A Personal Perspective

The Evolution of Intelligence Reform, 2002–2004

Philip Zelikow

Large organizational change in the United States occurs in evolutions, not revolutions.

> **"The basic issues were: How much centralized managerial authority was required? Where should this authority be located in the government?"**

Preliminary accounts explaining how and why major organizational reform of the US intelligence establishment finally occurred after 9/11 have appeared. So far, none has been satisfactory, although I believe Michael Allen (currently the staff director of the House Permanent Select Committee on Intelligence (HPSCI) and former senior National Security Council (NSC) official) is preparing a good one. There are some gaps in published knowledge that I can help fill.

Before I provide my view of the events that led directly to the passage of the Intelligence Reform and Terrorism Prevention Act (IRTPA) of December 2004, I wish to offer a perspective on the basic choices that were to be made with intelligence reorganization. Because the legislation itself involved so many points of detail, fundamental issues can be obscured. The basic issues were: How much centralized managerial authority was required? Where should this authority be located in the government?

A starting point was the struggle between CIA Headquarters in Langley, Virginia, and the Pentagon. This long-running tug-of-war was complicated by 9/11 and the increased salience of domestic intelligence that followed. Then the issue was complicated again by the Iraq War controversy and arguments about analytical quality and detachment. All three of these concerns influenced the law that emerged at the end of 2004.

Apart from the broader reorganization of the Intelligence Community (IC), another significant reform was the establishment of the National Counterterrorism Center (NCTC). This innovation has been important in counterterrorism (CT) work. It has also spurred some attention as a novel way of organizing other joint work, federal and intergovernmental. The NCTC model is also getting some notice from folks puzzling over how to organize cybersecurity work.

Historical Context

Why should anyone care about "intelligence reform?"

The organization of the IC is an arcane topic to people not close to it. And it can be numbing to plenty of insiders too. Intelligence is one of the largest enterprises of the US government. The National Intelligence Program is currently funded at $55 billion a year.[1] As a part of the discretionary portion of the federal budget, this scale—if it were a cabinet department—would be the fourth largest in the government,

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behind only Defense, Health and Human Services, and Education. The National Intelligence Program is thus a good deal larger than, say, the Department of Homeland Security, or the Department of State and the various international affairs programs, or the Departments of Interior, Justice, Energy, Transportation, and so on.[a]

Since the early 1950s the US government has set up an almost incomprehensibly vast number of activities to "watch" what is going on around the world. The world is a big place. So the government makes many kinds of choices about how to direct its attention. Distill them to their essence and a lot of the arguments about intelligence reorganization just boil down to this: Who will decide what channels to watch?[2]

Hundreds of thousands of people will be recruited, trained in particular ways, and deployed to certain units and places to answer someone's questions. Very expensive machines will be designed, procured, and operated to do the same. All of this effort is designed to see and hear people or other items of interest. Of interest to *whom*? *Who* decides?

The Early Organizations

There is good material on the creation of the CIA, especially in the relevant volumes of the *Foreign Relations of the United States* series specifically on this topic (1945–1950, 1950–1955). Solid surveys of the whole history of intelligence reform efforts are the two monographs published by CIA's Center for the Study of Intelligence: one by Michael Warner and J. Kenneth McDonald and another by Douglas Garthoff.[3]

Despite the significance of the 1947 and 1949 legislation, the modern CIA really came into being after the tremendous intelligence shocks of the Korean War. Before the Korean War the CIA was a shell, mainly used to collate State and military reports. The character of the North Korean attack was itself a shock, a kind of intelligence-policy failure. Perhaps most shocking were the misjudgments about Chinese moves during October and November 1950.

From November 1950 onward, the country began preparing in earnest for World War III. Truman appointed a new director of central intelligence right after the Korean War began: Walter Bedell "Beetle" Smith. Smith had been Eisenhower's chief of staff during World War II. The CIA was transformed. NSA was created in 1952. The term "intelligence community" first came into use that year. Resources flowing into every aspect of intelligence work massively increased. Building on skeletal frameworks created in the 1940s, much of the recognizable national security state we have today took shape in the 1950s and early 1960s. By 1960 the major fault lines in the sprawling new intelligence establishment had appeared. These same fault lines would be evident for the next 40 years and vestiges of them remain today.

On one side of the most important fault line were the advocates for the primacy (to answer all those "who" questions posed above) of "civilian," "strategic," or "national" intelligence. These broad perspectives were identified with the CIA—with "Langley." The State Department's earlier role in providing "civilian," "strategic," and "national" intelligence was eclipsed, though it did not disappear.

On the other side of the basic fault line were advocates for the primacy of "defense" or "military" intelligence. These wartime perspectives were identified with the Department of Defense and the armed services—with "the Pentagon." If the main business of the government was to prepare for war, the needs of the potential warfighters had to drive the system.

From the mid-1950s onward the public battles over intelligence organization were often paralleled by debates in a more secret realm, centered on what is now called the President's Intelligence Advisory Board (PIAB). This board was long known as the PFIAB. In 2008 the "F" for "Foreign" was removed from its

[a] The DHS budget, for instance, is in the neighborhood of $40 billion. One could categorize additional federal spending as "homeland security" spending and push that number toward $70 billion. But one could respond by similarly calling out the IC "reserves" and including the Military Intelligence Program in that budget figure, which would then push the intelligence total toward $80 billion.
The National Intelligence Program budget is lower than that of the Department of Veterans Affairs, but a large part of the VA's spending is not discretionary. All numbers are derived from figures published by the White House.

title. Though there is evidence about its work, the board's work has been little noted by historians, even CIA's historians.[a]

The board had come to prescient conclusions about the basic problems of IC management by the end of the 1950s. At an NSC meeting on 5 January 1961 to discuss PFIAB's ideas and other proposals to consolidate intelligence management within DoD, the notetaker recorded the following illustrative exchange, worth quoting at length:

> *The President* [Eisenhower] *believed that the Services should collect battlefield intelligence but did not see the necessity for strategic intelligence in the Services. He wondered what intelligence officers in the Services could do to get information from the center of the USSR and correlate it with intelligence on the rest of the world.*
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> *He said when he supported the establishment of the Central Intelligence Agency in 1947, he did it on the basis that the function of strategic intelligence should be in CIA and that duplication should be eliminated.* [JCS Chairman] *General* [Lyman] *Lemnitzer felt that the acquisition of technical intelligence, e.g., information about enemy nuclear submarines, required officials who know nuclear submarines…. The President believed that the information referred to by General Lemnitzer was battlefield intelligence, whereas the discovery of the shipyards where nuclear submarines are being constructed was the business of CIA. He did not see why four intelligence services should attempt to find out where the submarines were made. He believed it was the function of CIA to acquire strategic intelligence.*[4]

Eisenhower's PFIAB had a similar view. But it also thought that, if the job was properly conceived, it was too big to be given to the CIA director. The board put it this way:

> *We believe that the situation would be bettered substantially if the DCI would divest himself voluntarily of many of the functions he currently performs in his capacity as Head of CIA and by assigning such duties elsewhere within CIA. To accomplish this purpose we again recommend that he be provided with a Chief of Staff or Executive Director to act for him, together with the Deputy Director, in the management of the CIA, thereby relieving him to perform the even more important duty of coordinating, integrating and directing all U.S. foreign intelligence activities.*
>
> *After a reasonable trial period, if this course of action does not accomplish its intended goal, serious consideration should be given to complete separation of the DCI from the CIA.*[5]

The Kennedy administration did not act on this particular set of recommendations. Instead it did pursue the parallel project, long under way, to consolidate some of the intelligence work being performed in the Pentagon. So JFK's administration established another major institution within DoD, a Defense Intelligence Agency (DIA).

Four Models of IC Management

For the next 40 years, the running argument posed roughly *four* models for solving the problem of intelligence community management, deciding which questions to answer and how to answer them.

- ***Pentagon-centered.*** DoD should have direct budget and personnel control over most of the intelligence establishment. Defense concerns were the main concerns. The rest was niche collection (human agents) or analysis no one else, like State, wanted to do or cared to do well.

- ***Langley-centered.*** The director of the CIA should also have, as director of central intelligence, direct budget and personnel control over most of the intelligence establishment, including the major "national" agencies involved in technical intelligence collection.

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[a] Eisenhower created the board toward the end of his first term in office. He created it after first having used an ad hoc group, headed by Air Force Gen. James Doolittle, to report to him on CIA covert operations and other matters. Doolittle would later be a member of the regular board, whose first chair was MIT President James Killian.

