
Introduction

Background Leading to the Creation of the Commission

IN the euphoria that followed the collapse of communist regimes in Eastern Europe in 1989 and the dissolution of the Soviet Union in 1991, some wondered whether intelligence agencies would still be necessary. Gone was the Cold War's military threat to U.S. survival, and no comparable threat appeared on the horizon.

It was soon apparent, however, that significant, if lesser, threats remained. The 1991 Persian Gulf War quelled, for the time being, one such threat, and also signaled an expanded role for intelligence in modern warfare. Never before had intelligence been so closely integrated into combat operations with such devastating impact. The deployment of U.S. military forces into unanticipated situations in Somalia, Rwanda, and Haiti also imposed new demands on intelligence agencies. The discovery by U.S. intelligence in 1992 of the beginnings of a nuclear weapons program in North Korea reminded Americans of the need for continued vigilance.

But if intelligence was still needed, its focus remained unclear. Some of the rationales offered to the public, such as environmental intelligence, suggested that intelligence agencies might be looking for new missions to justify their existence. The uncertainty felt by the public was reflected to some degree in the reduced resource commitment that Congress was willing to make to the intelligence function. The dramatic rise in funding that had taken place in the 1980s came to an abrupt end in 1989, and it steadily decreased thereafter. Across-the-board personnel reductions were imposed as well.

At the same time, intelligence operations were being increasingly revealed to the public, and not always in flattering terms. The 1991 confirmation hearings of Robert Gates involved a wrenching examination of whether CIA analysis had been distorted for political purposes during the Reagan Administration. In the meantime, the public learned that most of the CIA's agents in Cuba and East Germany during the latter stages of the Cold War had, in fact, been controlled by the other side.

Within Congress, there was an early, but unsuccessful, attempt to direct organizational reform. In 1992, the chairmen of both congressional intelligence committees introduced similar legislation calling for major restructuring of intelligence agencies under a "Director of National Intelligence." At the same time, then DCI Gates instituted a series of internal task forces that produced recommendations for reform in a number of areas. While the work of these task forces did not result in major structural change, they did represent a substantial effort to adjust the operations of the Intelligence Community in the wake of the Cold War. In the face of the new DCI's actions, Congress backed away from more radical structural change and enacted legislation in 1992 that largely codified the authorities and responsibilities of the DCI under Executive branch policy.

After the 1992 presidential elections, a new DCI, R. James Woolsey, was appointed and continued many of the Gates reforms. The ensuing period did not, however, produce major structural change.

In the meantime, the series of revelations damaging to the CIA continued. Two lawsuits—one a class action suit by several hundred present and former female CIA employees—were filed alleging past sexual discrimination by the Agency. Both received extensive coverage in the media.

Then, in February 1994, a 30-year employee of the CIA, Aldrich H. Ames, and his wife, were arrested for spying for the Soviet Union and later for Russia. As information about the case began to surface, it became clear that Ames' disclosures, beginning in 1985, had resulted in monumental damage to the core of the Agency's operations—collection against the former Soviet Union. Ten of its most important Soviet sources had been executed; others were imprisoned. It also came to light that CIA had had considerable information indicating a potential security problem with Ames but had failed to pursue it adequately and had failed to bring the FBI into the case until late in the process.

When it came time to discipline those responsible for these failures, DCI Woolsey issued what were widely perceived as relatively mild punishments. The public began to question both the competence of the CIA to carry out its mission and the degree to which the management and employees of the Agency were held accountable.

As the implications of the Ames case were beginning to dawn on the public, it came to light that another intelligence agency, the National Reconnaissance Office, had built a new headquarters building in suburban Virginia under the cover of one of its contractors at a cost of over \$300 million. While the oversight committee in the House of Representatives said it had been advised of the project, members of the Senate oversight committee contended they had not been adequately informed. In any event, the public perception was that of an intelligence agency, acting in secret and without adequately informing the Congress, building a costly headquarters for itself at a time when the rest of government was drawing down. Reacting to the episode, Congress enacted legislation requiring specific notification of any new construction costing \$500,000 or more.¹

It was this background—

- ◆ the uncertainty with respect to what intelligence agencies should do in the wake of the Cold War;
- ◆ the perceived lack of a serious and comprehensive effort to bring about reform;
- ◆ the discomfort with the level of resources still committed to intelligence; and
- ◆ instances of apparent incompetence, mismanagement, and unaccountability among intelligence agencies,

that prompted the Congress to consider creating a commission on intelligence.

