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MANAGEMENT ISSUES IN THE INTELLIGENCE

COMMUNITY

Wednesday, April 1, 2009

U.S. House of Representatives,

Permanent Select Committee on Intelligence,

Subcommittee on Intelligence Community Management,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2203, Rayburn HOB, the Hon. Anna G. Eshoo [chairwoman of the subcommittee] presiding.

Present: Representatives Eshoo, Holt, Hastings, Schakowsky, Murphy, Reyes (ex officio), Myrick, Blunt and Conaway.

Chairwoman Eshoo. The hearing of the Subcommittee on Intelligence Community Management will be called to order.

I want to welcome the IG Mr. Maguire. This is your last day as the IG, and I want to acknowledge not so much the last day, but all of the days that you have served and served so well. We are not only grateful to you, but the country is grateful to you, because we have a deep and profound respect for the work that the IG does, and I think that you have more than lived up to that.

This is our subcommittee's first hearing in the 111th Congress. I particularly want to welcome Congresswoman Sue Myrick as the Ranking Member of our subcommittee. I look forward to working with her and continue the working relationship that the entire subcommittee enjoyed in the last Congress with Congressman Darrell Issa. Sue, we are really pleased that you are taking this on.

I would also like to welcome the distinguished Chairman of the full committee Mr. Reyes, who will not be able to stay with us because he has an Armed Services Committee meeting. Although the other new members are not here, I still want to mention their names. Congressman Roy Blunt, and Michael Conaway, and our colleagues Alcee Hastings, Jan Schakowsky and Patrick Murphy are members of this subcommittee. Congressman Holt may not be joining us because there has been a death of the mother of Congressman Pascrell from New Jersey, but he still may make it.

So this morning we are going to hear from Edward Maguire, the inspector general of the ODNI. Last November his office issued a report on the critical leadership and management challenges currently facing the DNI as leader of the Intelligence Community and as head of the office of the ODNI. The report covers a wide range of shortcomings at the ODNI. In particular it addresses the failures of the past DNIs to provide enough attention to integrating and managing the community.

The subcommittee knows that the management challenges facing the new DNI are enormous. The criticisms in the report are structural, not partisan.

Now we have a new Director to take a fresh look at these issues. I am optimistic that Director Blair will be able to meet the challenge of being the President's chief intelligence officer and make real progress in managing the community. This hearing will allow us to establish a baseline for his tenure.

In the 110th Congress we held hearings on Director McConnell's 100-day and 500-day plans to implement reforms mandated by the IRTPA, the Intelligence Reform and Terrorism Protection Act of 2004, as well as on some of the specific reform areas, principally the security clearance process. We all have a great interest in that, including the Chairman has a great commitment to it. We have been repeatedly disappointed by the lack of clarity in the role of the DNI.

The Intelligence Reform Act was enacted to create a single

individual to lead the Intelligence Community with authorities for managing the budget, personnel and tasking of the National Intelligence Program. These authorities should allow the Director of National Intelligence to establish a common mission, coordinate agency efforts and intelligence.

I, for one, don't believe that the vision laid out in the Reform Act have been met. We still don't have a clear definition of the DNI's role, nor a clear view of how the agencies should work together. While each agency performs a unique role, this individuality need not prevent common sharing of information, managing personnel nor acquiring systems.

As the testimony of our witness will show, previous DNIs were unable to state clearly what their mission was. While we have had many well-meaning people working hard to coordinate the Intelligence Community, often these efforts worked cross purposes with other parts of the organization.

According to the IG's report, the DNI faces five major changes: Strengthening leadership and governance, accelerating progress in driving IC information sharing, removing impediments to IC collaboration and integration, improving financial management and acquisition oversight, and resolving major legal issues.

I believe this report is really a particularly appropriate place for us to begin the subcommittee's oversight for this Congress, especially for the new members of the subcommittee. It

identifies the communitywide challenges that remain over 4 years after the enactment of the Reform Act, and it raises the same criticism that led Congress to enacting the act in the first place.

Finally, let me say that of course we will offer Director Blair the opportunity to respond to these criticisms and give him the opportunity to tell Congress how he plans to address them. I am confident that he understand the seriousness of the challenge before him, and we all look forward to hearing his answers.

And before we turn to our witnesses, I would like to recognize Congresswoman Myrick for any remarks she would like to make.

[The statement of Ms. Eshoo follows:]

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Chairwoman Eshoo. Sue.

Mrs. Myrick. Thank you. I am not used to this mike.

Chairwoman Eshoo. Different systems in different places.

Mrs. Myrick. Thank you, Madam Chairwoman. I do appreciate your kind words.

And welcome, Mr. Maguire. We appreciate your being here.

This is an issue that is very important to all of us. I am new to the committee, but the issue is not new to me. I have shared some of the same frustrations. And I know that the report covers the time prior to the current Director coming on board, but I hope, and I think the rest of us hope, that that is not going to be any reason that he won't take over and try to move on some recommendations.

The office, as we note from your report, says that there is still not a clear mission, ODNI, and this is one of the things that has concerned a lot of us who have not been on this committee for some time, because 4 years after it was established, the employees themselves, as you say, are voicing confusion about the lines of authority, lack of transparency and poor internal communications. So I guess the question that I ask is if the head doesn't know what the body is doing, how can the body be expected to follow? The leadership comes from the top.

The committee I know in the past has criticized the growth in staff and budget, and in the past through authorization bills

voted to cut both on a bipartisan basis, but despite this, the first two Directors continued to grow and amass scarce intelligent resources for itself. And now through your report we learn the growth has been without direction or purpose. Instead of the lean coordinating body Congress envisioned ODNI to be when it passed IRTPA, we got fat, layer upon layer of bloated bureaucracy at the top of the community, which I have got to say from those of us who were outside the Intelligence Committee, that was one of the concerns we had from the very beginning in creating another government bureaucracy, in effect.

Your report states as one of its noteworthy findings, IC agencies complained that the ODNI sends duplicate tasking and conflicting messages to the IC, thereby undermining the ODNI's credibility and fueling assertions that the ODNI is just an additional layer of bureaucracy.

You also note in your report the finding of the WMD Commission that no shortcoming of the Intelligence Community has received more attention since the September 11th attacks than the failure to share information. The information sharing and collaboration are really critically important to myself as a member of the committee and, I know, to other members of the committee so we are sure that it is going to work together, and that is one of the things I want to focus on during my time here. But I am pleased that your report says there have been some improvements in information sharing, including new tools for the

dissemination of information and creation of virtual work environments to improve analytic efforts.

I note, however, there is still room for significant improvement. Much has been made of the IC's move from need to know to responsibility to share. Yet we learn from your report that compartmentalization of information continues to be an impediment to IC analysis. I am sure you would agree that it doesn't do any good to collect the dots if you don't connect the dots, and that is one of the things that you pointed out.

It is disappointing so many years after 9/11 personal relationships are still driving this IC information sharing. So, in your opinion, what should this subcommittee and the full committee be pushing to break down the barriers to communication in the Intelligence Community? And if you could update us on any findings or information you garnered on the status and implementation of the Intelligence Community Directive 501, which establishes IC rules for access and dissemination of intelligence, that would be appreciated, too.

And shedding some additional light on the stovepiping that has taken place, stovepiping of the information, its impact on collaboration, I am interested in that. Also, what recommendations would you make to improve collaboration between the community and law enforcement organizations, all the while being mindful of the need to protect our citizens' civil liberties?