Noticing the rapidly growing size of the IC, with its new programs for technical intelligence collection, the Nixon administration's budget office prepared a landmark report

Or, if that was too much for one man, the DCI could devolve some of his CIA management to a deputy. But the DCI would remain based at Langley, intimately connected to and identified with the CIA.

- ***White House–centered, driving an interagency committee system.*** The weak version of this idea would be a White House chair of a committee of agency heads. The strong version ("driving") would have Congress appropriate the money to the White House official, who could then better enforce the decisions.

- ***A separate "director of national intelligence"*** to run the conglomerate. In this option the power center would be separate from Langley, separate from the Pentagon, yet not clogging up the White House.

In the decades before 9/11 the US government essentially chose option 1—*Pentagon-centered*.

Since the director of the CIA was still a focal point for the leadership of "intelligence" in the eyes of the president, the Congress, and the public—a focal point for issues of covert action, espionage, and daily analysis—my characterization of this long period as "Pentagon-centered" may seem odd. But in describing it this way I am describing the objects of attention, the resource flows, and daily management of the whole enterprise. From a budget point of view, before 9/11 the resources devoted to intelligence usually coursed through three major budget programs. Two of these, crudely accounting for about half the resources, were entirely run by the DoD. The other program, which included the national technical agencies, was mainly (except for the CIA) implemented through DoD.

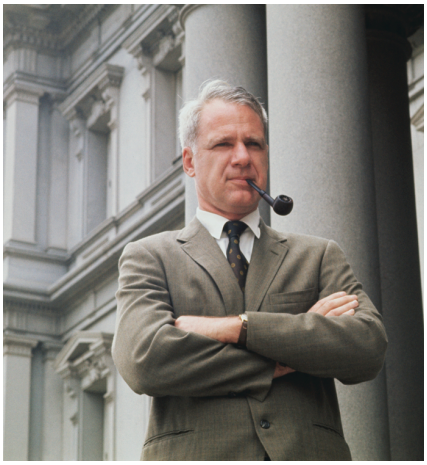
And the money for all the budget programs, even for CIA, was appropriated by the defense subcommittee of the appropriations committees in the House and Senate. This was supposedly done to hide the budget programs from public view, though it meant that defense appropriators had the final say on who would get what.

CIA had to fight to gain even elemental roles in core Cold War work, like analysis of the Soviet military threat. This bureaucratic place was attained slowly and painfully, mainly in the 1960s. The CIA gained this key role partly because of niche work the Agency had begun doing in the 1950s on the Soviet economy, which no one else had wanted to do well, and because it had pioneered some of the critical early forms of overhead intelligence collection and analysis of the collected imagery. The Cuban missile crisis had provided a rather compelling example.

It is hard to calculate the objective results of the Pentagon-centered system in dollar terms. But if someone with relevant clearances attempted to analyze resource allocation of the entire intelligence effort between "defense" and "other civilian" purposes, my very rough guess is that the analyst would find that a large majority of the spending was allocated to "defense" purposes and questions. If I had to make a ballpark estimate, I would conjecture that during the Cold War the "defense" proportion of the intelligence effort was at least 85 percent and that today, more than 20 years after the Cold War's end, it is still at least 75 percent. These are just straw estimates to provoke reflection: perhaps others who are more informed can venture better ones.

Noticing the rapidly growing size of the IC, with its new programs for technical intelligence collection, the Nixon administration's budget office prepared a landmark report, known for the name of the Office of Management and Budget (OMB) official who took the lead in writing it —James Schlesinger. Schlesinger's March 1971 report floated the idea of creating a "director of national intelligence" (DNI) to oversee the burgeoning enterprise.

As in 1961, two recurrent concerns animated this reform proposal. One was substantive: a Pentagon-centered approach tended to be more parochial, less objective



James Schlesinger, as deputy director of Office of Management, floated the idea of creating a director of national intelligence in 1971. Photo © Bettnamm/Corbis.

(about the Soviet threat or the Vietnam War, for example) than a broader and more detached perspective on current events centered in Langley, informed by daily interactions with the White House. The other was managerial: overall Community management needed to be stronger, and the Pentagon—the military—could not run, should not run, the whole national show.

On the question of how much more centralized authority to add to the status quo, the Schlesinger Report articulated the option of going all the way, with most intelligence funds appropriated to the DNI office. Since that DNI would be in Langley, the disadvantages flowed from that—like the danger that the CIA director would be overwhelmed by the additional work—and Defense resistance. The other option for change was a stronger DCI who would be a "*de facto* manager of most resources even though they are not appropriated to him."[6]

This DCI option was also meant to be Langley-centered but in this vision Schlesinger hoped that the DCI would no longer manage the CIA and its covert operations. Someone else would run the CIA while the DCI devoted "most of his attention to substantive intelligence matters, the tasking of collectors, and community resource management issues as they relate to his production activities."[7]

Schlesinger's third option was a "coordinator," perhaps centered in the White House, leaving the status quo structure in place. This, he feared, might just add friction without enough management gain.

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The outcome of the Schlesinger report and follow-on work were amalgams that strengthened the DCI role of the CIA director, while encouraging more consolidation of defense intelligence management within the Office of the Secretary of Defense (OSD). Schlesinger would go on to serve briefly as a DCI, and also as a secretary of defense.

The full DNI idea remained only that. The intelligence enterprise remained Pentagon-centered. As debates continued, they were fought over incremental struggles to give the DCI/DCIA at Langley more scope to set the Community's agenda and enforce this guidance.

With the end of the Cold War and cuts in budgets, the 1990s reopened a period of ferment about intelligence reform.[a] Critiques nudging away from the traditional Pentagon-centered approach gained strength.

The Aspin-Brown Commission (1995–96)—probably the most significant of these critiques—proposed the separation of the DCI from a deputy who would handle "day-to-day" management of the CIA.[8] But the DCI would still be at Langley and might still direct CIA too. The IC21 study (1996) of the House intelligence committee pointed in the same direction.[9]

Aspin-Brown declined to quarrel over the key DoD powers. Its report promised not "to alter the fundamen-

Six former DCI's in May 1995 appeared before the House Select Intelligence Committee, whose report in 1996 proposed separation of the DCI from CIA's management, among other major recommendations. Photo © GettyImages

[a] There is a lesson here for 2012. It is never as hard to manage an organization whose budget is going up and up as it is to manage an organization whose budget is going down and down. The last 10 years have been up and up. Now, about the *next* 10 years?

tal relationship between the DCI and the Secretary of Defense." The report actually supported various changes to *strengthen* Defense's control over aspects of national collection, like the creation of a national imagery agency that would move some of this collection control out of CIA into DoD. These odd compromises then flowed into 1997 legislation, which, when the dust settled, had done little to change the fundamental balance of power in driving the focus of intelligence attention and the allocation of resources.

One legacy of all this work, though, was that many of the "inside" participants in the intelligence reform debates of 2002–2004 had been involved in this earlier set of arguments and had thus internalized some of the issues. That was true in my case.

Members of Clinton's PFIAB weighed in on these issues. While those recommendations remained private, the same people were also serving "on the surface" on relevant public commissions and task forces. For example, Warren Rudman was vice-chair of the Aspin-Brown Commission and cochaired Clinton's PFIAB. Zoe Baird and Anthony Harrington were on Aspin-Brown and Clinton's PFIAB. Stephen Friedman was on Aspin-Brown and later on Bush's PIAB, chairing the board in Bush's second term.

Brent Scowcroft and NSPD-5

As one of its first presidential directives, the new George W. Bush administration in 2001 ordered a stock-taking study of the organization of the Intelligence Community. The presidential directive was formally signed on 9 May 2001.

The National Security Presidential Directive-5 (NSPD-5) study had an "inside" component that Tenet gave to Joan Dempsey, who was his deputy for community management. There had been a lot of inside work to strengthen Tenet's community management capabilities during the previous few years, work detailed in the Tenet chapter in Douglas Garthoff's monograph. Garthoff's chapter indicates the limited results of all the churning resulting from earlier commissions—one chaired by David Jeremiah and another by Donald Rumsfeld in 1998—and includes an astonishingly prescient warning given to Tenet by a group of insiders advising him in late 1998 that some sort of catastrophic systemic failure was probably coming as a result of the mess.[a] [10]

Brent Scowcroft directed the "outside" component of the study. He was chosen, per the directive, by Rice and Tenet. Jeremiah joined Scowcroft, helping to chair the NSPD-5 external team. Scowcroft and Jeremiah (who had been across the table from each other frequently during the administration of George H. W. Bush) were very much on the same wavelength. Scowcroft's memory of these issues extended back to the time of Schlesinger's original 1971 study.

