Counterintelligence for the 21st Century

The Intelligence and National Security Alliance (INSA) is pleased to present this paper on counterintelligence (CI) to help frame the debate on an issue of high priority to US national security. The paper was prepared with input from a broad range of INSA members, many of whom had government careers in intelligence and law enforcement and now work for industries that support the US national security mission.

Several INSA members made contributions to this paper, but their individual inputs do not necessarily connote agreement with all the judgments or recommendations in the document. The paper results from a lively debate that helped both to establish agreement on some core issues—including the urgency of CI reform, the imperative to enhance offensive CI, and the need to clarify the role of CI in the era of globalization—but also to recognize dissent on others issues, especially with regard to the pace and scope of change needed to address the cyber and other technical challenges.

The Director of National Intelligence (DNI) today faces continuing traditional national and transnational threats while confronted, at the same time, by unprecedented technical challenges in the era of globalization. Getting ahead of these problems will require fundamental, long-term reforms to CI governance, culture, and training across the Intelligence Community (IC). It will also demand a far greater willingness among IC leaders to partner with outside sources of expertise—which is an imperative, not an option!
Introduction

The DNI has at least six major challenges ahead:

1. To articulate a 21st century vision for CI that involves a fundamentally different, integrated threat perception, much of it technical in nature, which can only be countered by significantly reforming IC-wide CI governance and policies, by radically changing the skills mix and training programs of the CI workforce, and by aggressively engaging outside sources of expertise;

2. To develop clear CI doctrine for the information age against both traditional foreign intelligence threats and fast-emerging technical threats. The doctrine should flow from an integrated national intelligence and counterintelligence strategy, and should continuously drive change to our national intelligence policies and plans, to IC-wide resource allocations, and most importantly, to training curricula across the IC for both intelligence and counterintelligence professionals;

3. To allocate more resources for CI collection and analysis across the IC and on the DNI Staff in order to provide continuous, authoritative assessments of the dynamic CI threat and to enable the preemption and neutralization of hostile CI operations aimed at stealing vital US information, at disabling key U.S. infrastructure, and at weakening US economic competitiveness;

4. To break down the institutional and cultural barriers between intelligence and counterintelligence in order to develop coherent, strategic collection strategies, and to reduce the influence of entrenched government bureaucracy that promotes defensive over offensive CI;

5. To facilitate the application of state-of-the-art technologies and time-tested methodologies (like deception) to support both offensive and defensive CI operations;

6. To embed respect for US civil liberties into CI doctrine, governance, and training in an era of dramatically enhanced technical intelligence capabilities that “know no borders.”

The recommendations of the INSA committee are based on three principal conclusions:

1. The DNI now has adequate authorities to begin addressing these CI challenges, however formidable they may be, although some legislative changes may be required down the road. The DNI needs to use these authorities;

2. The DNI’s personal leadership in engaging agency heads, especially those with major CI missions, in the prosecution of a focused and evolving reform agenda will likely improve performance—impersonal DNI directives by themselves will not;

3. Reconstitution of the Office of the National Counterintelligence Executive (ONCIX) and the National Counterintelligence Policy Board (NCIPB) with reform-oriented senior leadership from the key CI agencies would almost certainly bolster a community-wide perception of the DNI’s ownership of counterintelligence and his commitment to a workable reform agenda.
On the other hand, adding to the CI bureaucracy at the DNI or NSC levels would inevitably favor defensive CI—just as it has over the past twenty years—and would further detach the DNI from the CI professionals who do the real work. Effective solutions call for leadership, and engaged management, not more structure!

Defining CI

CI has a long, complicated, and sometimes confused history. The DNI needs to define it clearly to apply, both strategically and tactically, to intelligence, law enforcement, the defense establishment, and the military services as they deal with a world in geopolitical transformation and technological revolution. We can help set direction, but we cannot provide a precise definition that will capture all the strategic and tactical imperatives for these CI stakeholders today, nor can we come up with a magical formula that will effectively link DNI policies, plans and objectives to their critical CI programs. The DNI, however, must work to achieve both these goals over time.