When the intelligence authorization bill came to the floor of the Senate in August 1994, an amendment proposing a bipartisan "Commission on the Roles and Capabilities of the U.S. Intelligence Community" was offered by the leaders of the Senate oversight committee. In the ensuing debate, Senators repeatedly cited the need for a new consensus where intelligence was concerned and the need to revalidate the intelligence function.²

¹ Intelligence Authorization Act For Fiscal Year 1995, § 602, 50 U.S.C. § 403-2b (Supp. 1995).

² 140 Cong. Rec. S11379-11389 (daily ed. Aug. 12, 1994). The amendment passed by a vote of 99-0.

The House of Representatives agreed to the Senate proposal with minor modifications. Conferees on the measure stated it was their intent “to produce a credible, independent, and objective review of the intelligence community.”³ The President signed the bill into law on October 14, 1994.⁴

The Commission and Its Work

The Commission on the Roles and Capabilities of the United States Intelligence Community was charged with reviewing “the efficacy and appropriateness” of U.S. intelligence activities in the “post-cold war global environment” and with preparing a report of its findings and recommendations to the President and the Congress. The law creating the Commission set forth 19 separate issues to be considered as part of its overall review.

A Commission of 17 members was established, consisting of nine members appointed by the President and eight appointed by the congressional leadership. Of the congressional appointments, four were to be appointed by the House (two by the Speaker and two by the Minority Leader) and four by the Senate (two by the Majority Leader and two by the Minority Leader). One of the two appointments made by each congressional leader had to be a sitting Member of their respective body. Of the nine presidential appointments, no more than five could be from the same political party, and no more than four could have previous intelligence experience. Thus, the Commission was designed to be a bipartisan body which brought to bear the perspectives of the Executive and Legislative branches as well as that of the private sector.

On November 29, 1994, then Speaker of the House Thomas Foley appointed Representative Norman D. Dicks of Washington and Tony Coelho of Virginia to the Commission. The following day, Senate Majority Leader George Mitchell appointed Senator J. James Exon of Nebraska and Wyche Fowler, Jr., of Georgia. On December 20, 1994, House Minority Leader Robert Michel appointed Representative Porter J. Goss of Florida and Robert E. Pursley of Connecticut to the Commission, and, on January 4, 1995, Senate Minority Leader Robert Dole appointed Senator John Warner of Virginia and David H. Dewhurst of Texas.

On February 3, 1995, President Clinton announced his appointments: Les Aspin of Wisconsin; Warren B. Rudman of New Hampshire; Zoë Baird of Connecticut; Ann Z. Caracristi of Washington, D.C.; Anthony S. Harrington of Washington, D.C.; Lew Allen, Jr. of California; Stephen Friedman of New York; Robert J. Hermann of Connecticut; and Paul D. Wolfowitz of Maryland. Commissioners Aspin and Rudman were designated Chairman and Vice Chairman, respectively.⁵ (A brief biographical statement of each member of the Commission can be found at Appendix G.)

³ H.R. Rep. No. 103-753, 103d Cong., 2d Sess. 65, reprinted in 1994 U.S.C.C.A.N. 2751, 2773.

⁴ Intelligence Authorization Act For Fiscal Year 1995, tit. IX, 50 U.S.C. § 401 note (Supp. 1995). Title IX is reprinted in its entirety at Appendix E.

⁵ At the invitation of Chairman Aspin, one member of the President’s Foreign Intelligence Advisory Board (PFIAB), Maurice Sonnenberg, also a member of the Commission on Protecting and Reducing Government Secrecy, served as a senior adviser to the Commission and took an active role in its work. Two other members of the PFIAB, Lois Rice and Sidney Drell, participated in some meetings.

The first meeting of the Commission took place on February 3, 1995. The Commission selected a staff director and established a meeting schedule for the forthcoming year. It officially began operations on March 1, 1995.