Both the external (Scowcroft-Jeremiah) and internal (Dempsey) NSPD-5 studies had a single staff, headed by Kevin Scheid and Howard Schue. At the study group's first meeting, in July 2001, Scowcroft surprised some of those present by saying he thought the number one threat facing the US government was terrorism. And at the last pre-9/11 meeting of the study group, Rice met with them. Asked by Scowcroft what she thought she was missing from the Intelligence Community, a staff member present recalls Rice's replying that "she didn't know whose responsibility it is, but I'm not getting much about the Muslim youth who don't feel they have a voice in their own future." That meeting was on 6 September.[11]

The internal study group effectively quit work after 9/11, preoccupied by more urgent concerns. Rice asked the external group to keep going. The group completed a working paper by the early 2002. I read it at the time.

Though both Scowcroft and Jeremiah were retired flag officers with significant Pentagon service, they endorsed a DNI-style approach greatly strengthening the authority of the DCI. It would be Langley-centered, but the stronger DCI would be separated from the job of running CIA. Scowcroft's views were not too different from those Eisenhower had articulated in 1961.

This NSPD-5 external report was never really finalized, even for formal submission to DCI Tenet. Its influence came through Scowcroft and Jeremiah's briefing their group's findings to top officials throughout the Bush administration. They met

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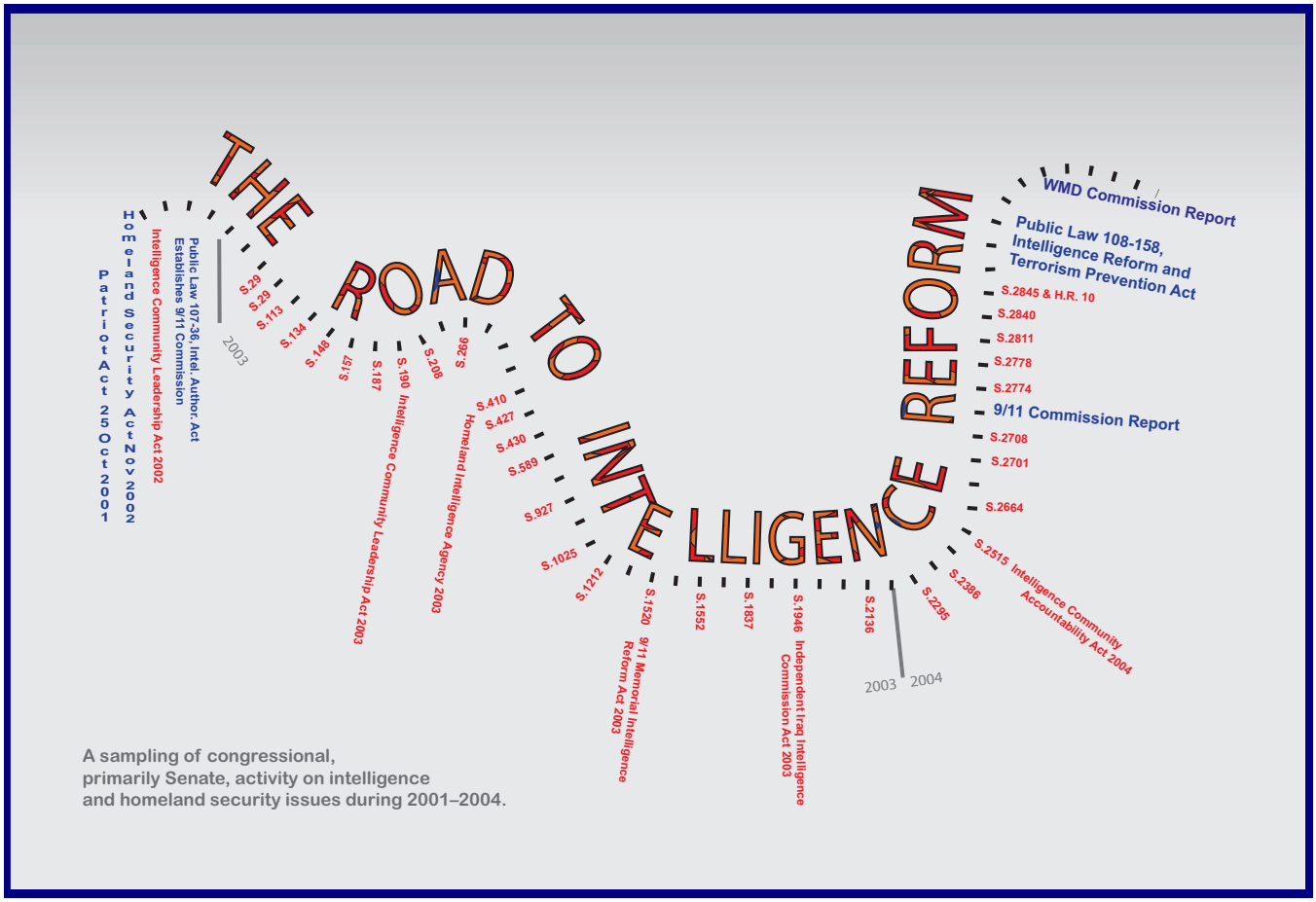
[a] The passage read: "The findings of both the Rumsfeld and the Jeremiah panels were discussed at a senior intelligence leadership conference hosted by the DCI on 11 September 1998. One conclusion the participants reached was that "*failure to improve operations management, resource allocation, and other key issues* within the community, including making substantial and sweeping changes in the way the nation collects, analyzes, and produces intelligence, '*will likely result in a catastrophic systemic intelligence failure*.'"(emphasis in the original task force report.)



A sampling of congressional, primarily Senate, activity on intelligence and homeland security issues during 2001–2004.

individually with Vice President Cheney, who had long taken a deep interest in intelligence matters. But to Cheney these ideas, coming so close to 9/11 and in the midst of the post-9/11 frenzy, seemed like "re-arranging the deck chairs [on the Titanic]."[a] Defense Secretary Rumsfeld objected strongly. Brent Scowcroft remembers telling him, "Don, you know that if our positions were reversed you would be making this same suggestion to me."

Sometime early in 2002, Scowcroft and Jeremiah recall briefing the report to the full Bush NSC, absent Bush himself. I do not know how others viewed it but feel sure it at least made an impression on Bush's national security advisor, Condi Rice.

The NSPD-5 work produced no visible result. Then the battle over intelligence reform shifted to two new fronts, both spurred by the aftermath of 9/11. Bush's newly appointed PFIAB was assembled. It started work in November 2001. Scowcroft was the chair. Jeremiah was appointed to the board. I was also a member.

The other front was in Congress. That was the Joint Inquiry (JI) into 9/11 by the House and Senate intelligence committees.

A Formative Year—2002

The congressional Joint Inquiry (JI) was conducted only by the intelligence committees. Therefore it naturally enough focused principally on the IC's work. This mattered, because such a review naturally set up and reinforced a public presumption that the IC's performance was *at the center* of the 9/11 story. It is hard to overstate how significant that framing of the issue was during 2002, when the 9/11 narrative was taking shape among an intensely curious public.

The Joint Inquiry did not look much at policy. It had little access to relevant policy documents. It was

[a] These are not Cheney's own words; this is the way Jeremiah characterized Cheney's reaction in a recent discussion with me about it.

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not even able to get to the bottom of the arguments about the covert action issues. Nor was the inquiry able to delve too deeply into al Qaʿida or the origins of the attack from the point of view of the enemy. Nor did it get into the details of what happened on the morning of 9/11, untangling the confused and erroneous accounts that the Air Force and Federal Aviation Administration had initially publicized (and continued to publicize through 2003). But in 2002 the inquiry was where the streetlight was shining. So that is where people started looking for keys.

The Joint Inquiry first aired most of the principal controversies about 9/11 within the intelligence field. These included the Kuala Lumpur story (where future hijackers were tracked, then the trail lost, in January 2000); problems in following up on leads during 2001 once the Kuala Lumpur material was reinvestigated; the Moussaoui flub (the failure to follow up adequately after Moussaoui's capture in Minnesota), and the "Phoenix" memo (alerting to possible flight school activity by potential hijackers, though I think this episode is exaggerated a bit by hindsight). The JI was not able to pursue some of the leads it uncovered, some fruitful some not, to firmly evidenced conclusions. The 9/11 Commission was later able to stand on the shoulders of the JI's original work and excellent work done by a CIA analytic team as well as the very thorough FBI "PENTTBOM" investigation—the shorthand name of FBI's investigation of 9/11.