For the sake of time, you go through so many issues, and I am not going to continually go on, but I would like to hear thoughts on the challenges to the Intelligence Community management caused by having IC elements report to both ODNI and another government agency, such as Department of Defense, Homeland Security, or State. Can the DNI effectively lead the IC when he, in fact, has to share management of so many of its parts?

So you have given us an illuminating read into the challenges that the community faces, and I appreciate very much what you have put together in the report and look forward to hearing your testimony. Thank you.

Chairwoman Eshoo. Thank you very much.

[The information follows:]

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Chairwoman Eshoo. Mr. Chairman, would you like to say something?

Mr. Reyes. Let me add my thanks and congratulations, since you will be leaving the IG, and thank you for the work that you have done.

Some of the observations that are included in your report have long been issues that our committee has been concerned about, so we are hoping that with the appointment of Admiral Blair as the DNI -- I know in conversations I have had with him, he has some specific ideas on how to, I guess, change and implement some of the recommendations you have made. So thank you both for your service and for this report.

Thank you, Madam Chair.

[The information follows:]

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Chairwoman Eshoo. We have been joined by Mr. Hastings.

Mr. Hastings.

Mr. Hastings. Thank you very much, Madam Chair. Thank you for holding this hearing.

Mr. Maguire, I echo the sentiments of the Chair in thanking you, and I have nothing further to add. Let us get on with it.

[The information follows:]

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Chairwoman Eshoo. All right. Why don't we begin.

Mr. Maguire, you are on.

**STATEMENT OF EDWARD MAGUIRE, OFFICE OF THE INSPECTOR GENERAL,
OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

Mr. Maguire. Chairman Eshoo, Ranking Member Myrick, Chairman Reyes, Mr. Hastings, I am honored to be in front of you today to discuss Intelligence Community management challenges. I have submitted to the committee a report dated November 12, 2008, which you have entitled "Critical Intelligence Community Management Challenges" as my statement for the record.

This is the first time I have appeared before this subcommittee, so a word about my office. I started the ODNI Office of Inspector General in July of 2005, in the very early days of the Office of the Director of National Intelligence. Since then we have grown to a staff of 27 professionals. In light of our IC-wide leadership role, I have made a point of recruiting from all the major elements of the IC: the CIA, Department of Defense agencies, FBI, and the armed services. I have brought in individuals from other IG offices, auditors, investigators, inspectors and lawyers, as well as people with hands-on experience in both military and civilian intelligence operations.

Our office differs from the usual IG office in that we

address issues that cut across the entire IC, rather than confining ourselves to one agency. This reflects the leadership role of the DNI himself as set out in the IRTPA.

Accordingly, my office has focused the bulk of our attention on the responsibilities imposed on DNI by the IRTPA to integrate and improve effectiveness of the National Intelligence Enterprise. I could cite three of some of the most prominent of these responsibilities which are, one, maximizing information sharing; two, promoting the concept of joint duty; and, three, overseeing the budget and acquisition process.

My office's first major project involved information sharing, specifically access to and dissemination of sensitive intelligence among units of the IC. Some of the recommendations we made in our report, which we issued in 2007, have now come to partial fruition with the promulgation of the Intelligence Community Directive -- that is ICD -- 501, which was signed by the DNI this January.

We plan to continue our work on IC-wide information sharing, which is among the most important of the DNI's responsibilities. We are also currently assessing progress in the implementation of joint duty. And we have finished the first phase of our study of acquisition, oversight and governance, and that will be coming shortly. We have joined forces with the ODNI Chief Financial Officer to assist in the effort to achieve auditable financial statements for all IC agencies.

I chair the IC Inspector General Forum, which is the Council

of IGs from the intelligence agencies. Through that body we have done several joint projects, leveraging on the resources of the various IG offices. Working together we have jointly audited a number of multiagency problems and have facilitated the resolution of interagency issues.

Turning now to the report you have in front of you, Critical Intelligence Community Management Challenges. In identifying the challenges, we gathered the management challenges papers prepared by most of the other IC IGs, and we look for common themes and issues. We combine these with our own work and perspectives to give the DNI an IC-wide view of his most pressing management challenges.

Management issues for the DNI are of much greater scope and magnitude than would be typical of a single agency since the ODNI is itself a management organization responsible for addressing a host of IC-wide challenges and leading the 16 other IC agencies. In fact, I think I would say that management is a core mission of the DNI.

Reading from the WMD Commission report, which was issued 4 years ago yesterday, March 31, 2005, I quote, the DNI's management responsibilities will be both critically important and exceedingly difficult. And there is a real risk that the obligation to provide current intelligence support to the President and senior policymakers will reduce or eliminate the attention that DNI can devote to the painstaking, long-term work of integrating and

managing the community.

That quote describes the DNI's dilemma, because he was also made the chief advisor to the President and other policymakers by IRTPA.

Indeed, much of the first two DNIs' time and attention were focused on advising the President, senior leaders, and coordinating current intelligence. Our report seeks to focus attention on the DNI's IC management tasks, which were set forth in the IRTPA, and which were the subject of recommendations by the WMD Commission.

Our management observations and recommendations were developed last fall. Progress has been made since then in many areas; for example, in the issuance of the IC directives which have gone from being sort of a sprinkle to now a lot. And of course, we have a new DNI and a new administration.

Working on management challenges is fundamental to the IC enterprise. The work will be ongoing and continuous. As one challenge is met, another one will take its place. Our report focuses on several main areas, as you indicated, Madam Chairman, where we believe that the DNI should concentrate leadership efforts; not necessarily solve them tomorrow, but concentrate leadership efforts. And I believe strong focus and persistent leadership will be the only way that these goals can be met.

Number one, make sure that everyone working in the ODNI and other agencies is absolutely clear about the ODNI's and the DNI's

roles and responsibilities and those of the other agencies. You pointed that out, we pointed out; it is still fuzzy. Revised Executive Order 12333 covers this issues in a high-level fashion and covers them very well, but there are still plenty of ambiguities on the ground that require attention, and we continue to encounter them.

Number two, push forward on the urgent task of getting out comprehensive guidance on information sharing, a cornerstone, if not the cornerstone, of the IRTPA. Progress has been made with the issuance of ICD 501, but much more needs to be done. A solid IT platform is essential to this mission of information sharing. Some time was certainly lost over the last 3 years, but the ODNI is now currently working very hard on the IT issues. We should take note of A-space, a collaborative analytic tool developed by the Analysis Division of ODNI.

Number three, keep up momentum on implementing joint duty. As I will mention, we are doing a study currently on how well it is going, whether it is understood, and whether people are getting credit, and whether there are jobs available. That should be coming to fruition here soon.

Number four, strengthen the DNI's acquisition and procurement, oversight and governance process. Again, we have a report coming out in a few weeks. I would say that it is generally good news that things are being done well from an oversight point of view, but with areas for improvement.

Number five, lead the effort toward auditable financial statements for IC agencies. In this area the IC lags behind other branches of government. The ODNI focus has recently shifted from getting to auditability of financial statements to going back to redesigning processes and building effective information systems. That is probably necessary to build a foundation that can be audited, so I don't have a problem with that. But delays, delays, delays. And I think that strong, very senior leadership and ownership are essential to finish this. These issues tend to be done at a staff level. I think the top people need to own it and need to nag about this, because among staffers it is very easy to agree, this is really complicated, why don't we look at it again next month or give ourselves a break on the deadlines, you know. A leader who intends to have auditability is going to be putting the kind of pressure on the staffs that I think at this point is indispensable.