Counterintelligence involves the collection and analysis of the intelligence capabilities and activities of United States adversaries and competitors, for the purpose of conducting investigations and operations that can exploit, deceive, or disrupt hostile intelligence activities to the advantage of the US. Good CI will enable the US to “game” its rivals and win—in an era when the game is becoming more technical and more complicated than ever.

- CI provides invaluable support to intelligence operations and to law enforcement by disrupting foreign intelligence collection and capturing spies. The traditional CI defensive missions of breaches through risk avoidance, and prosecuting breaches when they are exposed, remain vital but do not meet the broader national security objectives of a robust, offensive CI effort. Effective CI, like counterterrorism, is more than just a support function generating its own narrowly-focused collection and analysis. It always should have a strategic operational context in which national security goals are clearly perceived and actively pursued.

- In the information age, the CI game needs to be defined more precisely as national security threats expand to encompass larger-scale physical and technological challenges—some involving neither foreign intelligence agencies nor even human assets—that require a much broader national response than intelligence and law enforcement alone can provide.

In this “new game,” the DNI can lead the way in clarifying the CI mission in today’s bigger and more complex threat environment. He can help agency heads to develop new tradecraft and training standards and to advance technological applications for CI among national agencies, law enforcement bodies, and the military services. One size will not fit all! Each of these agencies, law enforcement bodies and services has their own unique set of departmental or agency CI requirements that must be addressed, in addition to participating in a more strategic, national CI network. These important departmental and agency programs and their
scarce resources should not be traded off to advance more strategic objectives. They should be strengthened through connection to those objectives.

- The DNI has the potential to effect change at all levels of the IC and to make substantial progress in reforming CI by exercising his legitimate authority to convene the National Counterintelligence Policy Board (NCIPB), a collaborative body of relevant agency heads.

- The DNI and ONCIX should have a global, long-term perspective enabling the establishment of roadmaps, standards and coordinated action plans to deal with the revolutionary geopolitical and technical challenges facing CI in the era of globalization.

Today, neither the strategists nor the tacticians are dealing with “our fathers’ CI.” That CI focused primarily on outwitting structured foreign intelligence services operating out of official platforms whose organizations were basically stable and discoverable, whose vulnerabilities could be identified and exploited, and whose officers usually showed some commitment to professional tradecraft.

- Catching spies working for hostile states is no less important today than it ever was, but the more worrisome challenge we now face is to defeat adversaries who have unprecedented access to rapidly advancing technologies that can—without relying on HUMINT resources—hurt us both at home and abroad.

- To be sure, certain “traditional” countries continue to pose a formidable collection threat that cannot be minimized. But CI today, both strategic and tactical, must have much more agile and nimble capabilities to disrupt and exploit twenty-first-century adversaries that are only loosely organized, that are often non-state actors operating across national borders, that are linked to rapidly moving regional or global networks, and that generally use intelligence only in an episodic, utilitarian manner.

Critiques of NCIX (National Counterintelligence Executive)

The Office of the National Counterintelligence Executive (NCIX) was established in January 2001 to elevate the priority of CI and to unify CI-related policies. ONCIX leaders have understood the challenges we face and have worked hard to implement reforms. While the ONCIX can be credited with improving CI communications and training across the IC, it still gets mixed grades on solving persistent, endemic problems related to mission, management accountability, and CI training for intelligence officers.

Despite increased management oversight authorities granted in the Counterintelligence Enhancement Act of 2002, the ONCIX appears to have had limited impact on CI policy and activities in the larger IC. The CI Executive was charged with chairing a National Counterintelligence Policy Board that would develop policy recommendations and strategy for the NSC and the President—but without impinging on any Departmental equities. Before being
amended by the Intelligence Reform and Terrorism Prevention Act of 2004 (IRPTA), the Board included the FBI Director, the Under Secretary of Defense for Intelligence, the CIA Director, and a senior DOJ official.

