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Proposals for Intelligence Reorganization, 1949-2004

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Richard A. Best, Jr.
Specialist in National Defense
Foreign Affairs, Defense, and Trade Division

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Summary

Proposals for the reorganization of the United States Intelligence Community have repeatedly emerged from commissions and committees created by either the executive or legislative branches. The heretofore limited authority of Directors of Central Intelligence and the great influence of the Departments of State and Defense have inhibited the emergence of major reorganization plans from within the Intelligence Community itself.

Proposals to reorganize the Intelligence Community emerged in the period immediately following passage of the National Security Act of 1947 (P.L. 80-253) that established the position of Director of Central Intelligence (DCI) and the Central Intelligence Agency (CIA). Recommendations have ranged from adjustments in the DCI's budgetary responsibilities to the actual dissolution of the CIA and returning its functions to other departments. The goals underlying such proposals have reflected trends in American foreign policy and the international environment as well as domestic concerns about governmental accountability.

In the face of a hostile Soviet Union, early intelligence reorganization proposals were more concerned with questions of efficiency. In the Cold War context of the 1950s, a number of recommendations sought aggressively to enhance U.S. covert action and counterintelligence capabilities. The chairman of one committee charged with investigating the nation's intelligence capabilities, Army General James H. Doolittle, argued that sacrificing America's sense of "fair play" was wholly justified in the struggle to prevent Soviet world domination.

Following the failed invasion of Cuba at the Bay of Pigs, the unsuccessful results of intervention in Vietnam, and the Watergate scandal, investigations by congressional committees focused on the propriety of a wide range of heretofore accepted intelligence activities that included assassinations and some domestic surveillance of U.S. citizens. Some forcefully questioned the viability of secret intelligence agencies within a democratic society. These investigations resulted in much closer congressional oversight and a more exacting legal framework for intelligence activities. At the same time, the growth in technical intelligence capabilities led to an enhanced — but by no means predominant — leadership role for the DCI in determining community-wide budgets and priorities.

With the end of the Cold War, emerging security concerns, including transnational terrorism, narcotics trafficking, and proliferation of weapons of mass destruction, faced the United States. Some statutory changes were made in the mid-1990s, but their results were not far-reaching. In the aftermath of the September 11, 2001 attacks and the Iraq War, some observers urge reconsidering the intelligence organization. The 9/11 Commission has specifically recommended the establishment of a National Intelligence Director to manage the national intelligence program. Current intelligence organization issues can be usefully addressed with an awareness of arguments pro and con that were raised by earlier investigators; this recommendation has been incorporated in a number of bills, including S. 2845. This report will be updated as circumstances warrant.

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Major portions of this report previously appeared as a separate section of the 1996 Staff Study published by the House Permanent Select Committee on Intelligence, *IC21: Intelligence Community in the 21st Century*. That report was prepared by Richard A. Best, Jr. and Herbert Andrew Boerstling.

Proposals for Intelligence Reorganization, 1949-2004

Introduction

The National Security Act of 1947 (P.L. 80-253) established the statutory framework for the managerial structure of the United States Intelligence Community, including the Central Intelligence Agency (CIA) and the position of Director of Central Intelligence (DCI). A fundamental intent of this legislation was to coordinate, and to a certain extent centralize, the nascent intelligence efforts of the United States as an emergent superpower in the face of a hostile Soviet Union. In addition, the act provided the CIA with the ability to assume an operational role by charging it with:

Perform[ing] such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.¹

In 1947, the foundation of the present-day Intelligence Community consisted only of the relatively small intelligence components in the Armed Services, the Departments of State and the Treasury, the Federal Bureau of Investigation (FBI), and the fledgling CIA. Since 1947, however, the Intelligence Community “has greatly expanded in size and acquired a much broader range of responsibilities in the collection, analysis, and dissemination of foreign intelligence.”²

The U.S. Intelligence Community is defined in the National Security Act as amended. It currently includes the following:

- Central Intelligence Agency;
- National Security Agency;
- Defense Intelligence Agency;
- National Geospatial-Intelligence Agency;
- National Reconnaissance Office;
- Intelligence elements of the Army, Navy, Air Force, Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard;
- Bureau of Intelligence and Research, Department of State;

¹ Section 102(d)(5), National Security Act of 1947, P.L. 80-253; hereafter cited as National Security Act of 1947.

² CRS Report 89-414 F, *Intelligence Community Leadership: Development and Debate Since 1947*, by Alfred B. Prados, June 27, 1989, p. 1; hereafter cited as Prados, 89-414 F. (Out of print report; available upon request from the author.)

- Elements of the Department of Homeland Security concerned with analyses of foreign intelligence information; and
- Coast Guard.³

Beginning in January 1948, numerous independent commissions, individual experts, and legislative initiatives have examined the growth and evolving mission of the Intelligence Community. Proposals by these groups have sought to address perceived shortcomings in the Intelligence Community's structure, management, role, and mission. These proposals have ranged in scope from basic organizational restructuring to the dissolution of the CIA.

In 1948 and 1949, two executive branch commissions examined the intelligence and operational missions of the CIA, and identified fundamental administrative and organizational loopholes in P.L. 80-253. By the 1950s, however, the physical growth and evolving mission of the Intelligence Community led subsequent commissions to broaden the scope of their proposals to include the enhancement of the DCI's community-wide authority, and the establishment of executive and legislative branch intelligence oversight committees. Unlike the intelligence investigations of the 1970s and 1980s, these early studies were primarily concerned with questions of efficiency and effectiveness rather than with issues of legality and propriety.

Following the Vietnam War and "Watergate," investigatory bodies became increasingly critical of the national intelligence effort. Beginning in the mid-1970s, the impetus shifted to the legislative branch where investigatory committees led by Senator Frank Church and Representative Otis G. Pike issued a broad range of proposals, including the separation of the DCI and CIA Director positions, dividing the CIA's analytical and operational responsibilities into two separate agencies, and the establishment of congressional oversight committees. In 1976 and 1977, respectively, recommendations by these committees led to the establishment of the Senate Select Committee on Intelligence (SSCI) and the House Permanent Select Committee on Intelligence (HPSCI). These committees were heavily involved in the investigations into the Iran-Contra affair of the mid-1980s.

With the end of the Cold War, and in the wake of the Aldrich Ames espionage case, both the executive and legislative branches undertook studies to determine the future roles, capabilities, management, and structure of the Intelligence Community. These studies include such issues as the need to maintain the CIA as a separate entity, the extent and competence of U.S. counterintelligence (CI) efforts, and the managerial structure of intelligence components in the armed services and the Department of Defense (DOD). A comprehensive examination of the DCI's roles, responsibilities, authorities, and status was also undertaken. In an era of budgetary constraints and shifting policy concerns, these studies also examined personnel issues, allocation of resources, duplication of services, expanded use of open source Intelligence (OSCINT), and the need for maintaining a covert action (CA) capability. The results of this effort were reflected in organizational adjustments made by the Intelligence Authorization Act for FY1997 (P.L. 104-293), but some observers have subsequently concluded that this legislation did not go far enough and that, in the

³ 50 USC 401a(4)

light of the events of September 11, 2001 and the Iraq War, intelligence organization questions need to be reevaluated.

The history of these investigations has witnessed the gradual transformation of intelligence from a White House asset to one that is shared between the executive and legislative branches. Congress not only has access to intelligence judgments but to most information that intelligence agencies acquire as well as to the details of intelligence activities. Congress has accepted some responsibility as a participant in the planning and conduct of covert actions. In significant measure, this process has been encouraged by these external intelligence investigations.

This report provides a chronological overview and examination of the major executive and legislative branch intelligence investigations made from January 1949 to date. Major proposals are listed in chronological order with a brief discussion of their respective results. Proposals specifically relating to congressional oversight of the Intelligence Community are not included in this report.

Intelligence Reform Proposals Made by Commissions and Major Legislative Initiatives

The Truman Administration, 1945-1953

Following the Second World War, the United States emerged as a global political, military, and economic leader. In the face of Soviet aggressiveness, the U.S. sought to enhance its national defense capabilities to curb the international spread of communism and to provide security for the nation itself.

The National Security Act (P.L. 80-253), signed July 26, 1947, established the statutory framework for the managerial structure of the United States Intelligence Community, including the Central Intelligence Agency (CIA) and the position of Director of Central Intelligence (DCI). The act also created a semi-unified military command structure under a Secretary of Defense, and a National Security Council (NSC) to advise the President “with respect to the integration of domestic, foreign, and military policies relating to the national security.”⁴ The fundamental intent of this legislation was to coordinate U.S. national defense efforts, including intelligence activities, in the face of a Soviet Union intent upon expanding and leading a system of communist states.

In response to the rapid growth and changing role of the Federal government following the Second World War, several studies were conducted to examine the structure and efficiency of the executive branch, including the intelligence agencies.⁵ Between 1948 and 1949, two important investigations of the national intelligence

⁴ Section 101(a), National Security Act of 1947.

⁵ For a comprehensive examination of similar Commissions see CRS Report RL31446, *Reorganizing the Executive Branch in the Twentieth Century: Landmark Commissions*, by Ronald C. Moe, June 10, 2002.

effort were conducted. The first, the Task Force on National Security Organization of the First Hoover Commission, was established by a unanimous vote in Congress. The second, known as the Dulles-Jackson-Correa Report, was initiated by the NSC at the request of President Harry S. Truman.

The First Hoover Commission, 1949

The Commission on Organization of the Executive Branch of the government was established pursuant to P.L. 80-162 of July 27, 1947.⁶ Under the chairmanship of former President Herbert Hoover, the twelve member bipartisan commission conducted a comprehensive review of the federal bureaucracy, including the intelligence agencies. The commission's Task Force on National Security Organization was headed by Ferdinand Eberstadt, a strong advocate of a centralized intelligence capability who had been instrumental in drafting the National Security Act of 1947.⁷

Hearings conducted by the task force began in June 1948. On January 13, 1949, the Hoover Commission submitted the task force's 121 page unclassified report to Congress.⁸ Known as the Eberstadt Report, it found the "National Security Organization, established by the National Security Act of 1947, [to be] soundly constructed, but not yet working well."⁹ The report identified fundamental organizational and qualitative shortcomings in the national intelligence effort and the newly created CIA.

A principal concern of the task force was the adversarial relationship and lack of coordination between the CIA, the military, and the State Department. It suggested that this resulted in unnecessary duplication and the issuance of departmental intelligence estimates that "have often been subjective and biased."¹⁰ In large measure, the military and State Department were blamed for their failure to consult and share pertinent information with the CIA. The task force recommended "that positive efforts be made to foster relations of mutual confidence between the [CIA] and the several departments and agencies that it serves."¹¹

⁶ The report was reprinted as *The Hoover Commission Report on Organization of the Executive Branch of the Government* (Westport, CT: Greenwood Press, 1970).

⁷ For background on Eberstadt, see Jeffrey M. Dorwart, *Eberstadt and Forrestal: A National Security Partnership, 1909-1949* (College Station, TX: Texas A & M University Press, 1991).

⁸ The Commission on Organization of the Executive Branch of the Government, *Task Force Report on National Security Organization*, Appendix G, January 1949; hereafter cited as the Eberstadt Report.

⁹ Eberstadt Report, p. 3.

¹⁰ Eberstadt Report, p. 76.

¹¹ Eberstadt Report, p. 16, paragraph d.