Now, number six, we did highlight in our report the WMD Commission's call for the DNI to devote professional resources to the legal complexities and confusions that pervade the operations in the IC. Again, significant progress has been made with the FISA Amendments Act, Executive Order 12333, the new Attorney General guidelines. And notably in all of these, the ODNI general counsel did play a very valuable role, so that is good. But again, the DNI has got to keep the pressure on them to keep doing that and to progressing it.

I guess the work we did in our report is really not so much a report card on specifics as it is a call to keep focus and pressure on these things which can't be solved in a day, and are there, and the IRTPA told us to do it. So I would say to both the DNI and the oversight committees, insist on deliverables and insist on deadlines, and then I think we are going to get something.

And thank you, Madam Chairman.

Chairwoman Eshoo. Thank you.

[The statement of Mr. Maguire follows:]

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Chairwoman Eshoo. We have been joined by Congressman Holt. Would you like to say a few words?

Mr. Holt. I don't have an opening statement. As you go through questions, I will have some.

Actually I amend that. I would like to thank Inspector General Maguire for his service, for coming on what I believe is during his last week on the job. And I thank you for the service, and I thank you for the asking the questions that you have asked.

Chairwoman Eshoo. Thank you for this report, Mr. Maguire. I think all of us have -- judging on some of the opening statements, you have hit very clearly on the areas of deep concern to the subcommittee. And while Rome wasn't built in a day, we are now down the road a bit on the ODNI and the reforms that the act put into place.

Let me start out by asking you the following question about the delivery of the report. It was completed in November 2008. The committee received it in January of 2009. Why was it delayed?

Mr. Maguire. Well, in our dealings with the oversight committees, we are under the control of the DNI. If we prepare a report that we would like to have go up, that act has to be cleared by the DNI, so-called front office. And that is how much time it took to get it up there.

Chairwoman Eshoo. Isn't that amazing? That says something in and of itself, doesn't it? You don't have to answer that. And

you didn't.

Mr. Maguire. Although I have to interject here --

Chairwoman Eshoo. There is a change of administration.

Mr. Maguire. I have also signed out a procedure that I intend to follow, which is reports of this nature will go to the DNI; 30 days later they will go to the Hill.

Chairwoman Eshoo. Very good. We like hearing that.

Mr. Maguire. Extremely sensitive reports, say, involving personal investigations and so forth, which we would consider not for general consumption, we will deliver them to the DNI. If the committee would like to have them, they should ask the DNI.

Chairwoman Eshoo. Now, the ODNI IG is not statutory.

Mr. Maguire. Correct.

Chairwoman Eshoo. Do you think that that creates a problem? Do you think that that is something that the subcommittee and the full committee should address? The office was established by the order of the first DNI Mr. Negroponte, and that was early on in his tenure, and it could just as easily be disassembled. I am not suggesting that anyone is saying that it could be, but because there isn't any statutory language that establishes it as such, do you think that creating the statutory IG for the ODNI would strengthen the ability of the individual to perform their work and their oversight functions?

Mr. Maguire. The short answer is yes, but let me elaborate. The fact that the DNI can abolish the office means that my office

is not deemed to be independent under the GAO yellow book audit rules, because we are not independent vis-a-vis the DNI because he can put us out of business. That is a substantial weakness in our ability to do work.

There are other things where I think statutory framework would help. It certainly would clarify the lines of communications with the oversight committees. There would be no more back and forth about that.

Chairwoman Eshoo. Thank you, Mr. Chairman.

Mr. Reyes. Thank you.

Mr. Maguire. Hiring, compensation, budget authority again, all of that today is under the control of the DNI and his staff. It has been a bit of struggle for us to get staffed up. The Authorization Act granted us 12 slots and \$2 million. We are unable to get that executed because a hiring freeze was imposed, and we are still only at 78 percent of our authorized strength. So I imagine a statute would give the IG the authority to hire, to compensate and to spend their money.

Because of this freeze, we have spent most of our funds other than salary -- most of our funds on hiring contractors to do the projects that we are supposed to do. So that basically pretty much eliminates our ability to do certain kinds of travel, training, et cetera. So we are not independent as far as our own financial management is concerned.

Chairwoman Eshoo. Well, I think it is an area that the

subcommittee is going to have to examine. I think it is an important area. If we don't or we cannot or somehow are hobbled in doing our oversight, then we are not doing our work, we can't accomplish our work. And central to that, I think, is the work of the IG. So thank you for pointing that out.

Let me ask you about the area you mentioned in your testimony, and that is the management of the community, the overall management of the community of the DNI, which is enormous in and of itself; and then the responsibility of the President's daily briefer. Can you walk us through that? Are there conflicts? Is there a better way for this to be done? Is it left up to essentially the personality of the individual and how they want to handle that? Does a concentration of one which is obviously key -- it is usually the way the President starts his day out, with the PDP and the overall management. Can you comment on that and maybe tell us what you think of this?

Mr. Maguire. If we go back to the IRTPA itself, the statute tags ODNI with being the principal advisor to the President and with doing all of these management things for the community. I think the hope was that somehow creating ODNI would solve the problem of the Director of the Central Intelligence Agency, which was essentially the same problem. And I am not sure that this made life any easier for them. But the difference is that I think it is much more soluble. I think the IRTPA put certain management responsibilities on the DNI's plate, and he is also supposed to be

the advisor to the President.

Now, as the WMD Commission report rather wisely pointed out, we don't want to take away at all from the DNI's service to the President. But he could do this, he doesn't have to do it personally every day, and that he could do this in more of an oversight type of capacity. I think it is inevitable that the DNI is simply going to be the person who faces off with the President, and the major policymakers, and foreign governments, and the press, and the Congress on all important matters. He is sought out; he basically can't say, I will only do that 2 hours a day. I think that is totally unrealistic. So he needs to continue to do that.

What has to be found is something within the DNI structure itself where you have an official who owns management. I have not seen that so far. It would be my recommendation.

Each of the deputies has their own portfolio, whether it be an analysis, or collection or acquisitions -- which are a bit broader -- finance, and issuance of policy. But all of those things, each is kind of pushing their own responsibilities and program. What is really kind of missing is someone who owns the responsibility under the IRTPA in all of its aspects; whether it involves collection, or whether it involves acquisitions, who owns this. That is the only way I can put it. I come from the private sector, so owning responsibilities make sense to me, and I think that they have to do something like this.

In a way the creation of the ODNI was a little bit like a corporate merger, and when you do that, many, many mergers fail. So typically a team is selected from each entity, taken from their responsibilities -- think current intelligence -- and all they do is live and breathe making sure that the integration of the merger is a success, and they are held accountable for that success. I think most of the people are accountable for subject matter responsibilities and not for things that would fall under management. There are many directives out there. There are many descriptions of roles and responsibilities, but ultimately execution requires that somebody own getting it done. And this, I think you need to own a broader portfolio than some of the subjects that are behind the organization chart of the DNI today.

Chairwoman Eshoo. I recall so well being invited to a lovely, lovely dinner event where two major corporations had merged, and they were celebrating that. And I was seated at the table of one of the CEOs -- well, the CEO whose company had just acquired the other -- and I asked him, what do you do with the cultures of these organizations? It is one thing to develop a chart and say, this is what your responsibilities are. He said, ah, you have put your finger on one of the most difficult things.

So each agency obviously has their own culture, and I think your observations --

Mr. Maguire. Excuse me. It wouldn't be a bad idea to have somebody in charge of dealing with cultures. This is all part of

the integration process.

Chairwoman Eshoo. Have any of your recommendations been responded to?

Mr. Maguire. Yes. I got some --

Chairwoman Eshoo. There is something in your pause that gives us pause.