- The NCIPB was charged with overseeing the CI Executive in his or her core mission to “identify, understand, prioritize, and counteract the intelligence threats faced by the United States in the twenty-first century.”

The IRPTA created the DNI and placed the ONCIX within the Office of the DNI (ODNI), although the statutory requirement for the President to approve the National CI Strategy was not changed. The CI Executive became one of several “mission managers,” responsible for policy, planning, program evaluation, and analysis. Placing the ONCIX within the ODNI was a potentially constructive change, had the DNI chosen to use his authorities to exert greater leverage over CI elements of the IC.

- But CI—with the exception of the cyber security aspects—was, quite frankly, not a priority for the first two Directors of National Intelligence. The ability of the ONCIX to influence IC policy and resources to any appreciable degree has depended on support from the DNI and his staff—and until now this support has been inadequate.

The ONCIX, despite some commendable progress, appears to have had limited authority and insufficient staff with the requisite expertise, skills and agency relationships to implement the CI reforms championed by its leaders. The leadership of ONCIX has largely been disconnected from the DNI, both physically and bureaucratically, which has further complicated its efforts to exert decisive influence over CI policy across the agencies.

**Chronic Criticisms, Some Addressed**

INSA contributors repeated familiar criticisms about the shortcomings of CI, many of which the ONCIX has been addressing since its establishment in 2001 and which, in fact, the National Counterintelligence Center initially tried to tackle when it was established several years earlier. According to this testimony, CI is still perceived as a “second-string” activity and one that discourages risk-taking at a time when we need the IC to take greater risks to deal with new technical threats as well as increasingly complicated traditional challenges in a changing world. CI, according to many intelligence veterans, is believed to:

- obstruct sensitive operations;
- hinder the adoption of new technology in support of HUMINT operations;
- hamper analysts’ efforts to engage outside experts and hire diversity;
- restrict vital internal information sharing;
- prohibit access to vital web-based information; and
- discourage interagency and outside collaboration.
These classic CI limitations are based on the perception of threat to security, but often without weighing the cost to operations or analysis. It is extremely difficult to override CI concerns in favor of operational requirements, and there is no clear guidance or mechanism to strike a balance. Sometimes, the operator's desired freedom of movement is achieved by excluding CI professionals from operational planning, which only increases risks.

In fairness to the ONCIX, it has made measurable progress against many of these longstanding, chronic problems in recent years even though much work remains to be done. We heard several proposals for reform that have obvious merit and that today’s CI professionals undoubtedly would argue they have been pursuing for some time. CI, these critics say, should:

- focus on risk management rather than risk avoidance;
- value preservation of strategic advantage over protection of secrecy;
- aim to make CI an integral part of our offensive, operational objectives;
- be underpinned by a much stronger analytic foundation;
- seek to adapt CI to counter increasingly sophisticated cyber attacks and other technical operations;
- be aggressive in looking outside the IC for best practices and partners;
- move beyond the law enforcement and/or operational security mentality that persists in many IC elements; and
- be fully integrated into operations and missions—a noble but elusive goal—rather than be perceived as an “add-on” that is often conveniently dismissed in the name of operational exigency.

**Imperative for Change**

We can argue about the ratio of CI successes to failures over the past fifty years—and there always seems to be a countervailing “flip side” to any position one takes. We can debate how well the ONCIX has performed, though we must defer to those insiders who have had close and continuing oversight of the office. However, we should avoid falling victim to the time-honored technique, especially in the Congress, of proposing a structural change to address a functional problem.

The critical concern is not the past, but the worrisome present and the dangerous future in a radically changed world that challenges CI, especially in the technical domain, more than ever before. CI is no longer simply a matter of protecting government secrets and ferreting out those who seek to compromise them. A proper approach to CI takes account of both specific and systemic national vulnerabilities, to include:

- New technology and other proprietary information which conveys important competitive economic and military advantage on its possessor.
- Critical national infrastructure, such as power grids and systems for mass transmission of information. The government cannot undertake to understand, control and protect all such
critical information and infrastructure, and it must be prepared to work with the private sector to understand the extent to which critical information and infrastructure are vulnerable, and to work with industry to assure their protection.

