NIO's might become so committed to supporting the DNI in meetings and testimony that they have insufficient time for more detailed analytical work.

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<sup>5</sup> See [http://www.dni.gov/nic/NIC\\_personnel.html](http://www.dni.gov/nic/NIC_personnel.html).

<sup>6</sup> [http://odni.gov/electronic\\_reading\\_room/ICD\\_207.pdf](http://odni.gov/electronic_reading_room/ICD_207.pdf). In addition to the NIC the DNI has established a number of "Mission Managers" to address especially challenging and important collection issues (*e.g.* counterterrorism, counterproliferation, counterintelligence, Iran, North Korea, Cuba and Venezuela). The relevant NIO's, in addressing collection issues, coordinate with the Mission Managers. See Intelligence Community Directive Number 900, *Mission Management*, available at [http://odni.gov/electronic\\_reading\\_room/ICD900.pdf](http://odni.gov/electronic_reading_room/ICD900.pdf).

The NIC produces coordinated assessments of the Intelligence Community's views, including NIEs, the NIC's "flagship product," that "provides the authoritative written judgments of the [Intelligence community] on national security issues for the United States Government." NIEs are initiated by senior civilian or military policymakers, Congress (by request or mandated in legislation), or by the NIC itself. After terms of reference are approved, the NIC assigns analysts to produce a draft. The NIC evaluates the draft which is subsequently forwarded to intelligence agencies. Representatives from the agencies then meet "to hone and coordinate line-by-line the full text of an NIE."<sup>7</sup> NIEs are reviewed by the DNI and the heads of relevant Intelligence Community agencies. Once approved, NIEs are disseminated to the President and to senior Executive Branch officials and Congress.<sup>8</sup>

In general, the members of the NIC are not public spokesmen for the Intelligence Community. They may testify before congressional committees and give occasional public talks to think tanks or academic meetings, but they are not policymakers and are not charged with informing the public. Their work is essentially internal to the Federal Government. On occasion some NIEs or specially prepared summaries are released to the public and become part of policy debates. In December 2007, an unclassified summary of an NIE on Iran's nuclear programs was released inasmuch as it included judgments at variance with an earlier assessment.<sup>9</sup> Older NIEs of historical interest are occasionally published by CIA's Center for the Study of Intelligence or are included in the State Department's *Foreign Relations of the United States* series.

## The NIC's Evolving Role

Long before establishment of the NIC, during World War II, the Office of Strategic Services (OSS) included a large number of eminent scholars who prepared reports based on all available intelligence. After the war, these functions and some of the scholars were eventually transferred to the Central Intelligence Agency (CIA). In 1950 an Office of National Estimates (ONE) was established in the CIA. The Office included a Board of National Estimates (BNE) consisting of some 5-12 experts, chaired by former Harvard historian William L. Langer.<sup>10</sup> The BNE's estimates were to reflect the views of the entire intelligence community, not just the CIA; the goal was to ensure that the President and other senior officials had the collective wisdom of all agencies based on all evidence to avoid the mistakes that were made prior to Pearl Harbor.<sup>11</sup> The

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<sup>7</sup> National Intelligence Council, National Intelligence Estimate: the Terrorist Threat to the US Homeland, July 2007.

<sup>8</sup> For further information on NIEs, see CRS Report RL33733, *Intelligence Estimates: How Useful to Congress?*

<sup>9</sup> See Statement by the Principal Deputy Director of National Intelligence, December 3, 2007; available at [http://odni.gov/press\\_releases/20071203\\_statement.pdf](http://odni.gov/press_releases/20071203_statement.pdf). The NIE summary generated considerable interest and controversy; see Dafna Linzer and Joby Warrick, "U.S. Finds that Iran Halted Nuclear Arms Bid in 2003," *Washington Post*, December 4, 2007, p. A1; Walter Pincus, "Estimates to Undergo More Scrutiny," *Washington Post*, March 26, 2008, p. A17.