Mr. Maguire. All right. Well, my memory may not be as good as it used to be, so what you see --

Chairwoman Eshoo. No, I think your memory is pretty good.

Mr. Maguire. I don't deny it, there is pause here, which, yes, I have had responses on management challenges. The two diagnostics that we did, which you have, which really point out a lot of the confusion, they were done in the summer of 2007 and delivered in the summer of 2008. There has been no formal response to those even though we had deadlines and requests for answers back. I don't think anybody disagreed with the findings, but nothing was done about it, and no one came forward to join with us.

Now, I think to a degree that might be a lack of imagination on our part, because other agencies have a formal process whereby IG recommendations are tracked. So we are in negotiations now to see to it that these things don't just sit on somebody's desk, and then nothing happens; that there will be resources dedicated by management.

Chairwoman Eshoo. And then going back to my earlier question

about a statute, would that help in the process that you just described?

Mr. Maguire. I think it would, because they know it will go to Congress very soon.

Chairwoman Eshoo. I see.

Mr. Maguire. I think the statutory IGs, the community has adapted to the reality that it is all going to go to Congress, so they can't ignore it.

Chairwoman Eshoo. I am going to stop my questioning. I may have gone over time. I would like to ask Mrs. Myrick if it would be all right to recognize Mr. Hastings, who has to leave.

Mrs. Myrick. Of course I am willing to allow that, Mr. Hastings.

Chairwoman Eshoo. Thank you very much.

We have been joined but one of our new members Mr. Conaway.

Mr. Conaway. Thank you.

Mr. Hastings. Thank you, Madam Chair.

And thank you, Mrs. Myrick. I am to chair the Florida delegation at 11:00, and it is our first meeting, and we have everybody from Florida coming to this area, so I deeply appreciate it.

Mr. Maguire, thank you again. I remember meeting you when you first were on the job, and I left the committee and came back in the interim of your being there.

My question goes more to how difficult has your job been in

securing information? At the time that we met, the limited time you had been on the job, you indicated that you thought there was a fair amount of collaboration. But as I reflect on your report and the questions that were just put to you by the Chairlady, it seems as though you did the necessary deep dives and scrub, but you must have along the way met some serious resistance, because nothing has been done on some very significant matters that you pointed out: information sharing, interoperability, just as a couple of for examples.

The one that really raises a big flag for me is a lack of understanding of legal issues. I find that at this juncture -- your pointing it out is what needed to be done, but for there still to be no central line to say what a U.S. person is or no central line to identify the meaning of FISA is troubling to me.

Your response.

Mr. Maguire. Well, I guess it all comes back to leadership that will insist that people put their heads together and get these problems solved. Many of the problems end up in the hands of working groups, which is all fine and good. But working groups that don't have or are not under intense management pressure to get certain jobs done by a certain time can kind of set their own agenda and set their own time frames. These are all very capable people working on these issues, but sort of like a lawyer without a client. Unless you have an angry and impatient client telling you what he or she wants, it is unlikely that the product will be

delivered in a timely fashion and meet certain requirements, to answer that part of it.

In terms of access to information, I can continue to say that in doing our work -- and we have done some very deep dives into not the management challenges; those were not deep dives of the kind where we would go deeply into documentation, which we have done with the dissemination of the compartmented information, with geospatial intelligence which is forthcoming in the acquisition process. All of those are going to be rich with detail and substantiation. We have encountered no resistance at all. People actually kind of like to talk to us. I don't think there is any question about our authority to get it. We have not run into that so far, so I am very happy with that.

Mr. Hastings. All right.

Mr. Maguire. But in terms of getting engagement on major issues, I think it has to be structured in a little bit more or with a little bit more persistent attention from the very top leadership. That is my sense of government. I came from the private sector, and my sense is that things really don't move in the government unless the top person is really ranting and raving about it, pardon the expression, and that is all a very good thing.

Mr. Hastings. I note with interest the use of the term "merger," and I can think of a number of organizations that I participated in as a lawyer merging versus consolidation and just

leave that just as a thought as we look back. But you have given us a lot to work with and some opportunities that as policymakers I think we can go forward.

Madam Chair, thank you. And, Mrs. Myrick, thank you very much.

Chairwoman Eshoo. Thank you for being here.

Can I insert a quick question here about the contractors? Where do the contractors come from?

Mr. Maguire. Mine?

Chairwoman Eshoo. Yes. You said that --

Mr. Maguire. The ones that I have, they come from Booz Allen, KPMG and SAIC perhaps.

Chairwoman Eshoo. That is very interesting.

Mrs. Myrick. Private sector.

Chairwoman Eshoo. Booz Allen stands out, but the previous ODNI came from there and went back to Booz Allen. That is a convenient circle there.

Mrs. Myrick.

Mrs. Myrick. Well, thank you, Madam Chair.

I wanted to follow up. Anna had brought up the point about being advisor to the President, and also the responsibility as a manager of this community, which is a key area. And again, I am sorry you are leaving because your thinking and the way you approach it from a business background, I think, is extremely important to how this comes together, and so your suggestions are

very well taken.

But, you know, then I think are we making this more complicated because we just recently expanded his -- we gave him economic and climate change as part of his responsibility. So we are expanding the portfolio of management, and then, you know, he doesn't have the time to do all this. Are you actually saying that he should have somebody, in effect, under him who would be a day to day -- you know, kick their fannies and make sure something gets done?

Mr. Maguire. Well, the ideal person for that is the Principal Deputy Director of National Intelligence, which is a statutory position, it is Presidentially appointed and Senate confirmed. I think we really don't know what the potential of that position could be or could have been, because our first Principal Deputy General Hayden was basically pulled off of that job quite early with a bunch of things, and then he went to become Director of the CIA, and then that job was empty and held by an acting for a year and a half. And so I think that is an untested asset for management.

Mrs. Myrick. And there is nobody there yet, right?

Mr. Maguire. Correct.

Mrs. Myrick. That is still empty, okay.

Going back to the information sharing, I had a couple of questions. Does ICD 501 really address all of your concerns about information sharing? Do you think that covers it?

Mr. Maguire. It does a pretty good job.

I think rather than us attempting to evaluate what they did, we will go out again in a year and see how it works. We are still waiting for a decision on what we call the sensitive review boards, which was a concept that we put out in our first report, that perhaps the best way to resolve the tension between collectors and analysts -- collectors want to keep it, analysts want to see it -- is to have representatives of the analytic community physically located in the big collection agency so that some of it can be discussed at a working level before it moves up to the various committees that adjudicate this.

I don't know how they are going to come out on that. I would say I would reserve any judgment on what they did. We made our recommendations, they did their directive. Let us see how it works.

Mrs. Myrick. Going back to 501 again, there is certain information that can be exceptions to the rules, but it really doesn't define that, from what I gather. Is that the case, and are they going to do that?

Mr. Maguire. Well, I think there are going to be drafting ambiguities. And I think we will be in a position to talk about that after we have seen whether they are a real problem.

Mrs. Myrick. Is it in process, or are they doing that now or working on it?

Mr. Maguire. Signed out in January, it should be. We are

not studying it now from that perspective.

Mrs. Myrick. No, I know.

You kind of alluded to some of this; your report talked about personal relationships being important in information sharing. Do you feel in any way -- from what you gather, are analysts circumventing what they should be doing and using personal relationships to get information? The second part of that is do they really check the clearances of their counterparts; are we really keeping those walls up that are supposed to be there? I know this committee does this all the time in a great way, especially with staff and whatnot. Is that something that is a challenge or a problem?