In short, the report stressed that the CIA “must be the central organization of the national intelligence system.”¹² To facilitate community coordination in the production of national estimates, a founding intent of CIA, the task force recommended the creation within CIA “at the top echelon an evaluation board or section composed of competent and experienced personnel who would have no administrative responsibilities and whose duties would be confined solely to intelligence evaluation.”¹³ To foster professionalism and continuity of service, the report also favored a civilian DCI with a long term in office.¹⁴

In the arena of covert operations and clandestine intelligence, the Eberstadt Report supported the integration of all clandestine operations into one office within CIA, under NSC supervision. To alleviate concerns expressed by the military who viewed this proposal as encroaching upon their prerogatives, the report stated that clandestine operations should be the responsibility of the Joint Chiefs of Staff (JCS) in time of war.¹⁵

In examining the daily workings of the CIA, the task force found the agency’s internal structure and personnel system “not now properly organized.”¹⁶ This led to recommendations for the adoption of clearer lines of departmental responsibilities, and the establishment of proper personnel selection and training systems.¹⁷ In response to legislative concerns regarding intelligence budgets, the report supported establishing a legal framework for budgetary procedures and authorities, and in maintaining the secrecy of the CIA budget in order to provide the “administrative flexibility and anonymity that are essential to satisfactory intelligence.”¹⁸ The report also addressed, and rejected, the possibility of placing the FBI’s counterintelligence responsibilities in the CIA.¹⁹

Of particular concern was the level of professionalism in military intelligence, and the glaring inadequacies of medical and scientific intelligence, including biological and chemical warfare, electronics, aerodynamics, guided missiles, atomic weapons, and nuclear energy.²⁰ The report declared that the failure to appraise scientific advances in hostile countries (i.e., the Soviet Union) might have more immediate and catastrophic consequences than failure in any other field of

¹² Arthur B. Darling, *The Central Intelligence Agency: An Instrument of Government to 1950* (University Park, PA: Pennsylvania State University Press, 1990), p. 293. This is a reprint of an official CIA history prepared in the early 1950's.

¹³ Eberstadt Report, p. 16.

¹⁴ Darling, introduction to Chapter VIII.

¹⁵ Darling, introduction to chapter VIII.

¹⁶ Eberstadt Report, p. 76.

¹⁷ Darling, pp. 295-298.

¹⁸ Darling, p. 297.

¹⁹ Darling, p. 289.

²⁰ Eberstadt Report, p. 77; Darling, p. 296.

intelligence. Accordingly, the report stressed that the U.S. should establish a central authority “to collect, collate, and evaluate scientific and medical intelligence.”²¹

Intelligence Survey Group (Dulles-Jackson-Correa Report), 1949

On January 8, 1948, the National Security Council established the Intelligence Survey Group (ISG) to “evaluate the CIA’s effort and its relationship with other agencies.”²² Commissioned at the request of President Truman, the group was composed of Allen W. Dulles, who had served in the Office of Strategic Services (OSS) during the Second World War and would become DCI in 1953, William Jackson, a future Deputy DCI, and Matthias Correa, a former assistant to Secretary of Defense James V. Forrestal when the latter had served as Secretary of the Navy during the war. Under the chairmanship of Dulles, the ISG presented its findings, known as the Dulles-Jackson-Correa Report, to the National Security Council on January 1, 1949.

The 193-page report, partially declassified in 1976, contained fifty-six recommendations, many highly critical of the CIA and DCI.²³ In particular, the report revealed problems in the agency’s execution of both its intelligence and operational missions. It also criticized the quality of national intelligence estimates by highlighting the CIA’s — and, by implication, the DCI’s — “failure to take charge of the production of coordinated national estimates.”²⁴ The report went on to argue that the CIA’s current trend in secret intelligence activities should be reversed in favor of its mandated role as coordinator of intelligence.²⁵

The Dulles Report was particularly concerned about the personnel situation at CIA, including internal security, the high turnover of employees, and the excessive number of military personnel assigned to the agency.²⁶ To add “continuity of service” and the “greatest assurance of independence of action,” the report argued that the DCI should be a civilian and that military appointees be required to resign their commissions.²⁷

²¹ Eberstadt Report, p. 20.

²² Mark M. Lowenthal, *U.S. Intelligence: Evolution and Anatomy* (Westport, CT: Praeger, 1992), p. 20.

²³ “The Central Intelligence Agency and National Organization for Intelligence: A Report to the National Security Council,” January 1, 1949. Hereafter cited as the Dulles-Jackson-Correa Report; the declassified report remains highly sanitized. A version was reprinted in William M. Leary, ed., *The Central Intelligence Agency: History and Documents* (University, AL: University of Alabama Press, 1984).

²⁴ Lowenthal, p. 20; Dulles-Jackson-Correa Report, p. 5, 11.

²⁵ Dulles-Jackson-Correa Report, p. 39.

²⁶ DCI Hillenkoetter disputed these findings by producing evidence that CIA’s employee turnover was no different than in other government agencies and that only two percent of CIA personnel were active duty military. Darling, p. 327.

²⁷ Dulles-Jackson-Correa Report, p. 138.

As with the Eberstadt Report, the Dulles Report also expressed concern about the inadequacies in scientific intelligence and the professionalism of the service intelligence organizations, and urged that the CIA provide greater coordination.²⁸ This led to a recommendation for increased coordination between the DCI and the Director of the Federal Bureau of Investigation (FBI) in the arena of counterespionage. In turn, the report recommended that the Director of FBI be elevated to membership in the Intelligence Advisory Committee (IAC), whose function was to help the DCI coordinate intelligence and set intelligence requirements.²⁹

The principal thrust of the report was a proposed large-scale reorganization of the CIA to end overlapping and duplication of functions. Similar to the Eberstadt Report, the Dulles study suggested incorporating covert operations and clandestine intelligence into one office within CIA. In particular, the report recommended that the Office of Special Operations (OSO), responsible for the clandestine collection of intelligence, and the Office of Policy Coordination (OPC), responsible for covert actions, be integrated into a single division within CIA.³⁰

Accordingly, the report recommended replacing existing offices with four new divisions for coordination, estimates, research and reports, and operations. The heads of the new offices would be included in the immediate staff of the DCI so that he would have “intimate contact with the day-to-day operations of his agency and be able to give policy guidance to them.”³¹ These recommendations would become the blueprint for the future organization and operation of the present-day CIA.

Summary of the Truman Administration Intelligence Investigations

The Task Force on National Security Organization was almost immediately eclipsed by the Dulles-Jackson-Correa Report, that found a sympathetic ear in the White House. On July 7, 1949, the NSC adopted a modified version of the Dulles Report, and directed DCI Roscoe H. Hillenkoetter to begin implementing its recommendations, including the establishment of a single operations division at CIA. In 1953, the OSO and OPC were merged within the CIA to form the Directorate of Plans (DP). (DP was designated the Directorate of Operations (DO) in 1973.)

Although the Eberstadt Report was not as widely read among policymakers as the Dulles study, it did play a principal role in reorganization efforts initiated by DCI Walter Bedell Smith in 1950. The two reports, and the lessons learned from fall of China to the Communists and the unexpected North Korean invasion of South Korea in June 1950, prompted Smith to create an intelligence evaluation board called the Board of National Estimates (BNE). Designed to review and produce National

²⁸ Dulles-Jackson-Correa Report, pp. 3-4, 149.

²⁹ Dulles-Jackson-Correa Report, p. 58. Although the DCI served as chairman of the IAC, he was not given budgetary or administrative authority over the other intelligence agencies.

³⁰ Dulles-Jackson-Correa Report, pp. 129, 134.

³¹ Dulles-Jackson-Correa Report, p. 11.

Intelligence Estimates (NIEs), the BNE was assisted by an Office of National Estimates (ONE) that drew upon the resources of the entire community.³²

The Eisenhower Administration, 1953-1961

The Eisenhower Administration witnessed the Soviet Union solidify its hold over Eastern Europe, crushing the Hungarian revolution, and the rise of Communist insurgencies in Southeast Asia and Africa. This was a period in which extensive covert psychological, political, and paramilitary operations were initiated in the context of the threat posed by Soviet-led Communist expansion. However, between 1948, when a covert action program was first authorized through NSC Directive 10/2, and 1955 there was no formally established procedure for approval.

Between 1954 and 1956, this prompted three investigations into U.S. intelligence activities, including the CIA. The first, the Task Force on Intelligence Activities of the Second Hoover Commission on Organization of the Executive Branch of the Government, was sponsored by Congress. The second, the Doolittle Report, was commissioned at the request of President Dwight D. Eisenhower in response to the Second Hoover Commission. The third, the Bruce-Lovett Report was initiated by the President's Board of Consultants on Foreign Intelligence Activities (PBCFIA), and reported to President Eisenhower.

Second Hoover Commission, 1955

The Commission on Organization of the Executive Branch of the Government, also chaired by former President Hoover, was created pursuant to P.L. 83-108 of July 10, 1953. Known as the Second Hoover Commission, it contained a Task Force on Intelligence Activities under the chairmanship of General Mark W. Clark. In May 1955, the task force submitted both classified and unclassified reports. The classified version was sent directly to President Eisenhower, and has not been declassified according to available information. The unclassified version was sent to Congress.

The unclassified report's seventy-six pages contained nine recommendations and briefly described the evolution of the Intelligence Community and its then-current functioning. The report initiated the official use of the term "Intelligence Community."³³ Until that time, the U.S. had sought to apply increasing coordination to departmental intelligence efforts, without the concept of a "community" of departments and agencies.

The task force began by expressing the need to reform the CIA's internal organization, including the recommendation that the DCI concentrate on intelligence issues facing the entire community by leaving the day-to-day administration of the

³² The work of the BNE is described in Donald P. Steury, ed., *Sherman Kent and the Board of National Estimates: Collected Essays* (Washington: Center for the Study of Intelligence, 1994).

³³ Commission on Organization of the Executive Branch of the Government, A Report to the Congress, *Intelligence Activities*, June 1955, p. 13, hereafter cited as Clark Task Force Report.

CIA to an executive officer or chief of staff.³⁴ It foresaw the need for better oversight of intelligence activities and proposed a small, permanent, bipartisan commission, including Members of Congress and other “public-spirited citizens,” to provide independent oversight of intelligence activities that were normally kept secret from other parts of the government.³⁵ The full commission’s report elaborated on this by recommending the establishment of both a congressional oversight committee and a presidential advisory panel.

The task force also expressed concern about counterintelligence and recommended systematic rechecking of all personnel every five years “to make sure that the passage of time has not altered the trustworthiness of any employee, and to make certain that none has succumbed to some weakness of intoxicants or sexual perversion.”³⁶

In addition, the task force recommended that the CIA replace the State Department in the “procurement of foreign publications and for collection of scientific intelligence.”³⁷ Finally, there were a number of “housekeeping” recommendations such as the need to construct an adequate CIA headquarters, to improve linguistic training, and to raise the salary of the DCI to \$20,000 annually.³⁸

The Doolittle Report, 1954

In response to the establishment of the Second Hoover Commission’s Task Force on Intelligence Activities, President Eisenhower sought and secured an agreement for a separate report to be presented to him personally on the CIA’s Directorate of Plans, that now had responsibility for both clandestine intelligence collection and covert operations. Accordingly, in July 1954, Eisenhower commissioned Lieutenant General James Doolittle (USAF) to report on the CIA’s covert activities and to “make any recommendations calculated to improve the conduct of these operations.”³⁹

On September 30, 1954, Doolittle submitted his 69-page classified report directly to Eisenhower. Declassified in 1976, the Doolittle Report contained forty-two recommendations. The report began by summarizing contemporary American Cold War attitudes following the Korean War:

³⁴ Clark Task Force Report, pp. 70-71. For a more detailed account of the evolution of the DCI’s roles and responsibilities, see Herbert Andrew Boerstling, “The Establishment of a Director of National Intelligence,” unpublished Master of Arts Policy Paper, Boston University, August 1995.

³⁵ Clark Task Force Report, p. 71.

³⁶ Clark Task Force Report, p. 74.

³⁷ Clark Task Force Report, p. 74.

³⁸ Clark Task Force Report, pp. 72-76.

³⁹ The Report on the Covert Activities of the Central Intelligence Agency, September 30, 1954, Appendix A, p. 54; hereafter cited as the Doolittle Report.