<sup>10</sup> A CIA official history maintains that the original BNE consisted of "four eminent professors, one distinguished combat commander, one lawyer, and two men experienced in the interdepartmental coordination of intelligence estimates. It should be noted that five of the eight held doctorates in history—excellent training for the exercise of critical judgment on the basis of incomplete evidence." Ludwell Lee Montague, *General Walter Bedell Smith as Director of Central Intelligence, October 1950-February 1953* (University Park, PA: Pennsylvania State University Press, 1992), p. 134. The current (2009) NIC includes some nine CIA analysts, three Foreign Service/State Department officials, a retired major general, one from academe and one from a think tank; most hold advanced degrees in history, political science or international relations.

<sup>11</sup> As noted by a report prepared for the Church Committee (the Select Committee to Study Governmental Operations with respect to Intelligence Activities) in 1976, "The shadow of the Pearl Harbor disaster dominated policymakers' thinking about the purpose of a central intelligence agency. They saw themselves rectifying the conditions that allowed (continued...)"

then-Director of Central Intelligence (DCI), Walter Bedell Smith, personally selected experts in the field in strategy, political science, economics, and other social sciences along with individuals with broad experience in intelligence.<sup>12</sup> Among these selected was a Yale historian, Sherman Kent, who succeeded Langer in 1952 and remained as head of the BNE until 1967. Eventually the ONE had a professional staff of 25-30 specialists and a support staff.<sup>13</sup> At first members of the Board were expected to be generalists; later on, elements of specialization developed. They had access to CIA products but also to intelligence produced in other intelligence agencies.

Although the members of the BNE worked directly for the DCI, the relationship of the Office of National Estimates with the CIA's analytical component, the Directorate of Intelligence (DI), varied over the years. In 1952 the ONE was subordinated to the DI; in 1966 it became directly under the supervision of the DCI.<sup>14</sup> The BNE set the pattern for NIEs and other less formal inter-agency assessments. The analytical standards were high and conclusions focused on issues that analysts believed policymakers would confront. NIEs became integral parts of most national security policymaking efforts and more than 1500 NIEs were published over the 23 years of the BNE's existence. Inasmuch as the estimates (drafted by the BNE and later by the NIC) were considered the DCI's estimates, they did not necessarily reflect the views of CIA analysts or those of analysts in other agencies.

BNE estimates such as those addressing the Soviet Union's strategic capabilities provided the foundation for U.S. defense planning and arms control negotiations during the length of the Cold War.<sup>15</sup> NIEs during the Vietnam War tended to be more pessimistic in regard to South Vietnam's capabilities than were assessments from Defense Department analysts.<sup>16</sup> A major embarrassment was the Board's judgment in September 1962 that the Soviet Union would be unlikely to deploy offensive missiles to Cuba. The following month photographic evidence revealed that missile bases were in fact being installed, a revelation that led to the Cuban Missile Crisis.<sup>17</sup>

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(...continued)

Pearl Harbor to happen—a fragmented military-based intelligence apparatus, which in current terminology could not distinguish 'signals' from 'noise,' let alone make its assessments available to senior officials." U.S. Congress, 94<sup>th</sup> Congress, 2d session, Senate, Select Committee to Study Governmental Operations with respect to Intelligence Activities, Final Report, Book IV, *Supplementary Detailed Staff Reports on Foreign and Military Intelligence*, S.Rept. 94-755, April 28, 1976, p. 7.

<sup>12</sup> Quoted in Arthur B. Darling, *The Central Intelligence Agency: An Instrument of Government to 1950* (University Park, PA: Pennsylvania State University Press, 1990), p. 420.

<sup>13</sup> Suettinger, Robert L., *Tracking the Dragon* (Washington, DC: Center for the Study of Intelligence, Central Intelligence Agency).

<sup>14</sup> Douglas F. Garthoff, *Directors of Central Intelligence as Leaders of the U.S. Intelligence Community, 1946-2005* (Washington: Center for the Study of Intelligence, Central Intelligence Agency, 2005), p. 27, n.39.