Mr. Maguire. I haven't looked at that specifically, but the issues are, number one, there is a very long culture of collectors being the people who decide whether anything goes out the door from their shop. That is ingrained. That has gone for decades. Now with the IRTPA, the responsibility to provide, it is a very different tilt on things, and the IRTPA gave the DNI the authority and responsibility to promulgate rules and procedures relating to these very questions.

Mrs. Myrick. Have they trained them? Is there training going on to see that this is accomplished, from what you know?

Mr. Maguire. I don't know. I don't know. I presume there would be, but I don't know.

Mrs. Myrick. One more question on the IT platform. You said

when it was fully operational, it should work. When is it supposed to be fully operational? Do you have a feel or did you get any idea of when that is going to really happen?

Mr. Maguire. I don't know.

Mrs. Myrick. Because I know that has been an ongoing, forever issue.

Mr. Maguire. And we don't know.

Mrs. Myrick. You don't know.

Mr. Maguire. We don't know.

Mrs. Myrick. Again, that comes from management, from the top pushing and making sure this all gets done.

Mr. Maguire. Yes, yes, it is the people. When it is finished, it will be finished. So the question is should pressure be brought from the outside on that? Some people are doing an excellent job. I don't want to deny them that.

Mrs. Myrick. That is always the way with people.

Mr. Maguire. It has been a while.

Mrs. Myrick. It has been more than a while, I think. I am new from the committee, but I have been watching it from the outside.

Thank you, Madam Chair. I yield back.

Chairwoman Eshoo. Thank you.

Mr. Holt.

Mr. Holt. Thank you, Madam Chair. Thank you for holding this hearing. Thank you for pushing to make this report available

so that we could conduct a hearing on it.

And again, thank you, Mr. Maguire, for your good work. And maybe you are pleased to be relieved, but I wish you were continuing.

First of all, let me ask Mr. Maguire or staff if it is okay to quote in this opening hearing from the report? It is? All right. Fine.

Which gets to one of my basic questions of why in the world should it not be okay to quote from this report? This is not available for general distribution yet; is that correct? Public distribution, your report?

Mr. Maguire. It is unclassified.

Mr. Conaway. It is an open hearing.

Chairwoman Eshoo. As of this morning.

Mr. Holt. Good. Thank you, Madam Chair.

Because I think you raise such important questions that I think -- and I think have such important findings that I think this should be considered widely when you report that there is no standard for information retrieval, lack of interoperability of systems, declining confidence of the employees, lack of understanding by the employees of mission role and responsibility and lines of authority; that agencies rely on personal contacts rather than systematic regulations for acquiring information. And you imply, if you don't actually say, that there is lack of clarity on the law. In other words, you say something or other

that insuring that the IC is complying with the laws is a significant challenge. Mr. Hastings also focused on that point.

Let me ask you if that means that you have reason to believe that there may be some people not following the law?

Mr. Maguire. Well, we get those cases when we get them, and we refer them.

Mr. Holt. Okay. Do you think it is widespread, this misunderstanding of the law regardless of whether they are actually following the law?

Mr. Maguire. Oh, oh, oh.

Mr. Holt. Do you think misunderstanding the law is widespread?

Mr. Maguire. The confusion about the law is not an original opinion of ours. The WMD Commission devoted probably two pages to saying that so much -- it is so complicated, and legal opinions about what the law means are often used to trump action, and there are inconsistencies. And they went on to say that very often understandings about the law are determined by committees, which they referred to as the lowest common denominator; in other words, the most cautious.

So they were basically saying they weren't citing chapter and verse and saying this is wrong and this is right. They were saying, here is a wonderful opportunity for the DNI, who will have an Office of General Counsel, to start to get arms around these issues and try to achieve some consistency.

I mean, we did a study early, early on involving how the notion of U.S. persons was understood and applied in the field among a number of agencies. And I think, first of all, you could have a very clear law, but it has to be communicated in that same form down the line to people who are on the front lines, as it were --

Mr. Holt. If I may interrupt as you make that statement. When you say there is a need to ensure that the IC is complying with the laws, you are not just repeating what the WMD group was saying; these were some additional findings of your own, right?

Mr. Maguire. No. That is what the IRTPA says, that in addition to all the other responsibilities, the DNI shall ensure compliance with the law.

Mr. Holt. What I am asking is whether the lack of clarity on the law is -- you are just restating what others have found. You say it is not an original finding. Are you just restating what others have found, or did you find --

Mr. Maguire. No, no, no, we did some interviews and research out in the field, FBI and others. And there was a divergence even within an agency about what certain terms mean and how you apply them. And that is probably so training-based, I am not sure we can necessarily resolve that. But one of the major issues was the Attorney General guidelines as they applied to the FBI. These have been revised as of December, and it was felt those were making life for agents in the field difficult.

Mr. Holt. Will there be further rounds of questioning?

Chairwoman Eshoo. Yes, absolutely. Thank you.

Thank you for always fine questions.

Mr. Conaway.

Mr. Conaway. Thank you, Madam Chairman.

Chairwoman Eshoo. So glad you are part of the subcommittee.

Mr. Conaway. Good to be here.

I am a CPA by profession, so I --

Chairwoman Eshoo. Is your microphone on?

Mr. Conaway. The green light is on.

So anyway, forgive me if you have already answered this. Has your replacement been named?

Mr. Maguire. Yes.

Mr. Conaway. It mentions in our questions to ask that the current DNI IG is a nonstatutorily position.

Mr. Maguire. That is correct.

Mr. Conaway. So it is at the discretion of the DNI as to whether or not they want one.

Mr. Maguire. Yes.

Mr. Conaway. Did that hamper your ability to do your job? Would it have been better to have had it statutorily set?

Mr. Maguire. Well, at this point having statutory structure would make a huge difference to our independence. As you probably know, an inspector general office that can be abolished by the Director of the agency is deemed not to be independent under the

GAO yellow book for audits. We simply are not independent by definition.

Mr. Conaway. Sure.

Mr. Maguire. So to have a truly independent IG, first, it seems to me, the office has to be permanent, set up by statute, and not at the discretion of the DNI. Whether he would do it or not is really irrelevant.

Mr. Conaway. True. I agree that it ought to be statutorily defined.

You mention in your testimony that there is a series of ICDs or Intelligence Community directives that are in the pipeline.

Mr. Maguire. Yes.

Mr. Conaway. Hung up for whatever valid reason or not valid reason. And then we have added Executive Order 12333 to that, and the required instructions or directions there. What is the overall timeline that you see happening versus one that in your collective background it ought to be on? What kind of a timeline should it be on to get those fleshed out?

Mr. Maguire. First of all, we would not know the time lines. That depends on the people working on it, and they might make, well, end of the year or something along those lines. But we don't have an independent assessment that we can give you about when these things are really going to be coming out.

Now, the 12333 exercise did consume a lot of the talent that had otherwise been writing the Intelligence Community directives.

That is a core function of the DNI is to write these directives, to craft them and write them and get them out. It has been on the slow side. There have been some important issues like definitions of geospatial intelligence that had been hanging around for a while. They have gotten important ones out recently, so in fairness to them --

Mr. Conaway. Is that a lack of a top-down push, or just a decision to say we have limited resources?

RPTS COCHRAN

DCMN HOFSTAD

[11:00 a.m.]

Mr. Maguire. If the top person wanted to get it, it will come out faster.

Mr. Conaway. It could be done quicker.

Mr. Maguire. It is a resource question also. I mean, look at the Internal Revenue Service. I mean, one of their functions --

Mr. Conaway. I try not to. I did it for 30-plus years.