It is now clear that we are facing an implacable enemy whose avowed objective is world domination by whatever means and at whatever cost. There are no rules in such a game...If the United States is to survive, long-standing American concepts of "fair play" must be reconsidered. We must develop effective espionage and counterespionage services and must learn to subvert, sabotage and destroy our enemies by more clever, more sophisticated and more effective methods than those used against us. It may become necessary that the American people be made acquainted with, understand and support this fundamentally repugnant philosophy.⁴⁰

The report went on to recommend that "every possible scientific and technical approach to the intelligence problem" be explored since the closed society of the Eastern Bloc made human espionage "prohibitive" in terms of "dollars and human lives."⁴¹

In examining the CIA, Doolittle found it to be properly placed in the organization of the government. Furthermore, the report found the laws relating to the CIA's functions were sufficient for the agency to meet its operational needs, i.e. penetration of the Soviet Bloc.⁴² The report went on to issue several recommendations calling for more efficient internal administration, including recruitment and training procedures, background checks of personnel, and the need to "correct the natural tendency to over classify documents originating in the agency."⁴³ It also called for increased cooperation between the clandestine and analytical sides of the agency, and recommended that the "Inspector General ... operate on an Agency-wide basis with authority and responsibility to investigate and report on all activities of the Agency."⁴⁴ Finally, the report mentioned the need to provide CIA with accommodations tailored to its specific needs, and to exercise better control (accountability) of expenditures in covert projects.

Shortly after submitting the written report, General Doolittle voiced his concern to President Eisenhower over the potential difficulties that could arise from the fact that the DCI, Allen Dulles, and the Secretary of State, John Foster Dulles, were brothers and might implement policies without adequate consultation with other administration officials.⁴⁵

Bruce-Lovett Report, 1956

In 1956, PBCFIA's chairman, James Killian, president of the Massachusetts Institute of Technology, directed David Bruce, a widely experienced diplomat, and Robert Lovett, a prominent attorney, to prepare a report for President Eisenhower on

⁴⁰ Doolittle Report, pp. 6-7.

⁴¹ Doolittle Report, pp. 7-8.

⁴² Doolittle Report, p. 10.

⁴³ Doolittle Report, p. 14.

⁴⁴ Doolittle Report, p. 17.

⁴⁵ John Ranelagh, *The Agency: the Rise and Decline of the CIA* (New York: Simon and Schuster, 1987), p. 278.

the CIA's covert action programs as implemented by NSC Directive 10/2. The report itself has not been located by either the CIA's Center for the Study of Intelligence or by private researchers. Presumably, it remains classified. However, Peter Grose, biographer of Allen Dulles, was able to use notes of the report prepared years earlier by historian Arthur M. Schlesinger, Jr.⁴⁶

According to Grose's account of the Schlesinger notes, the report criticized the CIA for being too heavily involved in Third-World intrigues while neglecting the collection of hard intelligence on the Soviet Union. Reportedly, Bruce and Lovett went on to express concern about the lack of coordination and accountability of the government's psychological and political warfare program. Stating that "no charge is made for failure," the report claimed that "No one, other than those in CIA immediately concerned with their day-to-day operation, has any detailed knowledge of what is going on."⁴⁷ These operations, asserted Bruce and Lovett, were in the hands of a "horde of CIA representatives (largely under State or Defense cover),...bright, highly graded young men who must be doing something all the time to justify their reason for being."⁴⁸

As had Doolittle, Bruce and Lovett criticized the close relationship between Secretary of State John Foster Dulles and his brother DCI Allen W. Dulles. Due to the unique position of each brother, the report apparently expressed concern that they could unduly influence U.S. foreign policy according to their own perceptions.⁴⁹

The report concluded by suggesting that the U.S. reassess its approach to covert action programs, and that a permanent authoritative position be created to assess the viability and impact of covert action programs.⁵⁰

Summary of the Eisenhower Administration Intelligence Investigations

As a result of the Second Hoover Commission's Report and General Doolittle's findings, two new NSC Directives, 5412/1 and 5412/2, were issued pertaining to covert activities in March and November 1955, respectively. Together, these directives instituted control procedures for covert action and clandestine activities. They remained in effect until 1970, providing basic policy guidelines for the CIA's covert action operations.

⁴⁶ Peter Grose, *Gentleman Spy: The Life of Allen Dulles*, (Boston: Houghton Mifflin, 1994), pp. 445-448; also the CIA's Center for the Study of Intelligence *Newsletter*, Spring 1995, Issue No. 3, pp. 3-4. In writing this book, Grose reported using notes Arthur M. Schlesinger, Jr. discovered in the Robert Kennedy Papers before they were deposited at the John F. Kennedy Library; p. 598, n. 33 and n. 34. Reportedly, the JFK Presidential Library has unsuccessfully searched the RFK papers for the report.

⁴⁷ Grose, p. 446; from excerpts of the Schlesinger notes.

⁴⁸ Grose, p. 446; this observation is also taken from excerpts of the Schlesinger notes.

⁴⁹ Grose, p. 447.

⁵⁰ Grose, pp. 447-448; from excerpts of the Schlesinger notes.

In 1956, in response to the Clark Task Force, and to preempt closer congressional scrutiny of intelligence gathering, President Eisenhower created the President's Board of Consultants on Foreign Intelligence Activities (PBCFIA) to conduct independent evaluations of the U.S. intelligence program. PBCFIA became the President's Foreign Intelligence Advisory Board (PFIAB) in 1961. Permanent intelligence oversight committees were not established in Congress until the mid-1970s.

When the Bruce-Lovett Report was first issued in the autumn of 1956, its immediate impact was muted due to the contemporaneous Suez Canal crisis and the Soviet invasion of Hungary. However, it did establish a precedent for future PBCFIA investigations into intelligence activities.

The Kennedy Administration, 1961-1963

In the 1950s, the Eisenhower Administration had supported covert CIA initiatives in Iran (1953) and Guatemala (1954) to overthrow governments unfriendly to the United States. These operations were planned to provide the United States with a reasonable degree of plausible deniability. During the last Eisenhower years, revolution in Cuba resulted in a Communist government under Fidel Castro. In the context of the Cold War, a communist Cuba appeared to justify covert U.S. action to secure a change in that nation's government. In April 1961 an ill-fated U.S. backed invasion of Cuba led to a new chapter in the history of the Intelligence Community.

On April 17, 1961, some 1,400 Cuban exiles of the Cuban Expeditionary Force (CEF), trained and supported by the CIA, landed at the Bay of Pigs in Cuba with the hope of overthrowing the communist regime of Fidel Castro. Known as Operation Zapata, the invasion was a complete disaster. Over the first two days, Castro succeeded in defeating the invasion force and exposing direct U.S. involvement.

The fiasco led to two official examinations of U.S. involvement and conduct in Operation Zapata. The first, the Taylor Commission, was initiated by President John F. Kennedy in an attempt to ascertain the overall cause of the operation's failure. The second, the Kirkpatrick Report, was an internal CIA investigation to determine what had been done wrong.

The Taylor Commission

On April 22, President Kennedy asked General Maxwell Taylor, former Army Chief of Staff, to chair a high-level body composed of Attorney General Robert Kennedy, former Chief of Naval Operations Admiral Arleigh Burke, and DCI Allen Dulles to ascertain the reasons for the invasion's failure. Known as the Taylor Commission, the study group's 53-page classified report was submitted to President Kennedy on June 13, 1961.

Declassified in 1977, the report examined the conception, development, and implementation of Operation Zapata. The commission's final report focused on

administrative rather than operational matters, and evenly leveled criticism at the White House, the CIA, the State Department, and the Joint Chiefs of Staff.⁵¹

The report found that the CIA, at White House direction, had organized and trained Cuban exiles to enter Cuba, foment anti-Castro sentiment, and ultimately overthrow the Cuban government. Originally intended by the Eisenhower Administration as a guerrilla operation, Zapata was supposed to operate within the parameters of NSC Directive 5412/2, that called in part for plausible U.S. deniability. However, in the Kennedy Administration, the operation grew in size and scope to include a full-scale military invasion involving “sheep-dipped” B-26 bombers, supply ships and landing craft.⁵² The report found that “the magnitude of Zapata could not be prepared and conducted in such a way that all U.S. support of it and connection with it could be plausibly disclaimed.”⁵³

In large measure, the report blamed the operation’s planners at the CIA’s Directorate of Plans for not keeping the President fully informed as to the exact nature of the operation. However, the report also criticized the State Department, JCS, and the White House for acquiescing in the Zapata Plan, that “gave the impression to others of approving it” and for reviewing “successive changes of the plan piecemeal and only within a limited context, a procedure that was inadequate for a proper examination of all the military ramifications.”⁵⁴

The Taylor Commission found the operation to be ill-conceived with little chance for ultimate success. Once underway, however, the report cited President Kennedy’s decision to limit overt U.S. air support as a factor in the CEF’s defeat.⁵⁵ This decision was apparently reached in order to protect the covert character of the operation. The report criticized this decision by stating that when an operation had been approved, “restrictions designed to protect its covert character should have been accepted only if they did not impair the chance of success.”⁵⁶

The failure in communication, breakdown in coordination, and lack of overall planning led the Taylor Commission to conclude that:

The Executive Branch of government was not organizationally prepared to cope with this kind of paramilitary operation. There was no single authority short of the President capable of coordinating the actions of CIA, State, Defense and USIA [U.S. Information Agency]. Top level direction was given through *ad hoc*

⁵¹ Grose, p. 532.

⁵² “Sheep-dipped” is a colloquial intelligence term used for administrative arrangements designed to ensure that the origin of a person or object is non-traceable.

⁵³ The report was published as *Operation Zapata: The “Ultrasensitive” Report and Testimony of the Board of Inquiry on the Bay of Pigs* (Frederick, MD: University publications of America, Inc., 1981), p. 40; hereafter cited as the Taylor Report.

⁵⁴ Taylor Report, p. 43.

⁵⁵ Taylor Report, p. 38.

⁵⁶ Taylor Report, p. 40.

meetings of senior officials without consideration of operational plans in writing and with no arrangement for recording conclusions reached.⁵⁷

The lessons of Operation Zapata led the report to recommend six courses of action in the fields of planning, coordination, effectiveness, and responsibility in overall Cold War strategy. The report recommended the creation of a Strategic Resources Group (SRG) composed of representatives of under-secretarial rank from the CIA and the Departments of State and Defense. With direct access to the President, the SRG would act as a mechanism for the planning and coordination of overall Cold War strategy, including paramilitary operations. The report recommended including the opinions of the JCS in the planning and implementation of such paramilitary operations. In the context of the Cold War, the report also recommended a review of restraints placed upon the United States in order to make the most effective use of the nation's assets, without concern for international popularity. The report concluded by reaffirming America's commitment to forcing Castro from power.⁵⁸

The Kirkpatrick Report

Concurrent with the Taylor Commission, DCI Dulles instructed the CIA's Inspector General, Lyman B. Kirkpatrick, Jr., to conduct an internal investigation to determine what the CIA had done wrong in the Cuban operation. Completed in five months, the report was viewed by the few within CIA who read it as professionally shabby.⁵⁹ Whereas the Taylor Report had more of the detached perspective of a management-consultant, the Kirkpatrick Report was viewed as a personal attack against the CIA and DCI Dulles.

The 170-page report remains classified. However, in 1972, Kirkpatrick published an article in the *Naval War College Review* that apparently reflected the findings of his report.⁶⁰ In particular, Kirkpatrick criticized the Zapata planners at the Directorate of Plans for not having fully consulted the CIA's Cuban analysts before the invasion. The article also criticized the operation's internal security, that Kirkpatrick claimed was virtually nonexistent. Calling the operation frenzied, Kirkpatrick accused the CIA of "playing it by ear" and misleading the President by failing to inform him that "success had become dubious."⁶¹ In Kirkpatrick's view, the CIA bore most of the blame, and the Kennedy Administration could be forgiven for having trusted the advice of the operation's planners at the Agency.