Managing risks in these areas cannot be a matter of establishing static defenses, but instead must focus on risk management and mitigation in a context which recognizes that there are inevitable vulnerabilities that arise when information and infrastructure are further developed, shared, and optimized in terms of efficiency. There is a natural and inevitable tension between security and efficacy. Thus, the public-private partnership is partly, but not only, a matter of setting standards.

- For example, the CI equivalent of a Sarbanes-Oxley approach, in addition to stifling needed innovation and information sharing, would fail to take into account the natural alignment of public and private interests at work here (as private entities do not want to see their information stolen or systems compromised). Government, therefore, can play a critical cooperative role in promoting broad CI cooperation and sharing of best practices.

Dealing with three new strategic challenges in particular requires urgent CI reform—all of them demanding a closer partnership among government, industry, and academia, and all of them expanding the US national security threat environment well beyond the traditional purview of US intelligence:

1 The first concerns homeland security. This is not just about the alarming proximity of the threat or the unprecedented integration of foreign and domestic intelligence needed to counter it, but even more about the new national security stakeholders it brings to the fore. These “first-responders”—police, firefighters, emergency medical professionals—along with private-sector decision makers, have a legitimate need and justifiable demand for intelligence support, as well as their own vital information to provide to a coordinated national effort, as they deal with protecting lives and critical infrastructure in our neighborhoods.

- The President and the Congress have told first-responders that they are the “first line of defense” against terrorism, but nearly eight years after 9/11, we have yet to find effective ways either to deliver to them or receive from them vital intelligence, or to come to grips with the CI implications of doing so. Defense blocks the offense every play!

2 The second related challenge involves domestic intelligence, which traditionally has had a pronounced defensive posture and law-enforcement orientation that is counterproductive today. We now need an intelligence-based, bold offense! The Department of Homeland Security, the FBI, and the Intelligence Community (especially the National Counterterrorism Center) have all taken on some part of this challenge, but they still fall short of the strong, integrated offense we need.

Domestic intelligence now involves protecting the United States from technically-abetted, real-time threats, mostly of foreign origin. The threats come from individuals and groups transporting weapons of mass destruction or related technologies across national borders, from cyber criminals, international terrorists, organized criminals, narcotics traffickers, and hostile countries that are working alone or in combination with each other or with non-state...
actors against US interests. Against some of these transnational threats, counterintelligence has a role to play. Against others, countermeasures must depend on a far broader government-led effort:

• The goal for domestic intelligence must be to integrate the capabilities of federal, state, and local governments, and, when needed, the private sector, in a secure collaborative national network to stop these adversaries before they act. The operative word is network, not a new intelligence service. This effort today is, at best, still a work in progress. Counterintelligence doctrine in this confused threat environment is, at best, evolving.

3 Finally, there is the huge challenge from the technological revolution—especially from the fusion of information technology, biotechnology, neuroscience, nanotechnology, material sciences, and robotics. All of these technologies represent astounding progress for mankind, but also “dual-use” threats to US and global security. Our intelligence services simply cannot produce the S&T expertise they need internally, and they are today behind the curve in exploiting vital open-source information and essential engagement with external networks. Again, the operative word is network.

• In contrast to the Cold War era, when the US was the center of scientific research and innovation, the best scientific investigation today is spread among multiple countries outside the US and in networks of scientists collaborating across national borders.

• How can we enable CI, in a narrow sense, to protect US technology secrets, and, in a broader context, to help manage the risk of engaging these global networks to our advantage? The answers to these questions will require a lot of upfront analysis and sustained leadership under the DNI—the CI community has historically not focused on technology and has a serious skill deficit in this area.