Porter Goss and Richard Shelby, chairs, respectively, of the House and Senate intelligence committees, confer before opening on 18 September 2002 of the Congressional Joint Inquiry into the events of 9/11. Photo © AFP/Getty

The Domestic Intelligence Dimension

So intelligence reform was being pushed on the agenda by arguments about 9/11. But it was also being pushed on the agenda by emergence of a new dimension: the problem of domestic intelligence.

This problem was apparent before, as the old Cold War version of this story (Hoover versus the world) faded from memory and a new version, peppered by bureaucratic quarrels between CIA and the FBI, took its place. Before 9/11 the problem was noticed mainly by insiders. Of course 9/11 changed all that. And by the spring of 2002 President Bush had also decided to create a new homeland security department. That would mean another addition to the intelligence enterprise.

So the 2002 version of intelligence reform was no longer being fought just on the old trench lines between Langley and the Pentagon. The domestic intelligence aspect had to be taken seriously; the historical canyon in the US government dividing foreign from domestic intelligence had to be bridged.

The PFIAB was charged with reevaluating the intelligence organization issues.[a] [12] The board fairly quickly decided to endorse the main lines of the Scowcroft-Jeremiah group's work on overall intelligence organization, while noting that some different model for work on counterterrorism intelligence would be needed, a model it would call a national counterterrorism center.

[a] In her memoir, explaining the Bush administration's decision to endorse a DNI approach in August–September 2004, Condi Rice points to the 9/11 Commission and to the concerns that prompted creation earlier that year of the Silberman-Robb Commission. She also spotlights the role of the Scowcroft-chaired PFIAB. The PFIAB work she is alluding to was done in 2002, not in 2004. She, Scowcroft, and Jeremiah have confirmed this to me.

The main emphasis of the PFIAB paper was to develop the proposal for a national counterterrorism center and discuss the past, present, and future of the foreign-domestic divide in intelligence work.

I became a principal drafter for the board's work on this topic, which produced an interim report to President Bush in June 2002. I think this June 2002 PFIAB report mainly emphasized a recapitulation of the Scowcroft-Jeremiah group's broad ideas, and it may have briefly introduced the NCTC concept.

At this stage, broad proposals to reorganize the IC were not considered actionable. Everyone was only just catching their breath from what had been an incredibly hectic period. Rice was working with me and others to finalize a new overarching statement of national security policy.[13]

Also, in the summer of 2002 the contemplation of major political and military moves against Iraq was gathering momentum. The very top officials at the CIA and the White House were involved in closely held decisions on how they would treat and question high-value enemy captives. The legislative battle over creation of the new homeland security department was beginning. And the Joint Inquiry was also consuming its share of the time of top officials, among the jillions of usual items in the in-box.

President Bush's team was still urgently interested in how best to organize counterterrorism intelligence work. So the next phase of the PFIAB's work focused on that. I held the pen on that for a subgroup of the board that included Steve Friedman, Arnold Kanter, and—I think—Jim Langdon.

Meanwhile, Scowcroft—with permission from Rice–had been briefing congressional leaders and staff about the NSPD-5 work. In October 2002 Rumsfeld sent a memo to his trusted aide Steve Cambone, cc'ing Paul Wolfowitz and Rich Haver, warning that the Joint Inquiry committee chairs (Bob Graham and Porter Goss) appeared to be warming to "the Scowcroft model" to move intelligence authority to the DCI. Rumsfeld wanted to head this off. Just as they argued that the DCI needed to be accountable for intelligence performance, Rumsfeld argued that DoD and the military were responsible for winning wars and thus had to have control over the intelligence it might need to do that.[14]

In an odd comment Rumsfeld added: "Also, if you will recall, in Condi's draft of the presidential decision memo on intelligence, it stated that the powers of the DCI would be strengthened, but we had to remove that point. I assume it was taken out. I never went back to the National Security Strategy, but that is where it was." I do not understand this comment. I have not seen or heard of the draft decision memo he mentions and I don't understand his reference to the National Security Strategy document, which did not address such process issues.

The PFIAB study for President Bush was finalized in November 2002. We had talked to a number of relevant officials throughout the federal government and at state and local levels, from New York City to Los Angeles. My draft for our group (20 single-spaced pages) developed the idea of a national counterterrorism center.

This NCTC idea had multiple origins. I had first broached a version of this idea, as a "national terrorism intelligence center," (along with Ashton Carter and John Deutch) in work published in 1998 on the emerging danger of "catastrophic terrorism."[15] During 2002, in addition to my regular duties at the University of Virginia, I was directing a task force for the Markle Foundation, cochaired by Clinton PFIAB member Zoe Baird and Bush PFIAB member James Barksdale, on applying the new capabilities of information technology to national security. I was also directing the Aspen Strategy Group in 2002, a program of the Aspen Institute that held major conferences showing the need for better integration of available information on homeland security and bioterror concerns. The Scowcroft-Jeremiah external work had also called for a national counterterrorism center, with one of the external panel's members, Jamie Gorelick, prodding for more integration of better domestic intelligence.

The main emphasis of the PFIAB paper was to develop the proposal for a national counterterrorism center and discuss the past, present, and future of the foreign-domestic divide in intelligence work. There is no need here to detail how our group sorted through the various relationships between the proposed national center and the roles of the CIA, FBI, DoD (and its new homeland-oriented Northern Command), DHS, and state and local entities in the intelligence effort.

Amid all the particular issues, what stood out was the emphasis both Rice and Hadley placed—with support from others—on integrating intelligence, on a fusion of information available to all.

We thought this new entity should not be the captive of any single agency. Its head should be appointed by the president. But, administratively, we inclined toward placing the proposed center in CIA rather than in DHS. Remember, there was no freestanding ODNI back then, nor was one envisioned.

At this time we focused the proposed center on pooling information and analysis. But we also wanted a stronger focal point for national decisions about collection, warning, and combined operations.

National Organization

My PFIAB subgroup also returned to the larger issues of coordinating the entire intelligence community. Here my draft proposed a version of option 3, *White House-centered*, driving an interagency committee system.

This idea was a sort of fusion of Schlesinger's option of setting up a powerful White House "coordinator" with his idea of a DCI separated from being head of the CIA. We did not advocate a "DNI," however, who would receive the intelligence appropriation. Instead the White House–based DCI would manage a strong "executive committee for intelligence management," harkening back to precedents in the old US Intelligence Board.

A top White House appointee would chair the proposed executive committee. The office of the DCI would move to his office, in the Executive Office of the President. The various Community management offices would also migrate to the EOP. The committee would extend across both foreign and domestic intelligence. We did not want domestic intelligence managed from either Langley or the Pentagon, and we did not think the American people would want that either.

This approach was also strongly influenced by British experience in managing a system that I thought produced relatively high value in relation to money spent. This system was centrally managed yet drew heavily on career professionals. Our draft explained it this way:

> *In contrast to the head of the CIA, who may have executive and policymaking responsibilities—especially in the global war on terror—the DCI's role would be strengthened in some ways yet more circumscribed in others. He or she would no longer have his departmental powers and duties. But he or she would help the President manage the intelligence support and national integration of analysis for the policy process. This would be more similar to the roles played in the British system both by the chairman of the Joint Intelligence Committee and by the cabinet secretary who serves as the Prime Minister's intelligence and security coordinator.*
>
> *The DCI would thus eventually lose the connotation of being an official concerned purely with foreign intelligence. That office could therefore help the President manage the fuller and more complex integration of the broader intelligence community structure, domestic and foreign, that he needs.*

Within days after this draft was completed, Kanter and I were invited to join a White House meeting on 11 November 2002, cochaired by Andy Card and Condi Rice, on the counterterrorism intelligence issues, especially in connection with legislation for the new Homeland Security Department. The meeting also included Attorney General John Ashcroft, DCI George Tenet, FBI Director Bob Mueller, Tom Ridge, Richard Falkenrath, John Brennan, Steve Hadley, Steve Abbot (Tom Ridge's deputy), and a couple of others.

Amid all the particular issues, what stood out was the emphasis both Rice and Hadley placed—with support from others—on integrating intelligence, on a fusion of information available to all. Rice said she was generally skeptical of new structures, but this sort of integration needed to happen at every stage of the process. Hadley warned that the establishment of the DHS and other innovations was creating "new seams." Rice and Hadley both stressed how essential it was to do whatever was needed, however hard it might be.

At one point Ashcroft noted that for the last 14 months the president himself had been the person who

brought everyone together to pool information and action. Rice agreed, describing that as a management method relying too much on "brute strength" to integrate the work and the action. The president did not need to see all of the information. Some new institution might help the next president too. Ashcroft was sympathetic but said that maybe only that constant interaction with and pressure from the president would produce the desired fusion.