⁵⁷ Taylor Report, p. 39.

⁵⁸ Taylor Report, pp. 44-53.

⁵⁹ Ranelagh, p. 380.

⁶⁰ Lyman B. Kirkpatrick, Jr., "Paramilitary Case Study - Bay of Pigs," *Naval War College Review*, (November-December 1972). By the same author, see *The U.S. Intelligence Community: Foreign Policy and Domestic Activities* (New York: Hill and Wang, 1973).

⁶¹ Evan Thomas, *The Very Best Men, Four Who Dared: The Early Years of the CIA*, (New York: Simon & Schuster, 1995), p. 268. Thomas was given special permission to review the report for use in his book even though it remains classified.

Summary of the Kennedy Administration Intelligence Investigations

On May 4, 1961, following the Bay of Pigs, President Kennedy reconstituted the PBCFIA as the President's Foreign Intelligence Advisory Board (PFIAB). Although little is known of the Kirkpatrick Report's impact, the Taylor Report influenced Kennedy's desire to improve the overall management of the intelligence process. In 1962, this prompted the President to instruct the new DCI, John McCone, to concentrate on his community-wide coordination role:

As [DCI], while you will continue to have overall responsibility for the Agency, I shall expect you to delegate to your principal deputy, as you may deem necessary, so much of the detailed operation of the Agency as may be required to permit you to carry out your primary task as [DCI].⁶²

The Johnson Administration, 1963-1969

No major investigations of the Intelligence Community were conducted under President Lyndon B. Johnson. In large measure, this was due to America's growing preoccupation with the Vietnam conflict and the strain that this placed on the community's resources. The only major investigation during the Johnson Administration was the Warren Commission on the assassination of President Kennedy. Former DCI Allen Dulles served on the commission.

The Nixon Administration, 1969-1974

During the Vietnam War, the Intelligence Community devoted enormous attention in both manpower and resources towards achieving U.S. policy objectives in Southeast Asia. As the U.S. effort in Vietnam and Laos wound down, and attention turned towards strategic weapons concerns with the Soviet Union, some members of the Nixon Administration believed that the community was performing less than adequately. In 1970, President Richard M. Nixon and National Security Advisor Henry A. Kissinger undertook a review of the Intelligence Community's organization.

The Schlesinger Report, 1971

In December 1970, President Nixon commissioned the Office of Management and Budget (OMB) to examine the Intelligence Community's organization and recommend improvements, short of legislation. In March 1971, the report, "A Review of the Intelligence Community," was submitted by Deputy OMB Director James R. Schlesinger, a future DCI.

Known as the Schlesinger Report, the study's forty-seven pages noted the community's "impressive rise in...size and cost" with the "apparent inability to achieve a commensurate improvement in the scope and overall quality of intelligence

⁶²Memorandum for the Director of Central Intelligence, January 16, 1962; quoted in Prados, 89-414F, p. 45.

products.”⁶³ The report sought to uncover the causes of this problem and identify areas in which constructive change could take place.

In examining the Intelligence Community, Schlesinger criticized “unproductively duplicative” collection systems and the failure in forward planning to coordinate the allocation of resources.⁶⁴ In part, the report cited the failure of policymakers to specify their product needs to the intelligence producers.⁶⁵ However, the report identified the primary cause of these problems as the lack of a strong, central Intelligence Community leadership that could “consider the relationship between cost and substantive output from a national perspective.”⁶⁶ Schlesinger found that this had engendered a fragmented, departmental intelligence effort.

To correct these problems, Schlesinger considered the creation of a Director of National Intelligence (DNI), enhancing the DCI’s authority, and establishing a Coordinator of National Intelligence (CNI) who would act as the White House-level overseer of the Intelligence Community to provide more direct representation of presidential interest in intelligence issues.⁶⁷ In the end, the report recommended “a strong DCI who could bring intelligence costs under control and intelligence production to an adequate level of quality and responsiveness.”⁶⁸

Summary of the Nixon Administration Intelligence Investigation

The Schlesinger Report led to a limited reorganization of the Intelligence Community under a Presidential directive dated November 5, 1971. In part, the directive called for:

An enhanced leadership role for the [DCI] in planning, reviewing, and evaluating all intelligence programs and activities, and in the production of national intelligence.⁶⁹

Consequently, two boards were established to assist the DCI in preparing a consolidated intelligence budget and to supervise community-wide intelligence production. The first, was the ill-fated Intelligence Resources Advisory Committee (IRAC), that replaced the National Intelligence Resources Board (NIRB) established

⁶³ *A Review of the Intelligence Community*, March 10, 1971, p. 1; hereafter cited as the Schlesinger Report.

⁶⁴ Schlesinger Report, pp. 8-9.

⁶⁵ Schlesinger Report, p. 9.

⁶⁶ Schlesinger Report, p. 13.

⁶⁷ Schlesinger Report, pp. 25-33.

⁶⁸ U.S. Congress, Senate, 94th Congress, 2nd session, Select Committee to Study Governmental Operations with Respect to Intelligence Activities Intelligence, *Final Report*, 1976, Book I, p. 66; hereafter cited as the Church Committee Report.

⁶⁹ “Reorganization of the U.S. Intelligence Community,” *Weekly Compilation of Presidential Documents*, November 4, 1971, pp. 1467-1491, 1482.

in 1968 under DCI Richard Helms. The IRAC was designed to advise the DCI on the preparation of a consolidated budget for the community's intelligence programs. However, IRAC was not afforded the statutory authority necessary to bring the intelligence budget firmly under DCI control. The second, and the only long lasting result of the Nixon directive, was the establishment of the Intelligence Community Staff (ICS) in 1972. Created by DCI Helms, the ICS was meant to assist the DCI in guiding the community's collection and production of intelligence. However, the ICS did not provide the DCI with the statutory basis necessary for an expanded community-wide role.⁷⁰ In 1992, DCI Robert Gates replaced the ICS with the Community Management Staff (CMS).

The Era of Public Investigations, 1974-1981

In the late 1940s and throughout the 1950s, there had been widespread public agreement on the need for an effective national security structure to confront Soviet-led Communist expansion. However, by the late 1960s, the war in Vietnam had begun to erode public consensus and support for U.S. foreign policy. The controversy surrounding the Watergate Investigations after 1972, and subsequent revelations of questionable CIA activities involving domestic surveillance, provided a backdrop for increasing scrutiny of government policies, particularly in such fields as national security and intelligence.

Between 1975 and 1976, this led the Ford Administration and Congress to conduct three separate investigations that examined the propriety of intelligence operations, assessed the adequacy of intelligence organizations and functions, and recommended corrective measures. A fourth panel, convened earlier to look more broadly at foreign policy, also submitted recommendations for intelligence reform.

Murphy Commission (Commission on the Organization of the Government for the Conduct of Foreign Policy), 1975

The Commission on the Organization of the Government for the Conduct of Foreign Policy, created pursuant to the Foreign Relations Authorization Act for FY1973 (P.L. 92-352) of July 13, 1972, was headed by former Deputy Secretary of State Robert D. Murphy. It looked at national security formulation and implementation processes rather than the government as a whole. As such, the Murphy Commission was more focused than either of the two Hoover Commissions and devoted greater attention to intelligence issues. Although it made reference to the need to correct "occasional failures to observe those standards of conduct that should distinguish the behavior of agencies of the U.S. Government,"⁷¹ the commission's approach was marked by an emphasis of the value of intelligence to national security policymaking and was, on the whole, supportive of the Intelligence Community.

⁷⁰ Prados, 89-414F, p. 46.

⁷¹ U.S., Commission on the Organization of the Government for the Conduct of Foreign Policy, *Report*, June 1975, p. 92.

Many of the Murphy Commission's recommendations addressed problems that have continued to concern successive intelligence managers. The commission noted the fundamental difficulty that DCIs have line authority over the CIA but "only limited influence" over other intelligence agencies.⁷² Unlike other observers, the Murphy Commission did not believe that this situation should be changed fundamentally: "[It] is neither possible nor desirable to give the DCI line authority over that very large fraction of the intelligence community that lies outside the CIA." At the same time, it recommended that the DCI have an office in close proximity to the White House and be accorded regular and direct contact with the President. The commission envisioned a DCI delegating considerable authority for managing the CIA to a deputy while he devoted more time to community-wide responsibilities. The commission also recommended that the DCI's title be changed to Director of Foreign Intelligence.⁷³

The commission provided for other oversight mechanisms, *viz.*, a strengthened PFIAB and more extensive review (prior to their initiation and on a continuing basis thereafter) of covert actions by a high-level interagency committee. It argued that although Congress should be notified of covert actions, the President should not sign such notifications since it is harmful to associate "the head of State so formally with such activities."⁷⁴ It was further recommended that intelligence requirements and capabilities be established at the NSC-level to remedy a situation in which "the work of the intelligence community becomes largely responsive to its own perceptions of what is important, and irrelevant information is collected, sometimes drowning out the important."⁷⁵ It also recommended that this process be formalized in an officially approved five-year plan. A consolidated foreign intelligence budget should also be prepared, approved by an inter-agency committee and OMB and submitted to Congress.

Although the importance of economic intelligence was recognized, the commission did not see a need for intelligence agencies to seek to expand in this area; rather, it suggested that the analytical capabilities of the Departments of State, Treasury, Commerce, Agriculture, and the Council of Economic Advisers should be significantly strengthened.

The commission noted the replacement of the Board of National Estimates by some eleven National Intelligence Officers (NIOs) who were to draw upon analysts in various agencies to draft National Intelligence Estimates (NIEs). This practice was criticized because it laid excessive burdens on chosen analysts and because NIEs had in recent years been largely ignored by senior officials (presumably Secretary of State Kissinger) who made their own assessments of future developments based on competing sources of information and analysis. Thus, the commission recommended a small staff of analysts from various agencies assigned to work with NIOs in

⁷² Commission on Organization of the Government, p. 98

⁷³ Commission on Organization of the Government, pp. 98-99.

⁷⁴ Commission on Organization of the Government, pp. 100-101.

⁷⁵ Commission on Organization of the Government, p. 101.

drafting NIEs and ensure that differences of view were clearly presented for the policymakers.

Rockefeller Commission (Commission on CIA Activities within the United States), 1975

Prior to the mid-1960s, the organization and activities of the Intelligence Community were primarily the concern of specialists in national security and governmental organization. The Murphy Commission, although working during a subsequent and more politically turbulent period, had approached intelligence reorganization from this perspective as well. The political terrain had, however, been shifting dramatically and the Intelligence Community would not escape searching criticism. During the era of the Vietnam War and Watergate, disputes over national security policy focused attention on intelligence activities. In 1975, media accounts of alleged intelligence abuses, some stretching back over decades led to a series of highly publicized congressional hearings.

Revelations of assassination plots and other alleged abuses spurred three separate investigations and sets of recommendations. The first was undertaken within the Executive Branch and was headed by Vice President Nelson A. Rockefeller. Other investigations were conducted by select committees in both houses of Congress. The Senate effort was led by Senator Frank Church and the House committee was chaired by Representative Otis Pike. These investigations led to the creation of the two permanent intelligence committees and much closer oversight by the Congress. In addition, they also produced a number of recommendations for reorganization and realignment within the Intelligence Community.

Established by Executive Order 11828 on January 4, 1975, the Commission on CIA Activities within the United States was chaired by Vice President Rockefeller and included seven others appointed by President Ford (including then-former Governor Ronald Reagan). The commission's mandate was to investigate whether the CIA had violated provisions of the National Security Act of 1947, precluding the CIA from exercising internal security functions.