Recommendations

Our primary recommendation to begin fixing CI is that the DNI exercise fully the authorities he already has to develop integrated CI and intelligence strategy, set IC-wide CI policies, establish CI mission goals and objectives, oversee CI collection and analysis, evaluate CI programs, and establish and act on budget priorities across the agencies. He has to be seen to own the problem! Our recommendations, as a whole, do not constitute an easy-to-do check list. Most would require DNI leadership to establish additional outside-expert task forces—especially to counter serious and growing technical threats—or to launch IC initiatives that would require long-term investment of time, energy, and effort (and some resources) to achieve lasting results.

1 The DNI should take the lead. Fixing CI will test the DNI’s real authority and legitimacy, both of which need to be reinforced. He now has the authorities—on paper—to tackle the serious problems that we have outlined in this report; he must be willing to exercise those authorities over entrenched and powerful agencies with deep legacy involvement in CI issues. If additional legal authority is needed over time, he should aggressively seek it and not acquiesce to forced compromises that have crippled other reform efforts.
• The DNI should assume the chairmanship of the National Counterintelligence Policy Board and reconstitute its membership to include only agency heads and the NCIX. He should ensure that all NCIPB members support his reform agenda and that their appointees to DNI CI positions do the same. Even top performers committed to legacy CI or only to the narrow missions of their home agencies will not help the DNI’s cause.

• NCIPB meetings should be scheduled quarterly vice semi-annually, and should develop a rolling agenda based, in part, on the priority issues cited in this report, as well as other key issues that arise at any given time at the national level. Some of this may require legislation.

2 The DNI should use his unique position as the nation’s top intelligence officer to begin forging new partnerships with both the private sector and the S&T community—with urgent attention on the cyber threat. The cyber threat is simultaneously a national and homeland security threat, and a counterintelligence problem. While the Administration is addressing this issue from a whole-of-government and national/homeland perspective, the DNI has certain key responsibilities related to counterintelligence and his role as a technology capabilities provider to the rest of government.

• The DNI should consider constituting a blue-ribbon panel of cyber experts with a three-to-six month mandate to come up with innovative technical proposals in support of the evolving national cyber strategy and his own counterintelligence and intelligence responsibilities.

• The DNI should actively encourage, at every level, the development of corporate and academic outreach programs across the agencies.

• The DNI should articulate a key role for CI in developing and implementing the full range of cyber strategies and outreach, rather than restricting CI to a narrowly defensive focus.

3 A Congressional Strategy is imperative.

• The ultimate success of the DNI’s CI strategy will depend on a close and continuing interaction with the White House and the multiple Congressional committees and subcommittees with jurisdiction touching on counterintelligence—all of which in recent years have fed a debilitating bias in favor of defensive CI.

• The DNI will need strong Congressional allies to give him legislative and budgetary support and to back him up as he exercises his statutory authorities over the IC agencies.

• The DNI should drive the discussion of CI policy within the Executive Branch and the Congress or else his programs will suffer from the Hill’s fractured jurisdiction and defense-leaning but otherwise unfocused priorities related to counterintelligence.

4 The DNI should embrace the NCIX and fully embed it in his organization. He should hold himself accountable, and be held accountable by the White House and the Congress, for developing and enforcing a CI strategy, doctrine, and discipline that sets high, common standards but is sensitive to the different missions of the intelligence, operational, and law-enforcement elements of the Community.
• The DNI, in close collaboration with agency heads, should focus on the development of CI doctrine, building on such fledgling efforts as the “J2X” concept in the Department of Defense and the Joint Terrorism Task Forces established in the wake of 9/11, and the even more recent FBI national and regional CI working groups. This doctrine also should identify roles for CI collection and operations for high-priority departmental and inter-departmental missions, including cyber and acquisition security.

• The DNI also should rework the National Counterintelligence Strategy and the National Intelligence Strategy (NIS) so that they are seamless and mutually reinforcing, or, even better, combine them into one document. If the NIS is to continue to form the foundation for performance management and budgeting, the failure to truly integrate CI sends a “business as usual” message.