Reflecting on this meeting, additional information, and input and debate among the full board, the PFIAB report was revised and finalized. Entitled "National Intelligence and Transnational Terrorism," the 24-page, single-spaced report went to Rice and the president in late November or early December 2002. The recommendation for the NCTC was fleshed out. The report included a detailed review of the past and present condition of domestic intelligence work in the United States.[16] It identified four main challenges:

- a "domestic versus foreign" challenge
- a "domestic intelligence" challenge
- an "intelligence management" challenge
- a "people" challenge in leveraging scarce high-quality analytical resources.

The majority of the report concentrated on the proposed NCTC innovation. It suggested that, for reasons of administrative expediency, the new NCTC should be housed in the CIA but be a separate entity within the IC budget. The NCTC could thus build on the existing CIA Counterterrorism Center (CTC). In other words, "a CIA foundation for an autonomous *national* center, headed by a Director who is appointed by the President" and with its own budget program.

[PFIAB] *recommended a "Director of National Intelligence with real authority…to provide higher-level management of national collection systems, allocate resources to meet changing priorities within or beyond the U.S. and foster community-wide innovation and better R&D*

This final PFIAB report returned to the issue of broader intelligence reform. Influenced by Scowcroft and other board colleagues, PFIAB went back to full support for a DNI. Specifically, it recommended a "Director of National Intelligence with real authority over the CIA, the NCTC, NSA, NIMA [National Imagery and Mapping Agency], and the NRO [National Reconnaissance Office] in order to provide higher-level management of national collection systems, allocate resources to meet changing priorities within or beyond the US, and foster community-wide innovation and better R&D [an urgent priority in the intelligence and information war against transnational terrorism]."

The DNI's authorities were explained: greater personnel authority over the leadership of the national agencies; the relevant budget programs for national agencies would be appropriated to the DNI, not the secretary of defense (thus requiring declassification of the budget top line); reprogramming authority within and among the national intelligence agencies; and other powers.

But where to put the DNI? My draft had suggested a White House–centered approach. Scowcroft did not like that. Recalling his Tower Board days (investigating the Iran-Contra affair during the Reagan administration) Scowcroft was uneasy about putting this organization in the Executive Office of the President. But the board liked the proposed intelligence committee system and it could not reach a consensus on where else to put the DNI. So the report proposed the substance of the DNI's authority and was simply silent about whether the empowered DNI would be White House–centered or Langley-centered.

The PFIAB report recognized the ambition of its proposals. "They would alter the respective roles that the DCI and the Secretary of Defense currently play in managing key elements of the intelligence community. They would require statutory changes." But the report also warned:

> *If you* [the president] *conclude that the DNI should not have budgetary, personnel, and related authorities over the national intelligence agencies, such far-reaching changes are not advisable; then we would withdraw our recommendation to create a DNI and separate that job from the head of the CIA. It would be better to leave the DCI as a dual-hatted head of the CIA rather than put a*

> *bureaucratically impotent official in charge of these vital intelligence functions.*

At practically the same time the PFIAB report was being delivered privately to the president, the Congress provided its public report. In December 2002 the Joint Inquiry issued a report that strongly indicted the management of the IC before 9/11. In fact, mainly because of its narrower focus, the Joint Inquiry report goes into more detail about management failings of the IC than the 9/11 Commission report later did.

The *number-one* recommendation of the Joint Inquiry was the creation of a DNI. Its recommended DNI would be a separate cabinet-level official, nominated by the president and confirmed by the Senate, with strong power over IC personnel and resources.

But the Joint Inquiry's DNI was more like the original 1947 version of the secretary of defense job. The 1947 National Security Act had a secretary of defense with an office, but no department. It said the secretary would coordinate a "National Military Establishment"—a term much like our current phrase "Intelligence Community." The service departments (Army, Navy, Air Force) would remain separate with their own secretaries. The first secretary of defense who took on the job under these difficult conditions killed himself.

Of course, James Forrestal's illness had other causes beyond bureaucratic stress. But Congress and the president did go back to the drawing boards and create the Department of Defense we know today between 1949 and 1958, with the modern version of the Joint Chiefs of Staff enacted in 1986 along lines George Marshall had longed for back in 1946. Large organizational change in the United States occurs in evolutions, not revolutions.

Recourse to the DNI idea in the aftermath of 9/11 could be explained by pointing to fresh symptoms of old problems. The Joint Inquiry laid out a powerful case relating IC management challenges to the inability to move resources or develop an adequate interagency intelligence program once the al Qa'ida menace had been fully recognized as a priority. Thus the argument could be made that 9/11 added yet one more compelling count to an old indictment and old need. A former senior Defense Department official told the Silberman-Robb Commission that the Intelligence Community was "not so much poorly managed as unmanaged." The commission commented, "After a comprehensive study of the Community, we can't disagree."[17]

Yet the historian is compelled to add that the DNI idea had the value of also being a preexisting solution. The seed had been planted decades earlier. The usual pattern in the United States in responding to strategic surprises, Ernest May wrote in 2002, is that

> *Having diagnosed the surprise as our own fault, we have usually then set about with great energy putting in place programs and institutions that, it is supposed, would have prevented the surprise or at least made conditions much better had they only been in place beforehand. The focus has been on preventing exactly the surprise or disaster that just occurred. Inevitably, however, most of the actions taken early on have been ones conceived earlier, often for quite different purposes. The history of American response to emergencies is replete with evidence for the proposition that Washington teems with solutions in search of problems.*[18]

This was true for the creation of several of the major institutions created in the 1940s and 1950s, like the Joint Chiefs of Staff and the Office of Special Services. It was true again.

9/11 Commission Chairman Kean (l), Vice Chairman Hamilton (r), and author discussing testimony on 13 April 2004.
Photo © Ron Sachs/CNP/Corbis

Though certainly aware of the domestic intelligence problem, and critical of the FBI, the Joint Inquiry did not focus as sharply on the domestic-foreign divide or detail ways to bridge it. It did not recommend the creation of an NCTC.

The Bush administration considered both the internal PFIAB report and the public Joint Inquiry report. President Bush quietly decided to concentrate on the PFIAB idea for an NCTC and put off the rest.

The entity Bush announced in his State of the Union message in January 2003 would instead be called the "Terrorist Threat Integration Center" (TTIC). Rather than enlarging and building on the existing CIA CTC, as the PFIAB had recommended, TTIC would be set up roughly alongside it, competing with it for scarce experts. This would be the source of much trouble. Tenet's chief of staff, John Brennan, became TTIC's first director.[19]

Part II: The 9/11 Commission and Beyond

In January 2003 I was appointed executive director of the newly created 9/11 Commission. The commission was an independent, small, short-lived federal agency, a creature neither of Congress nor the president.

In some accounts I have read or heard, associated with Paul Pillar and Mark Lowenthal, CIA folks recall my visiting them soon after my appointment in January 2003 and telling them, in effect, that some sort of DNI was coming. The inference then was that this was my personal agenda, that my bias was promptly reported to Tenet, and that I then did much to steer the commission to what these individuals regard as a tragic destination.

From the start the commission included advocates for the DNI approach.

When I first heard these accounts of my supposed fixed agenda, they puzzled me. As indicated above, my own views on the right organizational setup were more complicated and had not initially included a DNI. But I had an open mind and knew how much momentum had built up for some sort of DNI idea. What they may have heard was my assessment of that political environment, which they may have interpreted as my own preference. Whatever my own preferences, I believe my assessment of the climate was accurate.

From the start the commission included advocates for the DNI approach. On the commission itself, no one was more vocal on this point than Tim Roemer, who had served on the Joint Inquiry (as a minority member of the House intelligence committee). Bob Kerrey had been following the issues closely from his post on the Senate intelligence committee and supported some sort of DNI. So did Jamie Gorelick, who had been a member of the Scowcroft-Jeremiah NSPD-5 external study group. Commission vice-chair Lee Hamilton, a former chair of the House intelligence committee, was also sympathetic to a DNI idea, but neither he nor his longtime staffer, Chris Kojm (who became my deputy), had firmly committed themselves to a particular form of it.