<sup>15</sup> See Scott A. Koch, ed., *Selected Estimates on the Soviet Union, 1950-1959*, History Staff, Center for the Study of Intelligence, Central Intelligence Agency, Washington, DC, 1993. Many other NIEs on the Soviet Union are now available online at [http://www.foia.cia.gov/soviet\\_estimates.asp](http://www.foia.cia.gov/soviet_estimates.asp). Some NIEs are also reprinted in the State Department's documentary publications *Foreign Relations of the United States*. The relationship of intelligence judgments to policy disputes over the capabilities and intentions of the Soviet Union is discussed by Lawrence Freedman, *US Intelligence and the Soviet Strategic Threat*, 2<sup>nd</sup> ed., (Princeton, NJ: Princeton University Press, 1986).

<sup>16</sup> See David F. Gordon, *Estimative Products on Vietnam, 1948-1975*, National Intelligence Council, NIC 2005-03, April 2005.

<sup>17</sup> Sherman Kent, "A Crucial Estimate Relived," in *Sherman Kent and the Board of National Estimates: Collected Essays*, ed. Donald P. Steury (Washington, DC: Center for the Study of Intelligence, Central Intelligence Agency, 1994).

Over time there were concerns that the Board had become too inward-directed and had lost contact with policymakers.<sup>18</sup> In 1973 DCI William Colby abolished the Board and established a number of positions designated National Intelligence Officers (NIO's). Colby later wrote:

I had sensed an ivory-tower mentality in the Board [of National Estimates]; its composition had tended to shift to a high proportion of senior analysts who had spent most of their careers at [CIA] and who had developed a "mind-set" about a number of the issues in opposition to the views of the Pentagon and because of the way [President Richard] Nixon and [National Security Adviser Henry] Kissinger had excluded them from some of the White House's more sensitive international dealings.<sup>19</sup>

Furthermore:

. . . I was troubled over how badly the machinery was organized to serve me. If I wanted to know what was happening in China, for example, I would have to assemble individual experts in China's politics, its economics, its military, its personalities, as well as the clandestine operators who would tell me things they would tell no one else. Or I could commission a study that would, after weeks of debate, deliver a broad set of generalizations that might be accurate but would be neither timely nor sharp.

. . .

Thus, I created the positions of National Intelligence Officers, and I told the eleven men and one woman whom I chose for the jobs that they were to put themselves in my chair as DCI for their subject of specialization. . . . They were chosen from the intelligence community and private life as well as the CIA, and they served as the experts I needed in such subjects as China, Soviet affairs, Europe, Latin America, strategic weaponry, conventional forces, and economics, ranging throughout the intelligence community and out into the academic world to bring to me the best ideas and press the different disciplines to integrate their efforts.<sup>20</sup>

From 1973 until 1979, there was a position of Deputy to the DCI for the NIO's. In 1979, the NIO's were formally organized into a National Intelligence Council by the then-DCI Stansfield Turner. The NIC, along with the CIA's DI, were integrated in a newly created National Foreign Assessment Center (a name that endured only until the end of 1981). Unlike the members of the BNE, the NIO's had specific areas of geographic or functional responsibilities. The NIO's, like the members of the BNE reported directly to the DCI but administratively they had a complicated relationship with the DI; DCI William Casey appointed Robert Gates (currently Secretary of Defense) to head both the DI and NIC. Later he would recall, "some on the outside thought one person should not be the head of the Council and also head of CIA's analytical component. They were right."<sup>21</sup> Subsequent observers would share the view that the NIO's need to be separated from the management of CIA's DI to permit a certain distance from institutionalized analytical viewpoints and to ensure that they have equal access to the conclusions of other intelligence agencies.

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<sup>18</sup> Steury, Sherman Kent and the Board of National Estimates, p. xx.

<sup>19</sup> William Colby and Peter Forbath, *Honorable Men: My Life in the CIA* (New York: Simon and Schuster, 1978), p. 351.

<sup>20</sup> *Ibid.*, pp. 352, 353.