Mr. Maguire. -- is cranking out those regulations and interpretations and rulings. I mean, they have a lot of resources dedicated to that --

Mr. Conaway. And a big backlog.

Mr. Maguire. -- since that is what it takes.

Mr. Conaway. Sure. When I read through 12-333, whatever the appropriate insider buzz words are for the deal, and it says, the DNI shall do this, this, and this specifically, I put my audit hat on and I automatically think, well, how does the DNI know that he or she has done those things?

Is the role of a statutory IG one who would take that executive order and say, all right, we are going to create an audit program, for lack of a better phrase, that says, this is what should be done, and we are going to look to see that it has

been done, and if it hasn't, you will bring forth recommendations. Is that it?

Mr. Maguire. Yeah, we could do that.

Mr. Conaway. Should you do that? Since you are leaving and are going to hand it off to the new guy, you can commit him to anything.

Mr. Maguire. Yes, but when you think about management, they really should be able to build a plan with to-do's and follow up on it and make sure that it gets done in a timely manner, rather than having the IGs go in.

And, very often, an IG report will say, "Well, they didn't do this, and they didn't do that, and they didn't implement the recommendation we said in the last report." That is a sad way to do business. I think the way to do business is to have forceful management that, you know, it is do or die, insists.

Mr. Conaway. Well, but even with forceful management, you still have to have an audit report that --

Mr. Maguire. Yes, but then our audit report would be true audit, rather than trying to get it done.

Mr. Conaway. Right. Okay, okay. I understand the difference between those two.

Thank you, Madam Chairman.

Chairwoman Eshoo. Thank you, Mr. Conaway.

Just for the record, to refresh members' memories, in both the fiscal year 2008 and fiscal year 2009 authorization bills, we

did insert language in terms of a statute relative to the IG for the ODNI. In 2008, the President vetoed the legislation. It was tangled up in the interrogation issues. In 2009, we didn't have a bill.

But I think this is something that we need to go back to, and I see that there is strong bipartisan interest. I raised the same issues as you did, Mr. Conaway, and I am glad that you did, because it sets it down once again. So I just thought I would mention that.

Now, let's see. Mr. Holt?

Mr. Holt. It is probably Ms. Myrick's turn, although I will be happy to take the microphone.

Chairwoman Eshoo. Well, we went to Mr. Conaway, so now we are back to our side.

Mr. Holt. All right. Thank you.

Chairwoman Eshoo. If I have messed it up, I apologize, but there are just a few of us, and this is not casual but it is comfortable.

Mr. Holt. Yes, and there should be enough time for us to get through here.

You know, just to continue on listing some of the findings: directive stalled for more than 2 years; the collectors control and limit the data that are essential, in your words, essential for analysis; that, in sum, the Intelligence Community appears to be managed by the DNI only by the consent of the agencies. You

know, directives stalled for greater than 2 years, and now we have the DNI returning to a management consulting firm?

Let me look more at some of the legal issues and some of the FISA-related issues that you raise. You say that the DNI has made substantial efforts to improve the FISA process.

Mr. Maguire. Yes.

Mr. Holt. And yet there is evidently a great need -- well, maybe I am overstating it -- at least a need for enhanced training. You also say there is a need to resolve issues regarding the inclusion of FISA-derived identifiers in the National Crime Information Center.

Could you talk about those two things? What do you mean that there is a need for enhanced training in the FISA process? And what do you mean about the need to resolve issues regarding inclusion of FISA-derived identifiers?

Mr. Maguire. We have put these issues into the hands of the FISA Working Group, which is sponsored by the ODNI. And I would say that we are going to rely on them to address these issues that we raised.

Certainly, training on anything this complicated is absolutely, absolutely key, because if the people in the first instance don't really have a handle on how to do things, it is going to slow down.

Mr. Holt. I mean, can you say a little bit more about why you think training is needed? Did you see -- you know, without

going into -- this is an open hearing -- without going into classified matters, did you see slip-ups?

Mr. Maguire. Yeah, poor paperwork. We are aware of instances where inadequate paperwork was coming up out of the FBI, was reaching the Justice Department. Questions back and forth and corrections that had to be made, which slowed it down.

I mean, logically if the people who had first initiated the paperwork had been more up to speed on exactly what would be required to take one of these applications through to the FISA court, it would have cut numbers of days off of the process. And the only way you can reach that is either by putting the talent down there or training up the people there. I mean --

Mr. Holt. Were you or your people able to gain access to the process that was carried out under the FISA law to look at how the collection is done?

Mr. Maguire. Yes.

Mr. Holt. And whether, step by step, that complied with the law that we debated so painfully here, repeatedly and painfully, here on the Hill?

Mr. Maguire. Well, as I say, we made ourselves familiar with it to see whether there was an issue worth talking about, because this is really not in our lane.

Mr. Holt. Why is it not in your lane?

Mr. Maguire. Because we look at processes, not law. And we have lawyers who are working on this and should be making the

necessary improvements.

Mr. Holt. Well, but the process is surely -- I mean, this is a matter of process, as well --

Mr. Maguire. Yes.

Mr. Holt. -- it seems to me. So it does seem to me to be in your lane, that even if, because of the complications of this legislation, that even if there are legal transgressions, you need to look at it also, because that is a process transgression.

Mr. Maguire. That is correct. I would say, we started on that, we reached a certain point, and we turned over our views to the working panel. One could reopen it.

Mr. Holt. I mean, because the FISA process is necessarily interagency -- now, DOJ, which is not part of the IC, but it does involve the DOJ, it involves the FBI, it involves collection agencies -- it seems to me that does really come under your purview, or the DNI's purview, I mean. And, therefore, the DNI, as the person who is supposed to see that the procedures are followed interagency, should be looking at this, and you should be reviewing it.

Mr. Maguire. Yes.

Mr. Holt. And do you think you did review it thoroughly?

Mr. Maguire. No.

Mr. Holt. Do you think it needs further thorough review?

Mr. Maguire. We did a certain amount, identified issues, fundamentally, how efficiently is this running? Could it be

improved? And we reached no conclusions. We turned it over to the FISA Working Group, who are people that are intimately familiar with the FISA process. And we can always check in with them again to see if how they have done.

Mr. Holt. Thank you.

Thank you, Madam Chair.

Chairwoman Eshoo. Mr. Maguire, who comprises the FISA Working Group?

Mr. Maguire. It is representatives --

Chairwoman Eshoo. From?

Mr. Maguire. It is staff from the DNI, including individuals who have been detailed to the DNI from the Department of Justice. And then I think we also have currently serving -- do we have currently serving Department of Justice? It is a combination.

Mr. Holt. Detailees from how many departments?

Mr. Maguire. Well, from the Department of Justice.

Mr. Holt. Is that releasable?

Mr. Maguire. Can we get back to you on that? This goes into a depth that I really can't speak to by myself.

Chairwoman Eshoo. Ms. Myrick?

Ms. Myrick. I am back to the collaboration issue again, of the agencies working together. Are there any good models you saw of agencies, and who are they? Who is the best? Who is the worst? Can you give me some definition there?

Mr. Maguire. Well, this is all highly impressionistic. We

have not formally found that certain agencies are working very well together. It would be a tough standard to define.

NCTC appears to be quite a success story. It is well-run. They co-locate professionals from a variety of agencies. They have outreach. So they are a mixed agency.

So, I mean, the first step toward collaboration is to get two people in the room, and they have really done this in a very big way. And I think they have good relations with their counterparts, which would be FBI, DHS. They draw on most of the agencies in preparing the counterterrorism information.