Within the staff, I had selected Kevin Scheid to lead the team working on IC management issues. As mentioned earlier, Scheid, along with Schue, had been head of the NSPD-5 study staff in 2001 and then had returned to the DCI's Community Management Staff. Lorry Fenner was one of the staffers on Scheid's team; she too had also served on the NSPD-5 effort. Also on Scheid's team was Gordon Lederman, who had written a pioneering study of the Goldwater-Nichols legislation of 1986 that had strengthened the JCS.[20]

Scheid's staff team converged by 2004 in favor of a general reorganization, a DNI model (I will use DNI where sometimes the original sources use the slightly altered term "NID"—for national intelligence director). The DNI they envisaged was the stronger form of this model, akin to Schlesinger's original DNI option in 1971—an official who would receive the intelligence appropriation. They envisioned the establishment of a National Intelligence Authority headed by a Senate-confirmed DNI. The National Intelligence Authority would receive Intelligence Community funds through an amended, dedicated congressional appropriations process.[a]

Earlier I mentioned that in 2002 a fresh issue, the problem of domestic intelligence, had moved to the center of attention in any debate about intelligence reform. By the beginning of 2004 yet another large issue was in play: the intelligence failure over weapons of mass destruction in Iraq.

The US government had expected to find a substantial, clandestine WMD program with advanced work

The 9/11 Commission did not discuss the Iraqi WMD intelligence issues at all. But there are echoes of that debate in the views of the commission's staff, and some commissioners.

on biological and possibly nuclear weapons. By the end of 2003 it had found little beyond a program in a coma, waiting for some future revival. Since these findings seemed starkly at odds with the way the Iraqi situation had been understood since 1997, and especially in the run-up to war in 2002–2003, this shock produced recriminations.

The recriminations took two basic narrative forms. One narrative traced the problem to serious flaws in the Intelligence Community, aggravated by the way policymakers had used the available estimates. A second narrative traced the problem to policymaker distortion and manipulation ("politicization") of available intelligence, aggravated by some problems in the analysis.

The Bush White House believed the first narrative. Critics of the Bush White House liked the second.[21] Whichever one the reader prefers, the shadow of the Iraqi failure and widespread belief in the first narrative had a major impact on the shape of intelligence reform debates in 2004.

The 9/11 Commission did not discuss the Iraqi WMD intelligence issues at all. But there are echoes of that debate in the views of the commission's staff, and some commissioners, that a new DNI should be a coordinator of analysis not unduly influenced by any one agency, more detached, and more of a professional analyst. So Scheid's staff team recommended, for instance, that the DNI should be assisted by a nonpartisan chief of national intelligence, analogous to the JCS chairman. This person would be the lead PDB briefer and substantive intelligence adviser to the president.

The commission issued its report in July 2004. Its critique of the pre-9/11 situation had four parts, leading with a critique of US government policy. The policy argument only indirectly involved the Intelligence Community. The report also criticized the IC's failure to apply its own best practices for "warning of attack," long-honed during the Cold War, to the al Qaʿida menace. And the report also renewed and reinforced critiques of general management (weak reallocation of resources to new priorities) and operational management (e.g., the Kuala Lumpur case management) that had already been surfaced in the report of the congressional Joint Inquiry.

Both staff and some commissioners pressed the Commission to recommend the establishment of a DNI. In early June 2004, synthesizing input from across the staff along with my own views, I prepared an outline, "Summary of Possible Policy Recommendations," for review by the commissioners. In the proposed recommendations on organization of the government, I led with the NCTC idea, along lines similar to the 2002 PFIAB report (which commissioners had never seen). I added the proposal for an NCTC role in the planning of joint counterterrorism operations that spanned multiple agencies.

Further down, my proposed version of the reorganization did not go all out for the DNI. Instead I suggested that recommendations to "restructure the Intelligence Community to create joint mission centers, give the Director of Central Intelligence more authority, and create a Chairman of National Intelligence to oversee stronger analysis." The commissioners pressed for a DNI. Yet they did not want to go as far as Scheid's team had suggested. They leaned more toward the weaker version of this idea that the Joint Inquiry had suggested—the DNI with his own office but overseeing still-autonomous agencies nestled in their own departments.

At this point a particular commissioner—John Lehman—played an important role. Lehman, a secretary of the navy in the Reagan administration, was a friend of Rumsfeld. He had occasional informal conversations about the commission's work with Rumsfeld and with Rumsfeld's

[a] By June 2004 the team (with Lederman holding the pen) prepared a well-footnoted draft "Chapter 13: Restructuring U.S. Intelligence for 21st Century Threats;" and a subsequent, more extensively footnoted 47-page draft "Chapter 13: Reforming U.S. Intelligence to Meet the Jihadist Threat." All of this material, which should be in the 9/11 Commission archives, then informed my draft of the relevant subsection in Chapter 13 of the Commission's final report. Another useful internal staff study, with contributions from another staff team headed by Douglas MacEachin (a former CIA deputy director for intelligence) that had studied al Qaʿida and the intelligence work done on the organization, was entitled "Improving Assessment and Warning." It, too, found the Intelligence Community lacking: "the *PDB* [*President's Daily Brief*] was weak, the TWG [Threat Warning Group formerly of the CIA's CTC] met quarterly, and the NIE [National Intelligence Estimate] was non-existent," 14 May 2004.

longtime aide and newly created undersecretary of defense for intelligence (USD-I), Steve Cambone.

A longtime critic of some of the CIA's work, Lehman was opposed to a Langley-centered DNI. He had roughed out a brief draft of how a DNI could work. He had consulted with me about his draft and, more importantly, he had marked up his draft in consultation with Cambone over at DoD. Lehman believed he had made headway in getting a private understanding with DoD leadership on a DNI proposal they might support. This would partly be achieved by putting the job in the White House, and thus embedded in DoD's chain of command.

In this construct, the DNI's powers would be strong. He would be a top official in the Executive Office of the President with substantial budget authorities. He would have a small staff, not to exceed 500 people. In Lehman's paper, the intelligence enterprise would be consolidated into foreign intelligence (CIA lead), defense intelligence (DoD), and homeland intelligence (DHS/FBI). All the military or defense intelligence agencies, to include NSA, would be placed under the USD-I. Cambone, or his successor at Defense, would then report both to the secretary of defense *and* to the DNI (NID).

Though he did not know it, Lehman's approach converged with ideas I had developed in my 2002 PFIAB work. As in that work, Lehman also stressed a much stronger White House–centered committee system to manage the intelligence enterprise, to be chaired by the White House–based DNI. The president would settle unresolved issues.

The final 9/11 Commission Report included the recommendation for a DNI (called a National Intelligence Director).

In this approach there would be no large new agency or department. Instead intelligence management would be an enlarged and powerful White House staff operation, managing a committee system to set priorities and—empowered to receive the national intelligence appropriation—able to allocate resources across all the divides.

The final 9/11 Commission Report included the recommendation for a DNI (called a National Intelligence Director). My draft of that section synthesized all the suggestions I've mentioned, very much including Lehman's. That draft language was then reviewed and approved by the commissioners with little further debate. All understood the great difficulty of getting such recommendations moving power away from DoD enacted into law, especially while the country was at war. Lehman had an informed hope that Rumsfeld's DoD would find this proposal agreeable.

Another key aspect of the Commission's recommendations was the call to declassify the top line of the National Intelligence Program budget. This was of course about much more than mere openness. Such a declassification was the key to unlock the concealment of the intelligence budget inside the Pentagon budget and, with it, control by the defense appropriations subcommittee and the Pentagon. With that declassification, our proposed reform of Congress was possible, adding budget control to the general oversight authority of the intelligence committees.

Immediately after the commission issued its report, and after the lead testimony of Chairman Tom Kean and Vice Chairman Hamilton, I testified to the Senate along with my deputy, Chris Kojm, about the NCTC and DNI recommendations.

In that testimony I explained that if Congress moved the DNI out of the White House there would be complications with using any existing agency. The most important feature of the new office was that it oversaw both foreign *and* domestic intelligence. That was not an appropriate role either for the CIA or for DoD. If a new agency was created (which is what happened), then, I testified, "Such an option would require authorities at least as strong as those we have proposed, or else it would create a bureaucratic 'fifth wheel' that would make the present situation even worse." And, wherever it landed, I thought the DNI needed to have a relatively small staff.

The commission's NCTC proposal had various features to pool information and analysis. The most significant advance between my conception of the NCTC in the PFIAB report of 2002 and my conception of it in the commission report of 2004 came from thinking harder and learning more about the additional problem of orchestrating joint operations across agencies and across the foreign-domestic divide.

For a long time the military services had faced a narrower, though larger-scale, version of the problem of how best to orchestrate combined operations. While I was then on the NSC staff, I had seen the post-Gold-

As the 9/11 Commission completed its work, the Bush administration went into high gear in developing its own ideas about reorganization of the Intelligence Community.

water-Nichols J-3 office of the Joint Staff work well during the Gulf War of 1990–91. I thought the theory behind the organization was sound. I thought similar theories were at work in the design of the Joint Special Operations Command (JSOC) and I reflected some more on its experience after spending some time at JSOC headquarters at Fort Bragg in the course of my commission work.