<sup>21</sup> Robert M. Gates, *From the Shadows: the Ultimate Insider's Story of Five Presidents and How They Won the Cold War* (New York: Simon & Schuster, 1996), p. 333.



Out of the recurring concern that the Intelligence Community had “grown too isolated from the consumer it was established to serve,”<sup>22</sup> the Intelligence Authorization Act for FY1993 (P.L. 102-496) provided a statutory authorization for the NIC.<sup>23</sup> The provision, which originated in the Senate Select Committee on Intelligence, was intended to elevate the institutional status of the NIC both within the Government and in the private sector. The Senate Intelligence Committee anticipated that the NIC would include substantive experts from within and outside the Government.<sup>24</sup> The Senate-passed version of the legislation had included a provision that the NIC would have a designated chairman and two deputy chairmen one of whom was to be from the private sector.<sup>25</sup> This provision was not, however, adopted in the conference report as a result of objections from the G.H.W. Bush Administration that it would restrict the flexibility of the DCI. However, the conferees emphasized that they shared the Senate determination to include outside experts in the NIC; “the conferees believe that effective use of individuals from outside of government in the NIC is absolutely essential to creating and maintaining the expertise, objectivity, and independence so critical to the production of national intelligence estimates.”<sup>26</sup>

After the Soviet collapse, the NIC prepared estimates dealing with a multitude of post-Cold War issues and, especially during the Clinton Administration, there was emphasis on non-traditional issues such as the effects of environmental change on national security policy.<sup>27</sup> Although the relevant NIO’s coordinated a 1995 NIE predicting terrorist threats against the U.S. and *in the U.S.*,<sup>28</sup> the NIC was criticized in December 2002 by the Joint Inquiry of the two congressional intelligence committees for not having prepared an NIE on the threat to the U.S. posed specifically by Al Qaeda.<sup>29</sup>

The NIE process was a source of widespread concern in the aftermath of the NIE on Iraqi weapons of mass destruction (WMD) prepared in September 2002 at the request of Members of Congress. The estimate that Baghdad was hiding large numbers of WMDs was not borne out by a field investigation undertaken after the collapse of Saddam Hussein’s regime and called into question the basic competence of the Intelligence Community in general. A subsequent investigation by the Senate intelligence committee and by an independent presidential

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<sup>22</sup> U.S. Congress, Senate Select Committee on Intelligence, *Authorizing Appropriations for Fiscal Year 1993 for Intelligence Activities for the U.S. Government and the Central Intelligence Agency retirement and Disability System; Provide A Framework for the Improved Management and Execution of U.S. Intelligence Activities*, 102<sup>nd</sup> Cong., 2<sup>nd</sup> sess., July 20, 1991, S.Rept. 102-324, p. 30.

<sup>23</sup> 106 Stat. 3191.

<sup>24</sup> To facilitate the employment of outside experts, the statute includes a provision that the DCI might avoid “unduly intrusive requirements which the Director considers to be unnecessary for this purpose.” This phrase was undoubtedly intended to allow the appointment of outside experts who would be unwilling to submit to “life-style polygraph examinations.” For a discussion of polygraphs in another Federal agency, see CRS Report RL31988, *Polygraph Use by the Department of Energy: Issues for Congress*.

<sup>25</sup> S.Rept. 102-324, p. 29.

<sup>26</sup> U.S. Congress, House Committee of Conference, *Intelligence Authorization Act for Fiscal Year 1993*, 102<sup>nd</sup> Cong., 2<sup>nd</sup> sess., October 1, 1992, H.Rept. 102-963, p. 88.

<sup>27</sup> See for instance, Intelligence Community Assessment, “Global Humanitarian Emergencies, 2001-2002,” August 2001, available at [http://www.dni.gov/nic/special\\_global\\_human2001.html](http://www.dni.gov/nic/special_global_human2001.html).

<sup>28</sup> National Commission on Terrorist attacks Upon the United States, *The 9/11 Commission Report*, Washington, DC, July 2004, p. 341, citing NIE 95-13, “The Foreign Terrorist Threat in the United States,” July 1995.