The Rockefeller Commission's 30 recommendations⁷⁶ included a number of proposals designed to delimit CIA's authority to collect foreign intelligence within the United States (from "willing sources") and proscribe collection of information about the domestic activities of U.S. citizens, to strengthen PFIAB, to establish a congressional joint intelligence committee, and to establish guidelines for cooperation with the Justice Department regarding the prosecution of criminal violations by CIA employees. There was another recommendation to consider the question of whether the CIA budget should be made public, if not in full at least in part.

⁷⁶ *Report to the President by the Commission on CIA Activities Within the United States*, June 1975.

The commission recommended that consideration should be given to appointing DCIs from outside the career service of the CIA and that no DCI serve longer than 10 years. Two deputies should be appointed; one to serve as an administrative officer to free the DCI from day-to-day management duties; the other a military officer to foster relations with the military and provide technical expertise on military intelligence requirements.

The CIA position of Inspector General should be upgraded and his responsibilities expanded along with those of the General Counsel. Guidelines should be developed to advise agency personnel as to what activities are permitted and what are forbidden by law and executive orders.

The President should instruct the DCI that domestic mail openings should not be undertaken except in time of war and that mail cover operations (examining and copying of envelopes only) are to be undertaken only on a limited basis “clearly involving matters of national security.”

The commission was specifically concerned with CIA infiltration of domestic organizations and submitted a number of recommendations in this area. Presidents should refrain from directing the CIA to perform what are essentially internal security tasks and the CIA should resist any effort to involve itself in improper activities. The CIA “should guard against allowing any component ... to become so self-contained and isolated from top leadership that regular supervision and review are lost.” Files of previous improper investigations should be destroyed. The agency should not infiltrate American organizations without a written determination by the DCI that there is a threat to agency operations, facilities, or personnel that cannot be met by law enforcement agencies. Other recommendations were directed at CIA investigations of its personnel or former personnel, including provisions relating to physical surveillance, wire or oral communications, and access to income tax information.

As a result of efforts by some White House staff during the Nixon Administration to use CIA resources improperly, a number of recommendations dealt with the need to establish appropriate channels between the agency and the Executive Office of the President.

Reacting to evidence that drugs had been tested on unsuspecting persons, the commission recommended that the practice should not be renewed. Also, equipment for monitoring communications should not be tested on unsuspecting persons within the United States. An independent agency should be established to oversee civilian uses of aerial photography to avoid any concerns over the improper domestic use of a CIA-developed system.

Concerned with distinguishing the separate responsibilities of the CIA and the Federal Bureau of Investigation (FBI), the commission urged that the DCI and the Director of the FBI prepare and submit to the National Security Council a detailed agreement setting forth the jurisdictions of each agency and providing for effective liaison between them.

The commission also recommended that all intelligence agencies review their holdings of classified information and declassify as much as possible.

Church Committee (Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities), 1976

Established in the wake of sensational revelations about assassination plots organized by the CIA, the Church Committee had a much wider mandate than the Rockefeller Commission, extending beyond the CIA to all intelligence agencies.⁷⁷ It too, however, concentrated on illegalities and improprieties rather than organizational or managerial questions *per se*. After extensive and highly publicized hearings, the committee made some 183 recommendations in its final report, issued April 26, 1976.⁷⁸

The principal recommendation was that omnibus legislation be enacted to set forth the basic purposes of national intelligence activities and defining the relationship between intelligence activities and the Congress. Criticizing vagueness in the National Security Act of 1947, the committee urged charters for the several intelligence agencies to set forth general organizational structures and procedures, and delineate roles and responsibilities. There should also be specific and clearly defined prohibitions or limitations on intelligence activities. The effort to pass such legislation would consume considerable attention over a number of years, following the completion of the work of the Church Committee.

A number of recommendations reflected the committee's views on the appropriate role of the National Security Council in directing and monitoring the work of the intelligence agencies. The apparent goal was to encourage a more formal process, with accountability assigned to cabinet-level officials. The committee concluded that covert actions should be conducted only upon presidential authorization with notification to appropriate congressional committees.

Attention was given to the role of the DCI within the entire Intelligence Community. The committee recommended that the DCI be recognized by statute as the President's principal foreign intelligence advisor and that he should be responsible for establishing national intelligence requirements, preparing the national intelligence budget, and for providing guidance for intelligence operations.

The DCI should have specific responsibility for choosing among the programs of the different collection and production agencies and departments and to insure against waste and unnecessary duplication. The DCI should also have responsibility

⁷⁷ An informed account of the Church Committee's work is Loch K. Johnson, *A Season of Inquiry: Congress and Intelligence*, 2nd. ed. (Chicago: Dorsey Press, 1988).

⁷⁸ U.S. Congress, Senate, 94th Congress, 2nd session, Select Committee to Study Governmental Operations with respect to Intelligence Activities, Foreign and Military Intelligence, *Final Report*, Book I, S.Rept. 94-755, April 26, 1976; hereafter cited as the Church Committee Report.

for issuing fiscal guidance for the allocation of all national intelligence resources. The authority of the DCI to reprogram funds within the intelligence budget should be defined by statute.⁷⁹

Monies for the national intelligence budget would be appropriated to the DCI rather than to the directors of the various agencies. The committee also recommended that the DCI be authorized to establish an intelligence community staff to assist him in carrying out his managerial responsibilities. The staff should be drawn “from the best available talent within and outside the intelligence community.”⁸⁰ Further, the position of Deputy DCI for the Intelligence Community should be established by statute (in addition to the existing DDCI who would have responsibility primarily for the CIA itself). It also urged consideration of separating the DCI from direct responsibility over the CIA.

The DCI, it was urged, should serve at the pleasure of the President, but for no more than ten years.

The committee also looked at intelligence analysis. It recommended a more flexible and less hierarchical personnel system with more established analysts being brought in at middle and upper grades. Senior positions should be established on the basis of analytical ability rather than administrative responsibilities. Analysts should be encouraged to accept temporary assignments at other agencies or on the NSC staff to give them an appreciation for policymakers’ use of intelligence information. A system should be in place to ensure that analysts are more promptly informed about U.S. policies and programs affecting their areas of responsibility.

In addressing covert actions, the committee recommended barring political assassinations, efforts to subvert democratic governments, and support for police and other internal security forces engaged in systematic violations of human rights.

The committee addressed the questions of separating CIA’s analysis and production functions from clandestine collection and covert action functions. It listed the pros and cons of this approach, but ultimately recommended only that the intelligence committees should give it consideration.

Reflecting concerns about abuses of the rights of U.S. citizens, the committee made a series of recommendations regarding CIA involvement with the academic community, members of religious organizations, journalists, recipients of government grants, and the covert use of books and publishing houses. A particular concern was limiting any influence on domestic politics of materials published by the CIA overseas. Attention was also given to proprietary organizations CIA creates to conduct operations abroad; the committee believed them necessary, but advocated stricter regulation and congressional oversight.

⁷⁹ Church Committee Report, pp. 434-435.

⁸⁰ Church Committee Report, p. 435.

The committee recommended enhanced positions for CIA's Inspector General (IG) and General Counsel (GC), urging that the latter be made a presidential appointee requiring Senate confirmation.

In looking at intelligence agencies other than the CIA, the committee recommended that the Defense Intelligence Agency (DIA) be made part of the civilian Office of the Secretary of Defense and that a small J-2 staff provide intelligence support to the Joint Chiefs of Staff. It was urged that the directors of both DIA and the National Security Agency (NSA) should be appointed by the President and confirmed by the Senate. The committee believe that either the director or deputy director of DIA and of NSA should be civilians. Turning to the State Department, the committee urged the Administration to issue instructions to implement legislation that authorized ambassadors to be provided information about activities conducted by intelligence agencies in their assigned countries. It also stated that State Department efforts to collect foreign political and economic information overtly should be improved.

Funding for intelligence activities has been included in Defense Department authorization and appropriations legislation since the end of World War II. The Church Commission advocated making public, at least, total amounts and suggested consideration be given as to whether more detailed information should also be released. The General Accounting Office (GAO) should be empowered to conduct audits at the request of congressional oversight committees.

Tests by intelligence agencies on human subjects of drugs or devices that could cause physical or mental harm should not occur except under stringent conditions.

The committee made a number of recommendations regarding procedures for granting security clearances and for handling classified information. It also recommended consideration of new legislative initiatives to deal with other existing problems. Finally, the Committee recommended the creation of a registry of all classified executive orders, including NSC directives, with access provided to congressional oversight committees.

Pike Committee (House Select Committee on Intelligence), 1976

The House Select Committee on Intelligence, chaired by Representative Otis G. Pike, also conducted a wide-ranging survey of intelligence activities. In the conduct of its hearings, the Pike Committee was far more adversarial to the intelligence agencies than the Senate Committee. Publication of its final report was not authorized by the House, although a version was published in a New York tabloid. The Pike Committee's recommendations, however, were published on February 11, 1976.⁸¹ There were some twenty recommendations, some dealing with congressional

⁸¹ U.S. Congress, House of Representatives, 94th Congress, 2nd session, Select Committee on Intelligence, *Recommendations of the Final Report of the House Select Committee on Intelligence*, H.Rept. 94-833, February 11, 1976.

oversight, with one dealing, anomalously, with the status of the Assistant to the President for National Security Affairs.

The Pike Committee recommended that covert actions not include, except in time of war, any activities involving direct or indirect attempts to assassinate any individual. The prohibition was extended to all paramilitary operations. A National Security Council subcommittee would review all proposals for covert actions and copies of each subcommittee member's comments would be provided to congressional committees. The committee further recommended that congressional oversight committees be notified of presidential approval of covert actions within 48 hours. According to the proposal, all covert actions would have to be terminated no later than 12 months from the date of approval or reconsidered.

The committee recommended that specific legislation be enacted to establish NSA and define its role in monitoring communications of Americans and placed under civilian control.

The Pike Committee further recommended that all "intelligence related items" be included as intelligence expenditures in the President's budget and that the total sum budgeted for intelligence be disclosed.

The committee recommended that transfers of funds be prohibited between agencies or departments involved in intelligence activities. Reprogramming of funds within agencies would be dependent upon the specific approval of congressional oversight and appropriations committees. The same procedures would be required for expenditures from reserve or contingency funds.

The Pike Committee also looked at the role of the DCI. Like many others who have studied the question, it recommended that the DCI should be separate from managing any agency and should focus on coordinating and overseeing the entire intelligence effort with a view towards eliminating duplication of effort and promoting competition in analysis. It advocated that he should be a member of the National Security Council. Under this proposal the DCI would have a separate staff and would prepare national intelligence estimates and daily briefings for the President. He would receive budget proposals from agencies involved in intelligence activities. (The recommendations did not indicate the extent of his authority to approve or disapprove these recommendations.) The DCI would be charged with coordinating intelligence agencies under his jurisdiction, eliminating duplication, and evaluating performance and efficiency.

The committee recommended that the GAO conduct a full and complete management and financial audit of all intelligence agencies and that the CIA internal audit staff be given complete access to CIA financial records.

The committee recommended that a permanent foreign operations subcommittee of the NSC, composed of cabinet-rank officials, be established. This subcommittee would have jurisdiction over all authorized activities of intelligence agencies (except those solely related to intelligence gathering) and review all covert actions, clandestine activities, and hazardous collecting activities.

It was recommended that DIA be abolished and its functions divided between the Office of the Secretary of Defense and the CIA. The intelligence components of the military services would be prohibited from undertaking covert actions within the U.S. or clandestine activities against U.S. citizens abroad.

Relations between intelligence and law enforcement organizations were to be limited. Intelligence agencies would be barred from providing funds to religious or educational institutions or to those media with general circulation in the United States.

The committee recommended that specific legislation be considered to deal with the classification and regular declassification of information.

It was also recommended that an Inspector General for Intelligence be nominated by the President and confirmed by the Senate with authority to investigate potential misconduct of any intelligence agency or personnel. He would make annual reports to the Congress.