The Commission held regular monthly meetings, ordinarily two days in length, from March through December, 1995. Early meetings consisted of briefings by the Intelligence Community to educate the Commission on current organization and operations. These were followed by sessions with current and former users of intelligence, and by additional meetings with other knowledgeable persons, to discuss the strengths and weaknesses of the existing system and ideas about how various aspects of the intelligence business might be changed. In all, 84 witnesses provided formal testimony. (A list of the persons who appeared before the Commission can be found at Appendix C.)

Commission members supplemented these formal meetings with visits to intelligence facilities and military commands in the United States and overseas, as well as visits to a number of countries with which the United States has cooperative relationships in the intelligence area, to compare U.S. arrangements for intelligence with those of other governments and to explore further burdensharing, as provided by the Commission's charter.

To elicit additional opinion, the Commission staff conducted over 200 interviews of present and former government officials and knowledgeable persons from the media, academia, and industry. (A list of those interviewed by the staff can be found at Appendix D.) Individual Commissioners and the staff also received numerous factual briefings by representatives of the Intelligence Community.

The Commission also reviewed earlier studies of the Intelligence Community and received a wide range of opinion from private citizens, government contractors, professional associations, and other groups in the form of written statements, letters, articles, books, conference proceedings, and other materials. The Executive branch supplied voluminous documentary material.

In early May, separate task forces were formed to examine particular topics and make recommendations to the Commission as a whole. Commissioner Friedman led a task force on organization; Commissioner Baird, on law enforcement and intelligence; Commissioner Caracristi, on analysis; Commissioner Allen, on budget; and Commissioner Hermann, on space.

On May 21, 1995, almost four months into its work, the distinguished Chairman of the Commission, Les Aspin, died unexpectedly of a stroke. Commissioners Rudman and Harrington served as interim Chairman and Vice Chairman, respectively, until the President appointed Dr. Harold Brown of California to succeed Mr. Aspin as Chairman on July 13, 1995. Upon Dr. Brown's appointment, Mr. Rudman resumed his position as Vice Chairman.

On June 6, 1995, the Commission provided a detailed work plan, outlining the scope of its inquiry, to the congressional intelligence committees.

Beginning in September 1995, the Commission began to narrow its focus to particular issues and discuss possible options for dealing with them. Reports from the task forces were considered. By December, consensus had formed on most issues, and drafting of the

Commission's report began. The Commission met several times in January and February, 1996, to consider drafts of the report, and on February 2, 1996, by unanimous vote, approved its submission to the President and the Congress.

What is "Intelligence?"

Before one can assess the "efficacy and appropriateness" of U.S. intelligence activities in the post-Cold War era, it is essential to appreciate what distinguishes "intelligence" from other areas of government activity and how intelligence fits into the business of government.

Although "intelligence" is defined in law and Executive order,⁶ neither conveys a very clear understanding of the term. The Commission believes it preferable to define "intelligence" simply and broadly as information about "things foreign"—people, places, things, and events—needed by the Government for the conduct of its functions. Generally speaking, "intelligence" refers to information about "things foreign" that is not available to the Government through conventional means—in other words, to information collected by "secret" or clandestine means. But the work of "intelligence" also involves collecting and analyzing information available through conventional means to the extent needed to understand what is otherwise gathered by "secret" means.

Thus, "intelligence" may be contained in or derived from:

- ◆ publicly available sources, including foreign and domestic broadcast and print media, government or private publications, and information available over computer networks;
- ◆ personal observation or photographs taken by a person who is physically located at a particular point of interest;
- ◆ privileged communications that U.S. Government officials have with their counterparts in other governments or international organizations (which may contain information that is not publicly available);
- ◆ photographs taken from air or space of areas that are otherwise inaccessible to persons on the ground;
- ◆ the interception of electronic signals or emanations, or the measurement of the physical attributes of things on the ground or in the air; or
- ◆ persons who have access to places, persons, or things that are not otherwise available.

⁶ "Intelligence" is defined in 50 U.S.C. 401a to include foreign intelligence and counterintelligence. "Foreign intelligence" is defined as "information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons." The term "counterintelligence" is defined as "information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities."

Every agency of the U.S. Government whose functions require involvement with foreign governments, entities, or persons—from the Department of State to the Department of Agriculture—collects and analyzes information needed to perform those functions. Typically, such information is gleaned from public sources available to these agencies and from their contacts with foreign counterparts and other substantive experts.