<sup>29</sup> U.S. Congress, Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001*, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., December 2002, S.Rept. 107-351/H.Rept. 107-792 (Washington: GPO, 2002), pp. 60, 238, 336, 381.

commission found that the NIE reflected a number of substantive problems in both collection and analytical efforts.<sup>30</sup>

In 2004 the 9/11 Commission, in reviewing the role of intelligence agencies prior to the September 2001 attacks on the Pentagon and the World Trade Center, concluded that there was insufficient coordination across the agencies and a weak capacity to set priorities and move resources.<sup>31</sup> Accordingly, the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458), enacted in the wake of the 9/11 Commission's recommendations and in view of widespread congressional concern about the quality of analytical products, created the position of Director of National Intelligence, and the NIC and the NIO's were transferred to the Office of the DNI (ODNI). The chairman of the NIC has been "double-hatted" as a Deputy DNI for Analysis (one of four deputies that the DNI is authorized to establish). As noted above, this legislation placed the NIC directly under the DNI and reiterated its statutory responsibilities.

## **Congressional Options and the NIC**

Most observers believe that Congressional committees benefit from the testimony of NIC members either in open or closed sessions.<sup>32</sup> When Congress requests NIEs or other intelligence assessments, the NIC is responsible for ensuring they are prepared.<sup>33</sup> Congressional intelligence committees conduct oversight of all intelligence activities and have, on occasion, focused on analytical efforts, including NIEs. Publically available documents do not, however, include oversight hearings of the NIC and its work.

There are a number of ways that oversight of the NIC might be changed. Congress might choose to pass legislation to establish the position of NIC chairman and require that appointments to this position be made by the President subject to the advice and consent of the Senate.<sup>34</sup> NIO's are not policymakers; they share the Intelligence Community's mandate to produce intelligence "independent of political considerations."<sup>35</sup> On the other hand, NIO's are not simply technical experts inasmuch as they are required to be substantive experts in fields that are often very controversial and directly related to policymaking. Requiring confirmation of NIO's would permit the Senate to assure itself that nominees were fully qualified and prepared to uphold the statutory

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<sup>30</sup> See CRS Report RL33733, *Intelligence Estimates: How Useful to Congress?*, by Richard A. Best Jr.; U.S. Congress, Senate Select Committee on Intelligence, *U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq*, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., July 9, 2004, S.Rept. 108-301 (Washington: GPO, 2004); also, U.S. Congress, Senate Select Committee on Intelligence, *Postwar Findings About Iraq's WMD Programs and Links to Terrorism and How They Compare with Prewar Assessments*, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., September 8, 2006, S.Rept. 109-331 (Washington: GPO, 2006); U.S. Commission on the Intelligence Capabilities Regarding Weapons of Mass Destruction, *Report to the President of the United States* (Washington: GPO, 2005).

<sup>31</sup> *9/11 Commission Report*, pp. 408-409. In the Report, the Commission did not address the role of the NIC.

<sup>32</sup> For an example of open testimony, see House Permanent Select Committee on Intelligence and Select Committee on Energy Independence and Global Warning, National Intelligence Assessment on the National Security Implications of Global Climate Change to 2030, Statement for the Record of D. Thomas Fingar, Deputy Director of National Intelligence for Analysis and Chairman of the National Intelligence Council, June 25, 2008.

<sup>33</sup> There is a standing requirement for an annual report on the threat of attack on the U.S. using weapons of mass destruction either as an NIE or as a report having the formality of an NIE. 50 USC 404i(c). For further discussion of other statutory requirements for NIEs, see CRS Report RL33733, *Intelligence Estimates: How Useful to Congress?*

<sup>34</sup> See CRS Report RL32212, *The Appropriate Number of Advice and Consent Positions: An Analysis of the Issue and Proposals for Change*.