The committee also made recommendations regarding the organization and operations of the FBI and its role in investigating domestic groups.

In an additional recommendation, Representative Les Aspin, a member of the committee, urged that the CIA be divided into two separate agencies, one for analysis and the other for clandestine collection and covert operations. A similar recommendation was made by Representative Ron Dellums, who also served on the committee.

Clifford and Cline Proposals, 1976

In 1976 hearings by the Senate Committee on Government Operations, Clark Clifford (who had served as President Johnson's final Secretary of Defense and, in an earlier position in the Truman Administration, had been involved in legislation creating the CIA) proposed the creation of a post of Director General of Intelligence to serve as the President's chief adviser on intelligence matters and as principal point of contact with the congressional intelligence committees. There would be a separate director of the CIA whose duties would be restricted to day-to-day operations.⁸²

In the same year, Ray Cline, a former Deputy Director of the CIA, made a number of recommendations.⁸³ He recommended that the DCI exert broad supervisory powers over the entire intelligence community and the CIA be divided into two agencies, one to undertake analytical work and the other for clandestine services. He also proposed that the DCI be given cabinet rank, a practice that would find support in both the Reagan and Clinton administrations.

⁸² U.S. Congress, Senate, 94th Congress, 2nd session, Committee on Government Operations, *Oversight of U.S. Government Intelligence Functions*, Hearings, Jan. 21-Feb. 6, 1976, pp. 203-204.

⁸³ In his book *Secrets, Spies, and Scholars* (Washington: Acropolis Books, 1976).

Proposed Charter Legislation, 1978-1980

Subsequent to the establishment of permanent intelligence oversight committees in the Senate in 1976 and the House of Representatives in 1977, attention in Congress shifted to consideration of charter legislation for intelligence agencies.⁸⁴ It was envisioned that the charter legislation would include many of the recommendations made earlier by the Church and Pike Committees. Introduced by Senator Walter Huddleston and Representative Edward Boland, the draft National Intelligence Reorganization and Reform Act of 1978 (S. 2525/H.R. 11245, 95th Congress) would have provided statutory charters to all intelligence agencies and created a Director of National Intelligence (DNI) to serve as head of the entire Intelligence Community. Day-to-day leadership of CIA could be delegated to a deputy at presidential discretion. The draft legislation contained numerous reporting requirements (regarding covert actions in particular) to Congress and an extensive list of banned or restricted activities. The draft legislation of more than 170 pages was strongly criticized from all sides in hearings; some arguing that it would legitimize covert actions inconsistent with American ideals and others suggesting that its complex restrictions would unduly hamper the protection of vital American interests. The bills were never reported out of either intelligence committee, although the Foreign Intelligence Surveillance Act of 1978 (P.L. 95-511) provided a statutory base for electronic surveillance within the United States.

Charter legislation was also introduced in the 96th Congress. It contained many of the provisions introduced in the earlier version, but also loosened freedom of information regulations for intelligence agencies and the requirements of the Hughes-Ryan amendments of 1974 requiring that some eight committees be notified of covert actions. This legislation (S. 2284, 96th Congress) came under even heavier criticism from all sides than its predecessor. It was not reported by the Senate Intelligence Committee, but other stand-alone legislation did pass and a shorter bill reducing the number of committees receiving notification of covert actions — and “significant anticipated intelligence activities” — was introduced and eventually became law in October 1980 as part of the FY1981 Intelligence Authorization Act (P.L. 96-450).

The Executive Branch Response, 1976-1981

Concurrent with, and subsequent to, these legislative initiatives, the Executive Branch, in part to head off further congressional action, implemented some of the more limited recommendations contained in their respective proposals. Presidents Gerald Ford, Jimmy Carter, and Ronald Reagan each issued detailed Executive Orders (E.O.) setting guidelines for the organization and management of the U.S. Intelligence Community.

⁸⁴ The effort to pass intelligence charter legislation is described in John M. Oseth, *Regulating U.S. Intelligence Operations: A Study in Definition of the National Interest* (Lexington, KY: University Press of Kentucky, 1985); also, Frank J. Smist, Jr., *Congress Oversees the United States Intelligence Community, Second Edition, 1947-1994* (Knoxville, TN: University of Tennessee Press, 1994).

Issued by President Ford on February 18, 1976, prior to the release of the Church and Pike Committee findings, Executive Order 11905 undertook to implement some of the more limited recommendations of the Rockefeller and Murphy Commissions. In particular, E.O. 11905 identified the DCI as the President's primary intelligence advisor and the principal spokesman for the Intelligence Community and gave him responsibilities for developing the National Foreign Intelligence Program (NFIP). It also delineated responsibilities of each intelligence agency, provided two NSC-level committees for internal review of intelligence operations, and established a separate three-member Intelligence Oversight Board to review the legality and propriety of intelligence activities. It placed restrictions on the physical and electronic surveillance of American citizens by intelligence agencies.⁸⁵

On January 24, 1978, President Carter issued Executive Order 12036, that superseded E.O. 11905.⁸⁶ Carter's Executive Order sought to define more clearly the DCI's community-wide authority in areas relating to the "budget, tasking, intelligence review, coordination and dissemination, and foreign liaison."⁸⁷ In particular, it formally recognized the establishment of the National Foreign Intelligence Program budget and the short-lived National Intelligence Tasking Center (NTIC), that was supposed to assist the DCI in "translating intelligence requirements and priorities into collection objectives."⁸⁸ E.O. 11905 also restricted medical experimentation and prohibited political assassinations.

President Reagan continued the trend towards enhancing the DCI's community-wide budgetary, tasking, and managerial authority. On December 4, 1981, he issued Executive Order 12333, detailing the roles, responsibilities, missions, and activities of the Intelligence Community. It supplanted the previous orders issued by Presidents Ford and Carter. E.O. 12333 remains the governing executive branch mandate concerning the managerial structure of the Intelligence Community.

E.O. 12333 designates the DCI "as the primary intelligence advisor to the President and NSC on national foreign intelligence."⁸⁹ In this capacity, the DCI's duties include the implementation of special activities (covert actions), liaison to the nation's foreign intelligence and counterintelligence components, and the overall protection of the community's sources, methods, and analytical procedures.⁹⁰ It grants

⁸⁵ Executive Order 11905, February 18, 1976, United States Foreign Intelligence Activities, as summarized in Alfred B. Prados, *Intelligence Reform: Recent History and Proposals*, CRS Report 88-562 F, August 18, 1988, p. 18; hereafter cited as Prados, 88-562 F. (Out of print report; available upon request from the author.)

⁸⁶ Executive Order 12036, January 24, 1978, United States Intelligence Activities; hereafter cited as Executive Order 12036.

⁸⁷ Lowenthal, p. 107.

⁸⁸ Bruce W. Watson, Susan M. Watson, and Gerald W. Hopple, *United States Intelligence: An Encyclopedia* (New York: Garland Publishing, 1990), p. 231.

⁸⁹ Section 1.5(a), Executive Order 12333, December 4, 1981, *United States Intelligence Activities*.

⁹⁰ Executive Order 12333, Section 1.5 (d,e,h).

the DCI “full responsibility for [the] production and dissemination of national foreign intelligence,” including the authority to task non-CIA intelligence agencies, and the ability to decide on community tasking conflicts.⁹¹ The order also sought to grant the DCI more explicit authority over the development, implementation, and evaluation of NFIP.⁹²

To a certain extent, E.O. 12333 represented a relaxation of the restrictions placed upon the community by Carter. Although it maintained the prohibition on assassination, the focus was on “authorizations” rather than “restrictions.” “Propriety” was removed as a criterion for approving operations. Arguably, the Reagan Administration established a presumption in favor of government needs over individual rights.⁹³ However, in the absence of legislation, the DCI continued to lack statutory authority over all aspects of the Intelligence Community, including budgetary issues.

The Turner Proposal, 1985

In 1985, Admiral Stansfield Turner, DCI in the Carter Administration, expressed his views on the need for intelligence reform⁹⁴. In part, Turner recommended reducing the emphasis on covert action and implementing a charter for the Intelligence Community. The most important recommendation involved the future of the DCI of which Turner maintained:

The two jobs, head of the CIA and head of the Intelligence Community, conflict. One person cannot do justice to both and fulfill the DCI’s responsibilities to the President, the Congress, and the public as well.⁹⁵

Turner went on to propose the separation of the two jobs of DCI and head of the CIA with the creation of a Director of National Intelligence, separate and superior to the CIA. Turner also recommended placing less emphasis on the use of covert action than the Reagan Administration.

Iran-Contra Investigation, 1987

During highly publicized investigations of the Reagan Administration’s covert support to Iran and the Nicaraguan Resistance, the role of the Intelligence Community, the CIA, and DCI Casey were foci of attention. Much of the involvement of National Security Council staff was undertaken precisely because legislation had been enacted severely limiting the role of intelligence agencies in Central America and because efforts to free the hostages through cooperation with

⁹¹ Executive Order 12333, Section 1.5(k,h).

⁹² Lowenthal, p. 107.

⁹³ See Oseth, *Regulating U.S. Intelligence Operations*, especially p. 155.

⁹⁴ In his book *Secrecy and Democracy: The CIA in Transition* (Boston: Houghton Mifflin, 1985).

⁹⁵ *Secrecy and Democracy*, p. 273.

Iranian officials had been strongly opposed by CIA officials. The executive branch's review, chaired by former Senator John Tower, expressed concern that precise procedures be established for restricted consideration of covert actions and that NSC policy officials had been too closely involved in the preparation of intelligence estimates.⁹⁶ The investigation of the affair by two congressional select committees resulted in a number of recommendations for changes in laws and regulations governing intelligence activities.

Specifically the majority report of the two congressional select committees that investigated the affair made a number of recommendations regarding presidential findings concerning the need to initiate covert actions. Findings should be made prior to the initiation of a covert action, they should be in writing, and they should be made known to appropriate Members of Congress in no event later than forty-eight hours after approval. Further, the majority of the committees urged that findings be far more specific than some had been in the Reagan Administration. Statutory inspector general and general counsels, confirmed by the Senate, for the CIA were also recommended.⁹⁷ Minority members of the two committees made several recommendations regarding congressional oversight, urging that on extremely sensitive matters that notifications of covert actions be made to only four Members of Congress instead of the existing requirement for eight to be notified.⁹⁸

These recommendations were subsequently considered by the two intelligence committees. A number of provisions was enacted dealing with covert action findings in the Intelligence Authorization Act for FY1991 (P.L. 102-88).

Boren-McCurdy, 1992

A major legislative initiative, reflecting the changed situation of the post-Cold War world, began in February 1992, when Senator David Boren, the Chairman of the Senate Select Committee on Intelligence, and Representative Dave McCurdy, the Chairman of the House Permanent Select Committee on Intelligence, announced separate plans for an omnibus restructuring of the U.S. Intelligence Community, to serve as an intelligence counterpart to the Goldwater-Nichols Department of Defense Reorganization Act of 1986. The two versions of the initiative (S. 2198 and H.R. 4165, 102nd Congress) differed in several respects, but the overall thrust of the two bills was similar. Both proposals called for the following:

⁹⁶ U.S., President's Special Review Board, *Report*, 1987, pp. V-5 — V-6.

⁹⁷ U.S. Congress, 100th Congress, 1st session, Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition and U.S. House of Representatives Select Committee to Investigate Covert Arms Transactions with Iran, *Report of the Congressional Committees Investigating the Iran-Contra Affair with Supplemental, Minority, and Additional Views*, S.Rept. 100-216/H.Rept. 100-433, November 17, 1987, pp. 423-427; hereafter cited as the Iran-Contra Report.

⁹⁸ Iran-Contra Report, pp. 583-586.