So I would say that that was -- and they also set up a group within the NCTC that has outreach to State and local, to help find out in what form would intelligence coming out from the Federal level be useful to State and local.

I would say that CIA and FBI's relationship -- which, you know, historically from the days of Donovan and J. Edgar Hoover, has been contentious from time to time. And then when you had the espionage cases of Ames and Hansen, there was a fair amount of bad feeling between them. I would say all of that is improving significantly. There have been transfers, exchanges of fairly high professionals, and that always produces a good result. I mean, we had a CIA intelligence expert over at the FBI in a senior position for quite a while. FBI people are up in the CIA doing counterespionage.

So I would say that, in general, all of that is -- that there

are some very good stories.

Ms. Myrick. Is that due to the directors themselves being willing to work together?

Mr. Maguire. You know, that is a good question. I think part of it is just grassroots --

Ms. Myrick. It is happening with the people who are on the ground, in effect, rather than at the top.

Mr. Maguire. I think there is plenty of it at the top, but my sense is that the people down the line have accepted the notion of working together. I mean, this is preached by leadership.

Ms. Myrick. That is good.

I have another question about the financial management. You said that the IC is consolidating financial management of the CIA and several other agencies into two systems. When do you expect that to be achieved? I mean, are we looking at the same challenges with all the IT stuff with this too? I mean, is this another one that is who knows when?

Mr. Maguire. I don't know when. I don't know when.

Ms. Myrick. Does anybody?

Mr. Maguire. There are certain deadlines. The SSCI wrote to Director Blair saying, we want to have certain stuff by December of 2009.

Originally, the auditability timeline that was presented by the DNI up here was 2012 for full, qualified audit opinions on the financial statements for all of the agencies. Now that they are

going to what we call business process restructuring, that is going to move those dates out. The people have not come up with a new deferred date yet.

Ms. Myrick. Oh, that is just real nice.

Mr. Maguire. Well, I think you will find that the SSCI --

Ms. Myrick. But it sounds like, again, this is another area where there needs to be some, in effect, pressure put on from above to make it happen.

Mr. Maguire. Somebody big needs to say, "I insist on this."

Ms. Myrick. Thank you.

Thank you, Madam Chairman.

Mr. Maguire. And even saying it is not enough. It has to be enforced, up and down, up and down, the chain. Because, historically, you can understand that systems and finance are not the normal areas of activity for leaders in the Intelligence Community. They lead because they know intelligence. This is a very different discipline.

And there for a while, when the money was flowing, you know, mission comes first. Balancing the checkbook wasn't quite as important, but now it is because the money isn't as available. And, anyway, other agencies committed and have gotten out auditable financial statements for a number of years now, and the Intelligence Community just seems to be having a very hard time crossing that line.

But the ODNI, the CFO, and we kind of can't do this work, but

we are supporting it and assisting them in any way that we can.

Ms. Myrick. This is Mr. Conaway's area of expertise, so hopefully he can help us with this.

Chairwoman Eshoo. We are going to count on his leadership on this issue.

Let me ask you, Mr. Maguire: When your report was complete, did you have the opportunity to sit down with the DNI to walk through this? Or is it something that --

Mr. Maguire. I sent it to him with a cover note.

Chairwoman Eshoo. Uh-huh. But no meeting with the person?

Mr. Maguire. Correct. Correct.

Chairwoman Eshoo. I see. And that is with the new DNI?

Mr. Maguire. The old one. Because we issued this under the old DNI.

Chairwoman Eshoo. You are right. I am sorry.

Mr. Maguire. The new DNI says, fine, go up and brief the committee.

Chairwoman Eshoo. Uh-huh.

The entire committee, House committee, HPSCI, had on an obviously bipartisan basis, when I say the entire committee, had very strong sensibilities about the size, the overall size of the organization, the cost of it, et cetera, et cetera. And that wasn't just a stand-alone issue. It sprung out of our concern of a collaborative effort, the closing down of the stovepipes, essentially the scenario that allowed 9/11 to happen.

What would you instruct us about that size of the organization? I think sometimes, with all due respect, we get stuck on numbers. But our dissatisfaction and our frustration was really what surfaced as a result of those numbers; that we didn't hear a clear mission, that it wasn't clear to the committee that the old structure was being taken apart with a new one being put back together.

Is that sensibility, do you think, on target relative to the committee?

Mr. Maguire. Well, you are spending the money; what are you getting for it?

Chairwoman Eshoo. Right.

Mr. Maguire. I mean, what is your baseline here? Is it the IRTPA? It probably is.

Chairwoman Eshoo. It has to be. That is the law.

Mr. Maguire. So is the organization -- and I don't know the answer to this, but if I were to look at it, if I were in your shoes, I would say, first let's establish what the fundamental mandates -- and there are a number of them -- in the IRTPA are.

And then I would say, does the organization and directionality of the ODNI organization, as it has been put together, is it designed to accomplish what we consider to be, what Congress intended to be, the objectives to be achieved here? Have they got their resources aligned to execute? And that is really the basic fundamental question.

And then I suppose there is a certain amount of prioritization of how many of the resources do you put on information sharing, how many do you put on joint duty, et cetera. You just take a 10,000-foot view here.

And then I think you would start to get a sense of whether the money is being spent and how much of it, and whether the people who are doing it are the right people to do it. I mean, it always comes back to that. I mean, we have a lot, as I have said, a lot of deep subject matter experts. But this is a management organization; it is not a retail. I mean, they have certain responsibilities, not to be denied. They are responsible for rounding up intelligence and all sorts of things of that order.

But do we have the strength that we need in finance and acquisitions? Those are going pretty well. I don't feel that it is a heavily overstaffed -- I mean, just when you consider the breadth of the mandate. I often found in the private sector when a client complained about a bill, it wasn't the actual size of the bill, but it was the quality of the services. So if the jobs were being done to your satisfaction, if you felt it was properly aligned, I doubt that you would have trouble with a 600 or so core people.

Because the centers, I think, are different. At the NCTC, NCIX, NCPC, et cetera, I think they are doing very concrete jobs, and I would be reluctant to say that they are overstaffed.

Chairwoman Eshoo. I think we share that view.

On the issue of IT, where would you place that now, in terms of progress?

Mr. Maguire. I don't know. That is --

Chairwoman Eshoo. It is so essential to the operation.

Mr. Maguire. It is.

Chairwoman Eshoo. I mean, if there really is going to be integration, you have to have --

Mr. Maguire. It may be your most pressing management challenge. I mean, there won't be information sharing if we don't get this --

Chairwoman Eshoo. Exactly, exactly.

Mr. Maguire. There won't be acquisition. There won't be rigor with resources if we can't get that right. And the enterprise itself is not going to run optimally if we can't get that right. I think that is your number one.

I mean, I am just thinking out loud here. We have no formal finding to that effect. But it is big. And a lot of time was lost, I have to say. There were some missteps.

Chairwoman Eshoo. Well, you have certainly given us a roadmap.

Mr. Conaway, would you like to ask some more questions?

Mr. Conaway. Let me have one more round, and then I have to leave, as well.

How many of the IC agencies are audited now? Do any of them have audited financial statements?

Mr. Maguire. Oh, they are all audited. The question is whether they can --

Mr. Conaway. How many of them have unqualified --

Mr. Maguire. Well, DOD cannot get an opinion.

Mr. Conaway. Right.

Mr. Maguire. And none of the sub-agencies like DIA, NSA, NGA. NRO is very close to having an audit opinion from an outside audit firm.

Mr. Conaway. Rather than walking through one by one, is that information available to the committee? Could you give that to us, which ones are and which ones aren't?