<sup>35</sup> 50 U.S.C. § 403-1(a)(2).

obligations of providing intelligence that is “timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.”<sup>36</sup> The Senate could satisfy itself that the NIC was not being affected by too many NIO’s with similar perspectives on national security issues. The confirmation process would provide an oversight opportunity including the chance to obtain a promise by the nominee to testify in the future.

On the other hand, some might argue that the confirmation process tends to delay appointments and that Senate confirmation might also add a partisan component to filling a position specifically designed to be nonpartisan. Some might also argue that Senate confirmation is inappropriate since the work of the NIC does not involve policymaking or extensive managerial responsibilities unlike the work of many officials so appointed. Another consideration is that adding a requirement for Senate confirmation for all NIO’s would absorb additional administrative resources both in the Executive and Legislative Branches.

Another approach would include greater congressional oversight of the NIC’s activities and its products. Much of such oversight would necessarily have to be in closed sessions, but in the past there have been a number of public reviews of the Intelligence Community’s analytical efforts that have resulted in a number of modifications to NIC practices.<sup>37</sup> On one occasion the NIC acknowledged that it had taken several steps in accordance with specific congressional recommendations, *viz.*:

- **Created new procedures to integrate formal reviews of source reporting and technical judgments.** The Director CIA, as the National HUMINT [human intelligence] Manager, as well as the Directors of NSA [National Security Agency], NGA [National Geospatial-Intelligence Agency], and DIA [Defense Intelligence Agency] and the Assistant Secretary/INR [Assistant Secretary of State for Intelligence and Research] are now required to submit formal assessments that highlight the strengths, weaknesses, and overall credibility of their sources used in developing the critical judgments of the NIE.
- **Applied more rigorous standards.** A textbox is incorporated into all NIEs that explains what we mean by such terms as “we judge” and that clarifies the difference between judgments of likelihood and confidence levels. We have made a concerted effort to not only highlight differences among agencies but to explain the reasons for such differences and to display them prominently in the Key Judgments.<sup>38</sup>

Questions have been raised about the role of NIO’s, and the NIC generally, within the Government, some arguing that the NIC “has become the administrative support staff for the [DNI] as he prepares for high-level meetings, assembling briefing books for him.”<sup>39</sup> A number of

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<sup>36</sup> 50 U.S.C. § 49301(a)(2).

<sup>37</sup> See U.S. Congress, Senate Select Committee on Intelligence, *U.S. Intelligence Committee’s Prewar Intelligence Assessments on Iraq*, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., July 8, 2004, S.Rept. 108-301 (Washington: GPO, 2004). A much earlier example is U.S. Congress, Senate Select Committee on Intelligence, *The National Intelligence Estimates A-B Team Episode Concerning Soviet Strategic Capability and Objectives*, 95<sup>th</sup> Cong., 2<sup>nd</sup> session, February 16, 1978, Committee Print (Washington: GPO, 1978).

<sup>38</sup> National Intelligence Council, *The Terrorist Threat to the US Homeland*; available at [http://www.dni.gov/press\\_releases/20070717\\_release.pdf](http://www.dni.gov/press_releases/20070717_release.pdf).

<sup>39</sup> See Mark M. Lowenthal, “He blames the Israel Lobby. But the Job Wasn’t Worth It,” *Washington Post*, March 15, (continued...)

observers point to the time consumed in preparing NIEs and other products that may not provide the best source of intelligence support for policymakers. Others believe that the NIO's and the NIC Chairman have not commanded significant influence among Executive Branch agencies or in Congress. On the other hand, it is also acknowledged that the positions are sufficiently unstructured as to allow well qualified appointees to recast the position to ensure they have a thorough knowledge of the Intelligence Community and not become entangled in any bureaucratic procedures. Key factors remain the capabilities of the appointees and the interest and support of the DNI—factors over which at present Congress has little influence.