The experience of Britain's Security Service (MI-5) also influenced the NCTC model. MI-5 is actually a relatively small agency that—bridging foreign and domestic work in counterterrorism—gains much of its strength from pooling expertise and orchestrating relevant activities of other executive agencies, like police forces and the Secret Intelligence Service (MI-6).

On 2 August 2004, President Bush told a Rose Garden press conference that his administration endorsed establishment of a DNI. Photo © Downing/Reuters/Corbis

The operational planning side of the NCTC was later accused of being too operational and was watered down. This was a bit of a straw-man argument. The real complaint came from musicians who just didn't want to play in an orchestra. So they were not interested in letting anyone orchestrate combined operations.

Both in the report and in my testimony I made the analogy to the Joint Staff's J-3 model explicit. In drafting the language I used in the Commission report I had even looked to the way DoD manuals described the J-3's role. Thus, as I testified, "The NCTC would not break the formal chain of command for executive agencies, just as the Joint Staff today is not part of the formal chain of command between the president, the secretary of defense, and combatant commanders."

As proposed, the NCTC would prepare just the kind of plan that should have been developed during the fateful January 2000 Kuala Lumpur episode. That was a failure in case management, which I also sometimes compared to the absence in the clinical-case-management world of an "attending physician" to coordinate the care and drugs administered to a hospital patient among various specialists. In the Kuala Lumpur case an appropriate management plan would, at a minimum, have involved orchestrating actions by CIA (in multiple stations), by NSA, by the FBI, by State, and by immigration officials at US ports of entry. If agencies didn't like the proposed plan then they could take their disagreement to the usual NSC process.

Turning Proposals into a Law

As the 9/11 Commission completed its work, the Bush administration went into high gear in developing its own ideas about reorganization of the Intelligence Community. President Bush quickly decided, and announced on 2 August 2004, that the status quo was not satisfactory and that he would endorse some form of DNI.

A series of internal debates about the appropriate form of a national intelligence director culminated in a meeting of administration principals on 18 August 2004. The next day, Rice sent out a memo inviting final comments on three major options that would go to the president. One option was the purest form of the DNI approach, yanking the national collection agencies out of DoD and placing them under the new director. The then-directors of NSA (Michael Hayden) and NIMA (James Clapper) had been open to such a radical move and were dressed down for it by Rumsfeld (ironic to them, since normally they hardly ever even met with the secretary of defense).

The White House rejection of this more radical organizational move was important. To Bush, Cheney, and Rice such a move seemed too disruptive in time of war. It is worth remembering that August 2004 happened to be a period of intense military crisis in Iraq, one of the most violent periods of the entire war.

The subsequent congressional battle in the autumn of 2004 was a fierce one, mainly in the House.

Another fateful initial decision by Bush was to reject the recommendation for declassifying the National Intelligence Program budget's top line. He may have just accepted the "sound bite" version of the critique, about exposing US intelligence programs. In my view, this argument does not stand up to even a few minutes of serious analysis. But it sounds good. By accepting it, Bush compromised—perhaps unknowingly—his ability to unlock defense control over the collection agencies and their budgets in any proposal he put forward. And the administration declined to include provisions for congressional reform in its proposed legislation.

The Bush administration did look at setting up either a separate DNI office or putting the job in the White House. And Rice also boiled down for the president two options for DNI budget authority. One was direct appropriation to the DNI. The other was retention of the status quo, modified to strengthen DNI control over the content of the national budget program. Her options paper argued that the current DCI (this was shortly after Tenet's resignation) had "never fully exercised" even his existing authorities. "The guidance and approval process is largely passive; the DCI has not engaged in agency-by-agency deliberations to define the content of budgets or enforce compliance with national policy goals and requirements."[22] Thus the administration's views in August 2004 were not very far from the 9/11 Commission's ideas.

The White House–centered option ran into a buzz saw on Capitol Hill, and even the 9/11 Commission's former leaders (like Lee Hamilton) soon publicly backed away from it. Why? The shadow of Iraq was a major factor. On the Democratic side, believing that White House politicization had just produced a terrible tragedy, a White House–based DNI seemed out of the question.

So the White House settled on legislation proposing a new DNI office with significant authorities and budget powers. The battleground became draft legislation being prepared in September 2004 for the president's approval. Rumsfeld fought hard, writing repeatedly to the president, arguing against dilution of his budget control over the national intelligence agencies. Bush did not agree. He effectively rejected Rumsfeld's pleas. Handicapped by the decisions mentioned above, especially on declassification of the top-line budget, the administration's draft bill nonetheless gave the DNI as strong powers as it could with those handicaps.

The administration's bill was watered down again, at the very end of the process, by the so-called chain-of-command language (drafted by David Addington in Vice President Cheney's office) to mollify Rumsfeld. This language, not easily understandable to nonexperts, said that nothing in the proposal would compromise existing authorities of the cabinet secretaries. This last-minute insertion created an embedded contradiction—some would later call it a "poison pill"—that Congress would have to sort out.

Congress then fused the administration's preferred approach with the weaker DNI approach that had earlier been favored by the Joint Inquiry. So, for example, the CIA would not be placed under the direct authority and control of the new DNI. The Congress then made other changes that further blurred the DNI's budget authority and the operational planning responsibilities of the new NCTC.

Thus the 9/11 Commission recommendation had provided important political momentum to the push for a DNI. But the actual form this took in the legislation owed more to these other influences in both the administration and on Capitol Hill.

The subsequent congressional battle in the autumn of 2004 was a fierce one, mainly in the House. I had been involved in successful legislative follow-up on the report of an earlier bipartisan commission I had directed on reform of the federal election system after the election of 2000, best known as the Carter-Ford Commission for the former presidents who co-chaired it. The 2001 recommendations of the Carter-Ford Commission had been enacted in a pathbreaking 2002 act. In that case our principal allies had been in the House (Steny Hoyer and Roy Blunt) and principal problems were in the Senate. This time the principal allies were in the Senate (Susan Collins, Joe Lieberman, and John McCain) and principal problems were in the House.[23]

Republicans controlled the House and the majority of the Republican caucus opposed the reforms. The odds of passage were not good. Shortly before the November 2004 election, the forces were stalemated

Eight years later, enough time has passed to do a fair appraisal of the intelligence reforms of 2004.

in conference. The fulcrum of power rested with the centrist House Speaker, Denny Hastert, and his chief of staff, Scott Palmer. Hastert and Palmer believed, and persuaded me, that the 9/11 Commission's political capital was at its height before the election. After the election, odds of passage would dissipate. And there was no chance of passage, they judged, unless the former commission and its congressional allies gave way on some of the key budget issues.

I therefore sent a message on October 23 urging commissioners and our congressional allies to accept what we could then get. I argued to them that once the smoke of battle had cleared there would still be a landmark change that would be improved upon in time. I still believe the substantive and political assessment was correct. But my message, and the Hastert/Palmer strategy behind it, failed completely. Instead of persuading folks to compromise, my message—seized on by the House Republican opponents— infuriated former allies like Susan Collins and Jane Harman, who dug in.

The election came and went. Bush was reelected. The bill was still stuck. The 9/11 Commission's political capital remained strong, but had passed its peak. The proponents could not squeeze out further significant substantive concessions, just a few token nuances here and there. The real issue was whether they could now get any bill at all, even of the quality on the table in October.

The bill was at death's door. What rescued it in November 2004 was the reinvigorated and personal support thrown behind it by President Bush himself. The victorious president had some more political capital, at least with his fellow Republicans, for a while. He made passage of this bill his number-one legislative priority for the lame-duck Congress. With that boost, the bill barely made it through to be signed into law on 5 December.[24]

Good Enough?

Eight years later, enough time has passed to do a fair appraisal of the intelligence reforms of 2004. So many people have preconceived opinions about them that it is useful to specify criteria for judgment.

First, did the reforms improve management of the overall Intelligence Community? For example, have the "back office" functions of the Community been consolidated or harmonized? Can the DNI move hundreds of millions of dollars from one priority to another, in fairly short order? Can the DNI achieve synergies and pare redundancies?

Readers will likely have more informed opinions on any of these questions than I do. My impression is that the answers to these questions tend to sound like yes, but not as much as was hoped. Perhaps the most effective DNI among the first four, aided during his years by a quite interested and supportive White House and PIAB, was probably Adm. Michael McConnell. He scored gains on all the above-mentioned standards. He thinks, though, that the DNI's authorities need a major boost.