Mr. Maguire. Yeah, I think they are.

Mr. Conaway. I am actually, Madam Chair, a little bit embarrassed that, based on my background, I haven't been more insistent that --

Chairwoman Eshoo. Well, you have just started. But you are going to be our point man now. You are hereby anointed our point man on this, seriously.

Mr. Conaway. -- that we do ask each director, either in closed session or wherever, where do you stand on your audit and financial statements?

Chairwoman Eshoo. You are absolutely right.

Mr. Maguire. Some of the staff has worked this vigorously.

Mr. Conaway. Okay. Well, we will start pitching in from -- I don't know who you are referring to by "somebody big" needs to

do it, but wherever we are on that pecking order, we will pitch in to do that.

So, again, Mr. Maguire, thank you for your long service.

Mr. Maguire. Well, I can answer the question you asked me very early on, which is whether we would audit compliance execution of the 12-333 obligations. I am informed that we do have -- we would not call it an audit, but an inspection in our work plan. That will be coming up. We are designing the inspection plan for that, and we will be executing it possibly next year; I am not certain.

Mr. Conaway. That is encouraging. The sooner, the better.

Mr. Maguire. Yes.

Mr. Conaway. Thank you.

Thank you, Madam Chair.

Chairwoman Eshoo. Rush?

Mr. Holt. On that last comment, it comes as a surprise to me that there are even partial audits in the agencies. And I look forward to getting for the record this information about what is done currently.

Let me follow on one of your other findings, which has to do with the so-called problems you identify that are created by lack of consistent understanding of the rules with regard to U.S. persons.

Mr. Maguire. Yes.

Mr. Holt. You called for an expedited approval of some

common rules. Do you know whether that has been done since your report of last fall?

Mr. Maguire. Well, I think that true commonality is probably unachievable here, but that each of the agencies' rules for dealing with U.S. persons have been drafted and are now in the hands of the Justice Department, because it is the Attorney General who has the final say on all of this.

Mr. Holt. Say a little bit more about why you think it is needed. If you say common rules can't be achieved, which is what I thought I just heard you say, why are you asking for finalization of common rules?

Mr. Maguire. Well --

Mr. Holt. I mean, maybe you should back up a little bit and explain what is the problem that you are addressing here and why the recommendation to get as much commonality as is possible was made.

Mr. Maguire. Well, that came from the WMD Commission. And I think they felt that it was not a very good way to do business if the definition of U.S. persons was different, say, in one agency versus another, and that U.S. persons is, of course, a threshold definition to determine what rules are going to apply to specific intelligence that is collected.

So that was the WMD. The DNI established a working group to go to work on this of primarily lawyers. And --

Mr. Holt. And has that working group completed its work? Is

that what these rules that are awaiting finalization come from?

Mr. Maguire. I think they have.

Mr. Holt. You think they have completed it?

Mr. Maguire. Yes.

Absolute identity of the rules obviously is not achievable, but common notions of what a U.S. person is is a worthy goal.

Mr. Holt. I would like to think so.

Mr. Maguire. Yes, that is a worthy goal. It is not that the rules would all be the same, but that the definition of U.S. person, since it is a threshold definition --

Mr. Holt. Sure, collectors in different agencies collect in different ways. Analysts in different agencies analyze for different things. Nonetheless, the commonality about the relationship -- I mean, this gets at the heart of the relationship between the Intelligence Community and the United States of America.

Mr. Maguire. Yes. Yes.

Mr. Holt. It seems to me.

Mr. Maguire. Yes. So, after we have done some work for them, we somewhat disengage from the process, on the expectation that the working group would continue this work. And they have represented to us that they have done this and they have presented it to the Justice Department. It is not completely done yet; it will continue to be worked on. But I think it is entirely fair to ask them what they have come up with, remind them of the WMD

Commission.

Mr. Holt. And whom do we ask?

Mr. Maguire. You would ask the DNI general counsel.

Mr. Holt. Okay.

Mr. Maguire. "How are you doing on all of these things?"

Mr. Holt. Okay. If I may, just one other quick question.

Did you have a separate report on acquisition procedures?

Mr. Maguire. That is coming. That will be forthcoming in a few weeks.

Mr. Holt. Okay. So this is something that was completed under your watch?

Mr. Maguire. Yes. That was started last September. The phase one is completed. I will be signing that report at the end of this week.

Mr. Holt. And this was looking at multiple agencies?

Mr. Maguire. Well, first it is looking at the ODNI oversight process, the responsibilities being exercised under the IRTPA, and seeing how well they are doing there. So that report will be going to the DNI and should be making its way to you.

Mr. Holt. I look forward to it eagerly.

Mr. Maguire. We think it is quite a good report. It is not -- it is pretty good news, but there are obviously many ways in which it can be -- it all goes to governance, decision-making, making decisions about very expensive programs and getting it right early on, rather than reaching the point where you either

have to pour more money into it or kill it.

I mean, that, in layman's terms, is what we would like. That is one of the recommendations, you have to pull these critical decisions earlier in the process, before you really, really are committed. And then there are a number of other things that go on that we think could be tightened up.

Mr. Holt. Thank you very much, Mr. Maguire. And thank you, again, for what you have done.

Madam Chair, I would like to ask that this subcommittee bring in appropriate people from the ODNI to look at some of these specific points raised.

Because, as you have alluded to, we have some major decisions to make, actually in the coming weeks, about the extent to which we should revisit the major legislation, whether the ODNI should be reorganized, whether some of the problems identified come from growth that is too rapid -- all sorts of questions that our colleagues on the full committee have raised from time to time over the last 4 years or so.

So I thank you for beginning this, what I hope will be a series of hearings.

Chairwoman Eshoo. Well, I fully agree. And I think that we would not do justice to the work that Mr. Maguire has done unless we do exactly what you described. So we will. We will do a series.

I just leaned over and shared with our ranking member the

following. Every day I ask myself this question: God forbid, if we are hit again, the question that I would be asking, what was it that we did not do? What was it that wasn't followed up on? What was it that was either left out of the law or left unattended to that would have allowed something to happen?

So these are really profound issues. This is not some dusty report by, you know, an IG's activity and something to keep us busy to have hearings on. This all goes back to, in a very simple but profound way, how we protect our country. And we can't ever, ever lose sight of that.

I appreciate the very, very fine questions that members have asked.

And I want to thank our staff. I think that you all know that I have a liking for and a preference for public hearings, but that requires more work on the part of our staff. We can go to where we usually go to, and everything is already set up there. But when we have a public hearing, they have to do a lot more to get the room set up and the equipment and all of that.

So I want to call out their names and thank them, on both sides of the aisle. They work as a great team, and I have a great deal of respect for them. I am just going to use first names: Mieke, Jamal, Ashley, Josh, and Diane. So thank you to each one of you for what you have done to help make this happen today.

And, Mr. Maguire, thank you for your magnificent public service. We all have a great deal of regard for you. And we

appreciate not only the work that was put into this report, your steadfastness, but also how you have expressed all this to us. It is so digestible. And you have made it that much easier for us to not only understand and comprehend, but helped to create a pathway forward on what the subcommittee can do.

So we thank you. We wish you well. I hope our paths will cross many, many times in the future. You are a fine person, and you have done beautiful work for the American people, and we salute you for that.

With that, we will close the hearing.

And to the audience that is here, thank you for being here with us, as well. It wouldn't be as much fun, I guess, if we looked out and the room were empty. So thank you.

[Whereupon, at 11:34 a.m., the subcommittee was adjourned.]