To acquire information about “things foreign” that is not obtainable through these conventional channels, federal agencies generally rely upon “intelligence agencies” that have capabilities and authorities not available to other federal agencies. Some cabinet departments have “intelligence agencies” as subsidiary elements, e.g. the Defense Intelligence Agency within the Department of Defense. Other federal agencies rely upon intelligence agencies that are either independent, like the Central Intelligence Agency (CIA), or belong to other departments.

Intelligence agencies have been created for a variety of reasons. One is cost. Sophisticated technical capabilities, such as satellite reconnaissance, are simply too expensive for every federal agency to have its own. Some intelligence agencies were created to centralize control over activities that were especially sensitive (e.g. running human agents in foreign countries) to facilitate protection of these activities, and to prevent political embarrassment to the United States. Other elements were created to provide analytical objectivity or responsiveness. Some, including the CIA, were created for a combination of these reasons.

Whatever skills or capabilities they might contribute, intelligence agencies, as a whole, have historically shared a common purpose: to collect information that is not otherwise available to the Government, combine it with information that is available, and produce analysis based upon both kinds of sources for the benefit of the Government. Put another way, intelligence agencies have attempted to provide the Government with information and insight it would not otherwise receive, to reduce the uncertainty of decision-making.

The President and his chief defense and foreign policy advisers are usually seen as the principal users of intelligence information. In fact, literally tens of thousands of users belonging to an array of federal agencies (and their contractor support base) have daily access to intelligence information. From the diplomat or trade specialist conducting negotiations, to the Pentagon analyst designing military force structures, to commanders in the field who must deploy and target highly sophisticated weapons, to the scientist developing the latest military hardware, intelligence is routinely factored into their decisionmaking. The value of this information to particular users will necessarily depend on its accuracy, its relevance, and its timeliness.

Ultimately, the user is left to make a decision based on the information available. Not infrequently, his or her chosen course of action is dictated by considerations other than the judgments reached by intelligence agencies. This does not mean that intelligence has “failed.” While the value of intelligence is obviously greatest when it provides the basis for action by a particular user, it also has value as part of a decisionmaking process repeated hundreds, if not thousands, of times daily by employees and contractors of the Government.

Intelligence has been a function of the Government literally since the beginning of the Republic. George Washington put intelligence to decisive military use during the American Revolution, and when he became President, persuaded Congress to create a special fund from which intelligence operations could be financed. Intelligence has been an integral part of U.S. military operations ever since. Both the Union and the Confederacy used intelligence extensively during the Civil War. During the 1880s, intelligence was formally institutionalized as part of U.S. peacetime military planning. The first advanced signals intelligence capability was established just prior to World War I. World War II spurred far more substantial growth as the need to support U.S. combat forces in Europe and the Pacific necessitated the creation of new capabilities as well as partnerships with allied countries. A detailed summary of the historical evolution of U.S. intelligence from Washington's presidency the present day is included at Appendix A. It demonstrates that while intelligence came of age during the Cold War era, it has to some degree been a function of the U.S. Government since its very inception.

The Commission's Report

The mandate of the Commission was to produce a report that dealt with the roles and capabilities of intelligence agencies. It was not chartered to perform an oversight inquiry into alleged improprieties of wrongdoing. In assessing those roles and capabilities, the Commission attempted to limit itself to overarching issues. Given the limited amount of time and resources at its disposal, there was no practical alternative.

Many perceived problems were brought to our attention by the hundreds of people who communicated with us. On examination, some did not appear problems at all, or, if they were problems, intelligence agencies appeared to be taking appropriate steps to deal with them. Similarly, the Commission was presented with a wide range of suggested solutions. The Commission considered them all, from the most extreme (e.g. abolishing intelligence agencies altogether) to retaining the status quo. Nothing was regarded as "off-the-table." The Commission did not approach its task as recommending change for the sake of change, however.

In the report that follows, the recommendations of the Commission are numbered and set out in bold type in each chapter. Key findings and conclusions are set out in bold italics.

At the request of the Commission, security experts from the Intelligence Community reviewed the report for security concerns immediately prior to printing but the substance of the Commission's findings and recommendations did not change as a result of this review.

Finally, the Commission prepared draft documents to implement its recommendations, which are being transmitted separately to the President and to the congressional intelligence committees.