Meanwhile the "White House–centered" option has not died. Instead it has mutated —under John Brennan's leadership—into a different form.

The Obama administration has declassified the intelligence budget's top line. At last. And the sky did not fall. But that declassification has not yet been converted into meaningful structural reform, principally in Congress.

Second, did the reforms bridge the fault line that had long separated the management of foreign and domestic intelligence? Fundamentally, I think the answer here is yes. There are plenty of particular faults, but "national" intelligence is now for real.

Third, did the reforms improve the integration and professionalism of major analytical assessments? Here the answer again is yes, but less because of the legislation and more from the way it has been implemented. DNI James Clapper has, for instance, de facto created a kind of "chairman" of national intelligence analysis in his deputy for intelligence integration, Robert Cardillo (a DIA veteran), who plays an important and valued part in regular briefings for the White House.

Fourth, has the NCTC turned out to be an important innovation? I believe it has. Aided by several years of steady leadership from Michael Leiter, it has straddled the foreign-domestic and the federal-local divide. It set a Washington standard for a massive "fusion center" in a war that had already shown the benefits coming from ad hoc fusion centers set up to solve problems in the field.

It still amazes me a bit that any significant "intelligence reform" was adopted at all. The emerging legislation ended up being opposed by DoD and its very powerful allies on the Hill. It was quietly opposed by many at the CIA, since the proposal was not Langley-centered. The administration had stoutly opposed the creation of the 9/11 Commission and had repeatedly tangled with it. So an alliance there was hardly to be expected.

Few people now yearn to go back to the good old pre-9/11 status quo ante. Yet many find the current setup suboptimal. Major institutional change in the US government is invariably a negotiated product. Its results are usually deeply unsatisfying to those who led the charge for change. James Madison had profoundly mixed feelings in 1787 about the compromised Constitution that he had done so much to create.

So an eternal question lingers: At what point does an unsatisfactory compromise become too unsatisfactory? The best may be the enemy of the good. But when is good enough?

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Endnotes

1. Office of Management and Budget "National Intelligence Program, Fiscal Year 2012," http://www.whitehouse.gov/omb/factsheet_department_intelligence (accessed 26 July 2012)

2. An "appreciation" of a situation arises from an interactive compound of judgments. Judgments about what is going on, what to care about, and what actions seem viable. This conceptual framework is laid out briefly in Ernest R. May and Philip Zelikow, "Introduction: Seven Tenets," in May and Zelikow, eds., *Dealing with Dictators: Dilemmas of US Diplomacy and Intelligence Analysis, 1945–1990* (Cambridge, MA: MIT Press, 2006). This volume is based on case studies and other work originally prepared for an executive program that Harvard ran during the 1980s and 1990s on "Intelligence and Policy." The executive program was an open program sponsored by the CIA. May and I codirected this program for a number of years. Our picture of the interacting judgments and choices embedded in an "appreciation" is indebted to the work of an English philosopher and former official, Sir Geoffrey Vickers, *The Art of Judgment: A Study of Policy-Making* (Thousand Oaks, CA: Sage, 1995, orig. pub. 1965), discussing domestic policy and business judgments.

3. See Douglas Garthoff, *Directors of Central Intelligence as Leaders of the U.S. Intelligence Community, 1946–2005* (Washington, DC: CIA Center for the Study of Intelligence, 2007); Michael Warner and J. Kenneth McDonald, *U.S. Intelligence Community Reform Studies Since 1947* (Washington, DC: CIA Center for the Study of Intelligence, 2005). In the secondary literature, of particular value for the origin of the National Security Act and follow-on choices in the 1950s is Douglas Stuart, *Creating the National Security State* (Princeton: Princeton University Press, 2008). The 1940s reformers were reacting to widespread dismay about experiences in the Roosevelt administration, a system ably portrayed in Matthew Dickinson, *Bitter Harvest: FDR, Presidential Power, and the Growth of the Presidential Branch* (Cambridge: Cambridge University Press, 1996).

4. 473rd meeting of the NSC, 5 January 1961, in *FRUS 1961–1963*, vol. XXV, *Organization of Foreign Policy* (2002), document 80.

5. "Report of President's Board of Consultants on Foreign Intelligence Activities," 5 January 1961, ibid., document 82.

6. Office of Management and Budget, "A Review of the Intelligence Community," 10 March 1971, 25, available at http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB144/document%204.pdf

7. Ibid., 30.

8. Loch Johnson, "The Aspin-Brown Intelligence Inquiry: Behind the Closed Doors of a Blue Ribbon Commission," *Studies in Intelligence* 48, no. 3 (2004) and Britt Snider "A Different Angle on the Aspin Brown Commission," *Studies in Intelligence* 49, no. 1 (2005), both https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/index.html.

9. House Permanent Select Committee on Intelligence, *IC21 The Intelligence Community in the 21st Century*, Staff Study (Washington, DC: Government Printing Office, 1996)

10. Garthoff, 273.

11. The meeting may have been on 7 September. I have not double-checked this against Rice's archived calendar.

12. Condoleezza Rice, *No Higher Honor* (New York: Crown, 2011), 264–65.

13. See Zelikow, "U.S. Strategic Planning in 2001–2002," in Melvyn Leffler and Jeffrey Legro, eds., *In Uncertain Times: American Foreign Policy After the Berlin Wall and 9/11* (Ithaca, NY: Cornell University Press, 2011), 96–116.

14. Rumsfeld to Cambone, "Intel Reorganization," 5 October 2002, in Rumsfeld papers, posted at www.rumsfeld.com.

15. Ashton B. Carter, John M. Deutch and Philip D. Zelikow, "Catastrophic Terrorism: Tackling the New Danger?" Foreign Affairs 77, no. 6 (Nov/Dec 1998): 80–94 available in http://www.foreignaffairs.com/articles/54602/ashton-b-carter-john-deutch-and-philip-zelikow/catastrophic-terrorism-tackling-the-new-danger?page=show.

16. This is the PFIAB report mentioned and quoted in Laurie West Van Hook, "Reforming Intelligence: The Passage of the Intelligence Reform and Terrorism Prevention Act" (Washington, DC: ODNI History Office for the National Intelligence University, 2009), 3.

17. Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, *Report to the President*, 31 March 2005, 314.

18. Ernest May, "Homeland Security Through a Historical Lens: Lessons from the Past," in Philip Zelikow and Kurt Campbell, eds., *Planning to Win: A Report on Homeland Security from the Aspen Strategy Group* (Washington, DC: Aspen Institute, 2002), 10.

19. The Silberman-Robb Commission provides details on these troubles and Brennan's early difficulties. Commission on the Intelligence Capabilities, 288–91.

20. Gordon Lederman, *Reorganizing the Joint Chiefs of Staff: The Goldwater-Nichols Act of 1986* (Westport, CT: Greenwood, 1999).

21. More dispassionate and detailed analyses have tended to buttress the first narrative. Of these the best seem to be the Butler report in Britain, "Report of Privy Councillors to the House of Commons," *Review of Intelligence on Weapons of Mass Destruction*, 14 July 2004; the March 2005 report of the Silberman-Robb Commission, cited above; the 3rd report of the Kerr Group: Richard Kerr, Thomas Wolfe, Rebecca Donegan, and Aris Pappas, "Intelligence and Analysis on Iraq," *Studies in Intelligence* 49, no. 3 (2005); the Senate Select Committee on Intelligence, *Report on Whether Public Statements Regarding Iraq by U.S. Government Officials Were Substantiated by Intelligence Information*, 110th Cong., 2d sess., 5 June 2008; and the analysis of the Iraq case in Robert Jervis, *Why Intelligence Fails* (Ithaca, NY: Cornell University Press, 2011).

22. Condoleezza Rice, "Draft Memo on National Intelligence Director (NID) Organization Options," draft memorandum to NSC Principals, 19 August 2004, in the Rumsfeld Papers.

23. Since several former commissioners, Kojm, and I all were working with Congress and the administration on the legislation, e-mailing updates to each other on a daily basis since the commission had dissolved, the records of these exchanges provide a close-up view of the legislative battle during the last third of 2004. These records are preserved at Indiana University in the Lee H. Hamilton, *9/11 Public Discourse Project Papers, 2003–2007, Series: Working Documents, 2004-2006*, boxes for August 2004 to December 2004.

24. For a view of the legislative process, as seen from the Senate, see Deborah Barger, The Passage of the Intelligence Reform and Terrorism Prevention Act of 2004: An Intelligence Officer's Perspective," in *Studies in Intelligence* 53, No. 3 (September 2009). (For Official Use Only).

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