- Creating a Director of National Intelligence (DNI) with authority to program and reprogram intelligence funds throughout the Intelligence Community, including the Defense Department, and to direct their expenditure; and to task intelligence agencies and transfer personnel temporarily from one agency to another to support new requirements;
- Creating two Deputy Directors of National Intelligence (DDNIs); one of whom would be responsible for analysis and estimates, the other for Intelligence Community affairs;
- Creating a separate Director of the CIA, subordinate to the new DNI, to manage the agency's collection and covert action capabilities on a day-to-day basis;
- Consolidating analytical and estimative efforts of the Intelligence Community (including analysts from CIA, and some from DIA, the Bureau of Intelligence and Research (INR) at the State Department, and other agencies) into a separate office under one of the Deputy DNIs (this aspect of the proposal would effectively separate CIA's analytical elements from its collection and covert action offices);
- Creating a National Imagery Agency within the Department of Defense (DOD) to collect, exploit, and analyze imagery (these tasks had been spread among several entities; the House version would divide these efforts into two new separate agencies); and
- Authorizing the Director of DIA to task defense intelligence agencies (DIA, NSA, the new Imagery Agency) with collection requirements; and to shift functions, funding, and personnel from one DOD intelligence agency to another.

This major restructuring effort would have provided statutory mandates for agencies where operational authority was created by executive branch directives. Both statutes and executive branch directives provided the DCI authority to task intelligence agencies outside the CIA and to approve budgets and reprogramming efforts; in practice, however, this authority had never been fully exercised. This legislation would have provided a statutory basis for the DCI (or DNI) to direct collection and analytical efforts throughout the Intelligence Community.

The Boren-McCurdy legislation was not adopted, although provisions were added to the FY1994 Intelligence Authorization Act (P.L. 102-496) that provided basic charters for intelligence agencies within the National Security Act and set forth in law the DCI's coordinative responsibilities *vis-à-vis* intelligence agencies other than the CIA. Observers credited strong opposition from the Defense Department and concerns of the Armed Services Committees with inhibiting passage of the original legislation.

Commission on the Roles and Capabilities of the U.S. Intelligence Community (Aspin/Brown Commission), 1995-1996

Established pursuant to the Intelligence Authorization Act for FY1995 (P.L. 103-359) of September 27, 1994, the Commission on the Roles and Capabilities of the U.S. Intelligence Community was formed to assess the future direction, priorities, and structure of the Intelligence Community in the post-Cold War environment. Originally under the chairmanship of Les Aspin, after his sudden death the commission was headed by former Secretary of Defense Harold Brown. Nine members were appointed by the president and eight nominated by the congressional leadership.

The Report of the Aspin/Brown Commission⁹⁹ made a number of recommendations regarding the organization of the Intelligence Community. Structural changes in the NSC staff were proposed to enhance the guidance provided to intelligence agencies. Global crime — terrorism, international drug trafficking, proliferation of weapons of mass destruction, and international organized crime — was given special attention with recommendations for an NSC Committee on Global Crime. The Commission also recommended designating the Attorney General to coordinate the “nation’s law enforcement response to global crime,” and clarifying the authority of intelligence agencies to collect information concerning foreign persons abroad for law enforcement purposes. It urged that the sharing of relevant information between the law enforcement and intelligence communities be expanded, and their activities overseas be better coordinated.¹⁰⁰

The Commission noted that it considered many options for dealing with limitations in the DCI’s ability to coordinate the activities of all intelligence agencies. The Aspin/Brown Commission recommended the establishment of two new deputies to the DCI — one for the Intelligence Community and one for day-to-day management of the CIA. Both would be Senate-confirmed positions and the latter for a fixed six-year term. The DCI would concur in the appointment of the heads of “national” intelligence elements within DOD and would evaluate their performance in their positions as part of their ratings by the Secretary of Defense. “In addition, the DCI would be given new tools to carry out his responsibilities with respect to the intelligence budget and new authority over the intelligence personnel systems.”

The Aspin/Brown Commission recommended the realignment of intelligence budgeting procedures with “discipline” (i.e. sigint, imagery, humint, *etc.*) managers having responsibilities for managing similar efforts in all intelligence agencies. “The DCI should be provided a sufficient staff capability to enable him to assess tradeoffs between programs or program elements and should establish a uniform, community-

⁹⁹ Report of the Commission on the Roles and Capabilities of the United States Intelligence Community, *Preparing for the 21st Century: An Appraisal of U.S. Intelligence* (Washington: Government Printing Office, 1996).

¹⁰⁰ *Ibid.*, p. xix.

wide resource data base to serve as the principal information tool for resource management across the Intelligence Community.”¹⁰¹

Responding to a longstanding criticism of intelligence budget processes, the Commission recommended that the total amounts appropriated for intelligence activities be disclosed — a recommendation that was implemented by the Clinton Administration for Fiscal Years 1997 and 1998. Subsequently, however, figures were not made public.

In regard to congressional oversight, the Aspin/Brown Commission recommended that appointments to intelligence committees not be made for limited numbers of years but treated like appointments to other congressional committees.

IC21: Intelligence Community in the 21st Century, 1996

In addition to the Aspin/Brown Commission, in 1995-1996 the House Intelligence Committee undertook its own extensive review of intelligence issues. Many of the conclusions of the resultant IC21 Staff Study were consistent with those of the Commission.¹⁰² The “overarching concept” was a need for a more “corporate” intelligence community, i.e. a collection of agencies that recognize that they are parts of “a larger coherent process aiming at a single goal: the delivery of timely intelligence to policy makers at various levels.” Accordingly, “central management should be strengthened, core competencies (collection, analysis, operations) should be reinforced and infrastructure should be consolidated wherever possible.”¹⁰³

Specific IC21 recommendations provided for a radically restructured community and included

- the DCI should have a stronger voice in the appointment of the directors of NFIP defense agencies;
- the DCI should have greater programmatic control of intelligence budgets and intelligence personnel;
- a Committee on Foreign Intelligence should be established within the National Security Council;
- two DDCIs should be established; one to direct the CIA and managing analysis and production throughout the Community and the other responsible for IC-wide budgeting, requirements and collection management and tasking, infrastructure management and system acquisition;

¹⁰¹ Ibid., p. xxi.

¹⁰² U.S. Congress, 104th Congress, House of Representatives, Permanent Select Committee on Intelligence, Staff Study, *IC21: Intelligence Community in the 21st Century*, April 9, 1996.

¹⁰³ Ibid., p. 9.

- establishment of a Community Management Staff with IC-wide authority over, and coordination of, requirements, resources and collection;
- there should be a uniformed officer serving as Director of Military Intelligence with authority to manage/coordinate defense intelligence programs (JMIP and TIARA);
- the Clandestine Service, responsible for all humint, should be separated from the CIA, reporting directly to the DCI;
- a Technical Collection Agency should be established to create an IC-wide management organization responsible for directing all collection tasking by all agencies and ensuring a coherent, multi-discipline approach to all collection issues;
- there should be common standards and protocols for technical collection systems, from collection through processing, exploitation and dissemination;
- a Technology Development Office should be established to perform community research and development functions; and
- congressional oversight should be strengthened by the establishment of a joint intelligence committee; alternatively the House intelligence committee should be made a standing committee without tenure limits.

The Response to Aspin/Brown and IC21: The Intelligence Authorization Act for FY1997

Congressional Response. The recommendations of the Aspin/Brown Commission and the IC21 Study led to extensive congressional consideration of intelligence organization issues. The House Intelligence Committee considered separate legislation on intelligence organization (H.R. 3237, 104th Congress); the Senate included extensive organizational provisions as part of the intelligence authorization bill for FY1997 (S. 1718, 104th Congress). In addition, the Defense Authorization Act for FY1997 (P.L. 104-201) included provisions establishing the National Imagery and Mapping Agency (NIMA)¹⁰⁴ that combined elements from intelligence agencies as well as the Defense Mapping Agency which had not been part of the Intelligence Community.¹⁰⁵

¹⁰⁴ In 2003 NIMA was renamed the National Geospatial-Intelligence Agency (NGA).

¹⁰⁵ For the creation of NIMA, see Anne Daugherty Miles, “The Creation of the National Imagery and Mapping Agency: Congress’s Role as Overseer,” Occasional Paper Number Nine, Joint Military Intelligence College, April 2001.

The conference version of the FY1997 intelligence authorization legislation, eventually enacted as P.L. 104-293, included as its Title VIII, the “Intelligence Renewal and Reform Act of 1996.” The act established within the NSC two committees, one on foreign intelligence and another on transnational threats. The former was to identify intelligence priorities and establish policies. The latter was to identify transnational threats and develop strategies to enable the U.S. to respond and to “develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community.
...¹⁰⁶

Two deputy DCI positions were established, one for Deputy DCI and the other for a Deputy DCI for Community Management, both Senate-confirmed positions. While the Deputy DCI would have responsibilities coterminous with those of the DCI, the Deputy DCI for Community Management would focus on the coordination of all intelligence agencies. Congress did not attempt to establish a position for a head of the CIA separate from that of the DCI.

In addition to the two deputy DCIs, the legislation provided for three assistant DCIs — for Collection, for Analysis and Production of Intelligence, and for Administration. The statute calls for all three assistant DCI positions to be filled by, and with, the advice and consent of the Senate. The statute is clear that the positions were envisioned as being designed to enhance intelligence capabilities and coordination of the efforts of all intelligence agencies. In addition, the legislation required that the DCI concur in the appointment of three major defense intelligence agencies — NSA, the NRO, and NIMA (later renamed the National Geospatial-Intelligence Agency). If the DCI failed to concur, the nominations could still be forwarded to the President, but the DCI’s non-concurrence had to be noted. The act required that the DCI be consulted in the appointment of the DIA director, the Assistant Secretary of State for Intelligence and Research, and the director of the Office of Nonproliferation and National Security of the Energy Department¹⁰⁷. The FBI director is required to give the DCI timely notice of an intention to fill the position of assistant director of the FBI’s National Security Division.

The act gave the DCI authority to develop and present to the President an annual budget for the National Foreign Intelligence Program and to participate in the development by the Secretary of Defense of the Joint Military Intelligence Program (JMIP) and the Tactical Intelligence and Related Activities Program (TIARA). Moreover, the DCI gained authority to “approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national

¹⁰⁶ Codified at 50 USC 402(i)(4)(F); transnational threats were defined as “any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.” 50 USC 402(i)(5)(A).

¹⁰⁷ Subsequently modified in 2001 by P.L. 107-108 to substitute the Director of the Office of Intelligence and the Director of the Office of Counterintelligence of the Department of Energy. More recently, legislation signed in 2003 added the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury (P.L. 108-381).

collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President.”¹⁰⁸

Presidential Statement. President Clinton signed the legislation on October 11, 1996, but in so doing he stated concerns about provisions that “purport to direct” the creation of two new NSC committees. “Such efforts to dictate the President’s policy process unduly intrude upon Executive prerogatives and responsibilities. I would note that under my Executive authority, I have already asked the NSC to examine these issues.” Furthermore, he criticized provisions requiring the DCI to concur or be consulted before the appointment of certain intelligence officials. This requirement, he argued, “is constitutionally questionable in two areas: regarding limitations on the President’s ability to receive the advice of cabinet officers; and regarding circumscription of the President’s appointment authority.”