5 The DNI should review the mission, manning and resourcing of the ONCIX. ONCIX should focus on developing and implementing a national CI strategy that is fully integrated into all facets of IC activity, building on the concept behind DoD’s CI Campaign Plans. The ONCIX should assist the DNI to engage and influence CI practitioners through his continuous interaction with agency heads who are directly accountable for CI programs.

• ONCIX should have its own strategic CI analysis capability, separate from the National Intelligence Council, to serve as an analytic “center of gravity” for the IC, something that is currently lacking.

• ONCIX should control sufficient funds to conduct strategic analysis, promote innovative R&D and reinforce successful CI programs across the IC.

• ONCIX should be led and staffed by top-performing senior officers from the key IC agencies, including CIA, FBI, DIA, and NSA. They should be selected and directed to work for the DNI and formally assigned only after he has approved. Second tier will not work.

6 The DNI today has the authority to boost the priority of analytical support to CI, which he should do as a matter of urgency. To be effective in supporting both intelligence operations and law enforcement, and to support both strategic and tactical imperatives, counterintelligence requires a much more robust analytic foundation than it has today. Providing NCIX with a stronger analytic capability is necessary but not sufficient.

• The DNI should appoint a National Intelligence Officer for Counterintelligence, and assign the NIO/CII to produce on some regular basis a National Intelligence Estimate (NIE) on counterintelligence threats to the United States based on the best available sources and the foremost experts wherever they reside. This NIO should be a recognized expert with a proven record of outreach.

• The DNI should promote a culture of CI risk management by tasking the NCIX and NIO/CII to produce a study of the impact of CI concerns on national security freedom of action, both positive (identifying threats that were successfully avoided), and negative (identifying valuable national options that were stymied by CI concerns).
• The DNI also should formally include CI as a priority in the responsibilities of the DDNIs for Collection and Analysis and the ADNI for R&D (or equivalent positions).

7 The DNI should build a comprehensive, IC-wide training program that involves rigorous, formal CI courses for senior leadership, extensive training for CI personnel, and high-quality indoctrination for non-CI personnel—using electronic modular training at work stations in each instance to augment formal classroom instruction.

• The DNI should seek partnerships with universities to develop credit courses that would support his high-priority CI training and education goals.

• The DNI’s goals should be to professionalize the CI cadre and train non-CI personnel by establishing policies and standards for CI training and education. Even within the leading CI agencies today, CI training today is outsourced in part because the most skilled insiders do not see conducting such training as career enhancing.

• The strengthened CI training and education program should devote serious attention to civil liberties, including lessons learned from case studies, and systematic reviews of current applicable laws, rules, and regulations.

8 The DNI should create career incentives, including an awards program, to encourage the development of a new generation of strategic CI thinkers and practitioners who are prepared to adapt their discipline to 21st century intelligence challenges, including from cyberspace. This would be no easy task. It would involve a dramatic reorientation of mission performance away from the traditional values of an entrenched CI culture.

• The goal must be to integrate intelligence and counterintelligence into a single discipline in which defense and offense are seen as seamless, essential parts of the same, critical mission.

9 The DNI should work with the NCIX and NCIPB to develop policies for CI-related intelligence sharing, including with other services and governments, that flexibly but sensibly calculate the potential advantage to US interests of sharing rather than rigidly denying access to sensitive information at all costs.

10 Finally, CI needs a research and development (R&D) program to meet the requirements of the US national security strategy. The DNI should aggressively promote research initiatives based on IC collaboration and partnerships with outside experts on issues such as cyber, advanced information technology, biotechnology, neuroscience, nanotechnology, materials science, and robotics—all of which have potentially catastrophic military and intelligence applications. Beyond technology and technology-related issues, the IC CI research effort should include programs in the behavioral, social, and cultural sciences that will help equip the IC to meet the expanding intelligence challenges of the 21st century.
Acknowledgement

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