## Conclusion

The ultimate goal of the Nation's intelligence effort is to assist policymakers in understanding conditions affecting our national security. This is an achievable goal. It is also to be hoped that analysts can provide warning of imminent threats, but this is not always achievable given the multitude of players and the variety of threats. Nevertheless, the members of the NIC serve as "the senior intelligence advisors of the intelligence community for purposes of representing the views of the intelligence community."<sup>40</sup> As such they have access to the full extent of information obtained by all U.S. intelligence agencies and they have access to all intelligence analysts in the Government. They will in addition hopefully have understanding of ways that a particular issue fits into the entire international environment. Although any able analyst who spends years on a narrow issue may have unique insights, the NIO's should be able to provide the sense of context and a degree of perspective that comes from the service on the NIC.

Most observers would probably agree that the role and missions of the NIC and of the national estimative process have not yet been fully developed. The NIC supports the DNI and reflects the views of the Intelligence Community in interagency discussions. They keep abreast of the work of intelligence agencies in their subject areas. They must avoid the classic temptations of either preparing academic treatises unrelated to policymaker concerns or becoming so close to the policy dialogue that they are unable to provide perspective or to offer evidence that might undermine the chosen policies of a given Administration. Few NIO's or chairs of the NIC in recent years have fully met the outlines of the position as envisioned by earlier intelligence leaders or by the drafters of statutory language regarding the NIC.

As issues become more challenging and interrelated, the role of the NIC may grow. In addition, Congress may perceive a need for increased scrutiny of NIC products and for more extensive Legislative Branch oversight of the Intelligence Community's analytical efforts. Arguably Congress can have a broadened role in supporting the NIC. Congressional oversight can test analysts' conclusions from the multiple perspectives usually found within congressional committees. The back-and-forth that may result from oversight hearings may be uncomfortable for analysts and NIO's, but, given the inherent uncertainties in most intelligence analysis and the importance of the issues at stake, some observers suggest that rigorous exchanges can serve the National interest and maintain that their absence in the past led to policy errors or unfairly exposed the Intelligence Community to *ex post facto* criticism. All should recognize, however,

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(...continued)

2009, p. B2.

<sup>40</sup> 50 U.S.C. § 403-3b(d).

that all intelligence is an intellectual activity that inevitably carries with it some degree of uncertainty.

## **Appendix A. 50 USC 403-3b (extract)**

### (a) National Intelligence Council

There is a National Intelligence Council.

### (b) Composition

(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of National Intelligence.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

### (c) Duties and responsibilities

(1) The National Intelligence Council shall -

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the Director of National Intelligence in carrying out the responsibilities of the Director under section 403-1 of this title.

(2) The Director of National Intelligence shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence.

(d) Service as senior intelligence advisers Within their respective areas of expertise and under the direction of the Director of National Intelligence, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

### (e) Authority to contract

Subject to the direction and control of the Director of National Intelligence, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.

### (f) Staff

The Director of National Intelligence shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

(g) Availability of Council and staff

(1) The Director of National Intelligence shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(h) Support

The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the Director of National Intelligence.

(i) National Intelligence Council product intelligence

For purposes of this section, the term “National Intelligence Council product” includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

## **Appendix B. Heads of the Board of National Estimates and the National Intelligence Council**

### **Chairmen of the Board of National Estimates**

William Langer 1950-1952  
Sherman Kent 1952-1967  
Abbot Smith 1968-1971  
John Huizenga 1971-1973

### **Deputies to the DCI for National Intelligence Officers**

George Carver 1973-1976  
Richard Lehman 1976-1977  
Robert Bowie 1977-1979

### **Chairmen of the National Intelligence Council**

Richard Lehman 1979-1981  
Henry Rowen 1981-1983  
Robert Gates 1983-1986  
Frank Horton III, 1986-1987  
Fritz Ermarth, 1988-1993  
Joseph Nye 1993-1994  
Christine Williams 1994-1995  
Richard Cooper 1995-1997  
John Gannon 1997-2001  
John Helgerson 2001-2002  
Robert Hutchings 2002-2005  
C. Thomas Fingar 2005-2008  
Peter Lavoy 2008-2009  
Christopher Kojm 2009-

*(Source: National Intelligence Council)*



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