The statement also noted the “strong opposition” by DCI John Deutch to provisions establishing three new assistant DCIs, each requiring Senate confirmation. President Clinton added: “I share his concerns that these provisions will add another layer of positions requiring Senate confirmation without a corresponding gain in the DCI’s authority or ability to manage the Intelligence Community. I understand that the DCI intends to seek repeal or significant modification of these provisions in the 105th Congress. I will support such efforts.”¹⁰⁹

Implementation. George Tenet, nominated to succeed John Deutch, responded to a question from Senator Robert Kerrey during his Senate confirmation hearing in May 1997, that “I may have some changes in the law in my own mind, if I’m confirmed, that allows us to meet your objectives. And I want to come work with you on it.” Tenet also indicated that he believed that the DCI’s statutory responsibilities for coordinating the work of all intelligence agencies was adequate.¹¹⁰

In May 1998, the Senate Intelligence Committee held a hearing on the nomination of Joan A. Dempsey as the first Deputy DCI for Community Management. In opening remarks, Chairman Shelby noted discussions with the executive branch regarding the positions established by P.L. 104-293:

we have reached an accommodation with the Director of Central Intelligence on these positions, and we expect that the President to put forward a nominee for the position of Assistant Director of Central Intelligence for Administration, or ADCI, soon. We have agreed to allow the DCI to fill the positions of ADCI for Collection and ADCI for Analysis and Production without exercising the

¹⁰⁸ 50 USC 403-3(c)(1)(3).

¹⁰⁹ Statement on Signing the Intelligence Authorization Act for Fiscal Year 1997, October 11, 1996, *Weekly Compilation of Presidential Documents*, October 14, 1996, p. 2039.

¹¹⁰ U.S. Congress, 105th Congress, 1st session, Senate, Select Committee on Intelligence, *Nomination of George J. Tenet to be Director of Central Intelligence*, S. Hearing 105-314, May 6, 1997, pp. 64, 89.

Senate's right for advice and consent for up to one year while we assess the new management structure.¹¹¹

Dempsey in her testimony succinctly set forth the fundamental problem of intelligence organization:

It's somewhat amusing to me — and I've spent most of my career in the Department of Defense ... and when I was in DOD there was always this fear that a very powerful DCI with a full-time emphasis on intelligence and managing the community would fail to support the DOD the way it needed to be supported with intelligence. Since I've come over to the Central Intelligence Agency side of the intelligence community, I've found the same fear, but this time directed at what DOD is going to do to subvert the role of the DCI.

She noted, however, the establishment of coordinative mechanisms such as the Defense Resources Board and the Intelligence Program Review Group and “constant accommodations made by Secretaries of Defense and DCIs to work together to find solutions to problems.” In general, she argued, “the relations have been good.”¹¹²

The following February, the Senate Intelligence Committee met to consider the nomination of James Simon as Assistant DCI for Administration. At the hearing, the Vice Chairman, Senator Robert Kerrey, noted that the DCI had taken the interim steps of appointing Acting Assistant Directors for collection and for analysis. He added: “I expect Presidential nominations for these positions will be forthcoming soon.”¹¹³ He noted, however, that “Once the 1997 Authorization Act was passed, the Community resisted mightily the appointment of Assistant Directors of Central Intelligence for collection and analysis.”¹¹⁴

Simon testified that he would be responsible for “the creation of a process to ensure that the needs of all customers — strategic and tactical, intelligence and battlefield surveillance, traditional and novel — are articulated, validated, and made manifest in our programs.”¹¹⁵ Simon noted in passing the importance of a highly capable staff to perform coordination missions; he referred to the former Intelligence Community Staff as having had “a certain percentage of people there who, frankly, had retired in place or were considered to be brain dead and wanted a quiet place where they could make it to retirement without being bothered. A greater proportion

¹¹¹ U.S. Congress, 105th Congress, 2d session, Senate, Select Committee on Intelligence, Hearing, *Nomination of Joan A. Dempsey to be Deputy Director of Intelligence for Community Management*, Senate Hearing 105-1056, May 21-22, 1998, p. 1.

¹¹² *Ibid.*, p. 40.

¹¹³ U.S. Congress, 106th Congress, 1st session, Senate, Select Committee on Intelligence, Hearing, *Nomination of James M. Simon, Jr., to be Assistant Director of Central Intelligence for Administration*, Senate Hearing 106-394, February 4, 1999, p. 3.

¹¹⁴ *Ibid.*, p. 4.

¹¹⁵ *Ibid.*, p. 41.

were those that their agencies either didn't want or that they felt were not progressing acceptably within their own agency. . . .¹¹⁶

Both Dempsey and Simon were confirmed by the Senate and served for several years in their respective positions. In July 2003 Dempsey, having left the DDCI position, was appointed Executive Director of the President's Foreign Intelligence Advisory Board; Simon retired in 2003. Only in July 2004 was Larry Kindsvater confirmed by the Senate as DDCI for Community Management; nominations for assistant DCI positions have not been submitted. The statutory provisions remain in place, however.

Despite the effort that went into the FY1997 legislation, the efforts intended to enhance the DCI's community-wide role have not been fully implemented.¹¹⁷ The FY1997 Act established four new Senate-confirmed positions having responsibilities that extend across all intelligence agencies. Since enactment, the Senate has received nominations for only two individuals to these positions (both were duly confirmed and sworn in) but both left office in 2003 and replacements have not yet been nominated. Some observers also believe that the DCI's authorities in the preparation of budgets for all intelligence agencies have not been fully exercised.¹¹⁸ Observers suggest that there is little likelihood that serious efforts will be made, however, to seek repeal of the provisions at a time when intelligence agencies are under scrutiny for their abilities to "connect the dots" on international threats.

Joint Inquiry on the Terrorist Attacks of September 11, 2001; Additional Views of Senator Shelby, 2002

In the aftermath of the September 11, 2001 attacks on the World Trade Center and the Pentagon, the two congressional intelligence committees agreed to conduct a Joint Inquiry into the activities of the Intelligence Community in connection with the attacks. The Joint Inquiry undertook an extensive investigation and conducted a number of public and closed hearings. The two Committees' recommendations were published in December 2002 some of which addressed issues of Intelligence Community organization. The unclassified version of the Inquiry's report was published in mid-2003.

Principally, the two committees urged that the National Security Act be amended to create a statutory Director of National Intelligence, separate from the

¹¹⁶ Ibid., p. 43.

¹¹⁷ A somewhat pessimistic academic assessment of the effects of the IC21 study can be found in Abraham H. Miller and Brian Alexander, "Structural Quiescence in the Failure of IC21 and Intelligence Reform," *International Journal of Intelligence and Counterintelligence*, Summer 2001. Management of ISR programs is discussed in CRS Report RL32508, *Intelligence, Surveillance, and Reconnaissance (ISR) Programs: Congressional Oversight Issues*.

¹¹⁸ See U.S. Congress, 107th Congress, 2d session, Senate Committee on Intelligence and House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001*, S.Rept. 107-351, H.Rept. 107-792, December 2002, pp. 347-348.

head of the CIA. This DNI would have the “full range of management, budgetary and personnel responsibilities needed to make the entire U.S. Intelligence Community operate as a coherent whole.” These would include “establishment and enforcement” of collection, analysis, and dissemination priorities; authority to move personnel between Intelligence Community elements; and “primary management and oversight of the execution of Intelligence Community budgets.”

The committees also recommended that Congress consider legislation, similar to the Goldwater-Nichols Act of 1986 which reorganized the Defense Department, to instill a sense of jointness throughout the Intelligence Community, including joint education, joint career specialties, and more “joint tours” in other agencies that would be designated as “career-enhancing.”

The then-Vice Chairman of the Senate Intelligence Committee, Senator Richard Shelby, submitted additional views that also advocated organizational changes in the Intelligence Community.¹¹⁹ Shelby argued that “The fragmented nature of the DCI’s authority has exacerbated the centrifugal tendencies of bureaucratic politics and has helped ensure that the IC responds too slowly and too disjointedly to shifting threats.” Accordingly, the “office of the DCI should be given more management and budgetary authority over IC organs and be separated from the job of the CIA Director.”¹²⁰

Further, Shelby argued that the basic structure of the National Security Act needs to be re-examined to separate “central” analytical functions from “resource-hungry collection responsibilities that make agencies into self-interested bureaucratic ‘players.’” Shelby acknowledged that, “Creating a *true* DCI would entail removing dozens of billions of dollars of annual budgets from the Defense Department, and depriving it of ‘ownership’ over ‘its’ ‘combat support organizations.’ In contemporary Washington bureaucratic politics, this would be a daunting challenge; DOD and its congressional allies would make such centralization an uphill battle, to say the least.”¹²¹ Shelby also recalls the Goldwater-Nichols precedent in urging that the Intelligence Community be restructured, but cautions that the Intelligence Community should not be reformed solely to meet the terrorist threat: “*we need an Intelligence Community agile enough to evolve as threats evolve, on a continuing basis. Hard-wiring the IC in order to fight terrorists, I should emphasize, is precisely the wrong answer, because such an approach would surely leave us unprepared for the next major threat, whatever it turns out to be.*”¹²²

¹¹⁹ “September 11 and the Imperative of Reform in the U.S. Intelligence Community,” Additional Views of Senator Richard C. Shelby, Vice Chairman, Senate Select Committee on Intelligence, December 10, 2002.

¹²⁰ *Ibid.*, p. 3.

¹²¹ *Ibid.*, p. 16.

¹²² *Ibid.*, p. 18 (italics in original).

National Commission on Terrorist Attacks Upon the United States (The 9/11 Commission), 2004

Established by the Intelligence Authorization Act for FY2003 (P.L. 107-306), the 9/11 Commission, chaired by former New Jersey Governor Thomas H. Kean, undertook a lengthy investigation of the “facts and circumstances relating to the terrorist attacks of September 11, 2001.” Although the Commission’s mandate extended beyond intelligence and law enforcement issues, a number of principal recommendations, made public on July 22, 2004 address the organization of the Intelligence Community. The Commission argues that with current authorities the DCI is:

responsible for community performance but lacks the three authorities critical for any agency head or chief executive officer: (1) control over purse strings, (2) the ability to hire or fire senior managers, and (3) the ability to set standards for the information infrastructure and personnel.¹²³

The 9/11 Commission recommends the establishment of a National Counterterrorism Center (NCTC), responsible for both joint operational planning and joint intelligence, and the position of a Director of National Intelligence. In addition to overseeing various intelligence centers, the DNI would manage the National Foreign Intelligence Program and oversee the agencies that contribute to it. The Community Management Staff would report to the DNI. The DNI would manage the agencies with the help of three deputies, each of whom would also hold a key position in one of the component agencies. A deputy for foreign intelligence would be the now-separate head of the CIA, a deputy for defense intelligence would be the Under Secretary of Defense for Intelligence, and the deputy for homeland intelligence would be either an FBI or Department of Homeland Security (DHS) official. The DNI would not have responsibilities for intelligence programs affecting only Defense Department consumers. The report does not describe how the person serving simultaneously as the DNI’s assistant for defense intelligence and as an Under Secretary of Defense would resolve any differing guidance from the DNI and the Secretary of Defense. The 9/11 Commission also recommends a separate intelligence appropriation act the total of which would be made public.¹²⁴

¹²³ U.S., National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, July 2004, p. 410.

¹²⁴ For further background on the 9/11 Commission proposals, see CRS Report RL32506, *The Position of Director of National Intelligence: Issues for Congress*.

Conclusion

The efforts of committees, commissions and individuals to encourage restructuring of the U.S. Intelligence Community have led to numerous changes through internal agency direction, presidential directives and executive orders, and new statutes. The general trend has been towards more thorough oversight both by the executive branch and by congressional committees. The position of the DCI has been considerably strengthened and DCIs have been given greater staff and authority to exert influence on all parts of the Community. They have not, however, been given “line” authority over agencies other than the CIA, and the influence of the Defense Department remains pervasive. Some have argued that, in the light of the Intelligence Community’s inability to provide warning of the September 2001 attacks on the World Trade Center and the Pentagon and inaccurate intelligence estimates about Iraqi weapons of mass destruction, the need for reorganizing the Intelligence Community has become self-evident. Others argue that many of the reforms that have been proposed could make matters worse. The issue appears to be moving higher on the congressional agenda. Specific legislation to reorganize the nation’s intelligence effort, including S. 2845, is currently under consideration and the 9/11 Commission’s recommendations are receiving widespread interest.